



Deed of

Deed of Settlement
between the Crown
and Ngāti Porou

Settlement

General Background

Ngāti Porou is one of the largest iwi in New Zealand, with 72,000 members, comprising 58 hapū and 48 marae. The marae are located around the East Cape from Potikirua in the north to Te Toka-a-Taiau in the south, covering an area of about 400,000 hectares.

In April 2008 the previous Minister in Charge of Treaty of Waitangi Negotiations and Minister of Māori Affairs recognised the mandate of Te Rūnanga o Ngāti Porou to represent Ngāti Porou in negotiating a comprehensive historical Treaty settlement.

On 23 October 2008 the Crown and Ngāti Porou signed an initial high-level agreement outlining key elements of financial and commercial redress, and in December 2009 the parties signed a letter of agreement setting out the proposed settlement package.

On 29 October 2010 Ngāti Porou and the Crown initialled a Deed of Settlement. The Deed was then ratified, and signed on 22 December 2010. The settlement will be implemented following the passage of settlement legislation.

Ngāti Porou was represented in negotiations by Te Haeata, the negotiations sub-committee of Te Rūnanga o Ngāti Porou. Te Haeata comprised representatives from ngā whānau hapū o Ngāti Porou and three Rūnanga appointees.

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 Ngāti Porou.

Summary of the Historical Background to the Claims by Ngāti Porou

In 1840 the Treaty of Waitangi was signed by Ngāti Porou rangātira and was regarded in much the same sense as the biblical covenants. Ngāti Porou sought to uphold the Treaty as a matter of honour. However Crown actions soon created some disillusionment among Ngāti Porou as to the Crown's commitment to the Treaty.

In 1863 and 1864 some Ngāti Porou joined Kingitanga forces fighting the Crown in other districts. In 1865 many Ngāti Porou converted to the Pai Marire (Hauhau) religion whose proponents also promoted Māori self determination. The Crown had stated an intention to suppress the Pai Marire movement. Ngāti Porou rangātira sought to arrest the the Pai Marire emissaries who came to their rohe, because they believed the emissaries were responsible for the killing of the Rev Carl Volkner. This led to fighting in which the Crown supported the Ngāti Porou fighting against the Pai Marire who were defeated. At the end of the fighting the Crown proposed to confiscate the land of Ngāti Porou Hauhau.

Ngāti Porou, who were keen to stabilise their region and protect their tribal estate, provided forces for Crown military operations in other districts between 1865 and 1872. This support, and growing Ngāti Porou opposition, led to the abandonment of plans to confiscate Ngāti Porou land.

In the 1860s the Crown established the Native Land Court which transformed Ngāti Porou land tenure over the following decades. Ngāti Porou custom was to hold their land collectively, but the Court awarded titles on an individualised basis. Ngāti Porou had to engage with the Court if they wished to participate in the colonial economy.

This individualisation of title made Ngāti Porou land more susceptible to sale. In the nineteenth and early twentieth centuries the Crown considered Ngāti Porou land which was not used for cultivation or habitation to be waste land which should be made available for European settlement. Between the 1870s and 1930s the Crown aggressively purchased a large area of Ngāti Porou land much of which was never on-sold to settlers.

The individualisation of land tenure caused the ownership of Ngāti Porou land to become fragmented. This made it difficult for Ngāti Porou to access the benefits of the modern economy. Crown schemes in the twentieth century to consolidate Ngāti Porou land interests and develop their land for better economic use failed to resolve the problem of ongoing fragmentation, and did not produce the profitable outcomes Ngāti Porou were led to expect.

Crown provisions for the administration of development schemes deprived Ngāti Porou of control of large quantities of their own land for many decades during the twentieth century. The Crown also took administrative control of East Coast rivers such as the Waiapu which is central to Ngāti Porou identity. Between 1882 and 1992 the Crown compulsorily took Ngāti Porou land for public purposes on more than more than two thousand occasions.

The Ngāti Porou rohe has suffered devastating erosion, which has significantly accelerated since European settlement began on the East Coast in the nineteenth century, due to deforestation to make land available for farming. Crown policies have not been successful in effectively resolving this problem.

By the early 1990s, the East Coast had become one of the most socio-economically deprived regions in New Zealand, yet Ngāti Porou have made a significant contribution to the greater good of New Zealand. Many Ngāti Porou have served overseas in the New Zealand armed forces. This service, particularly during the Second World War, involved significant sacrifice for Ngāti Porou, especially through loss of leadership.

Settlement

Summary of the Ngāti Porou Settlement

Overview

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

No private land will be transferred as redress, only Crown assets.

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

Reconciliatory redress

1. The historical account, Crown acknowledgements and apology are intended to reconcile the relationship between the Crown and Ngāti Porou.

1(A) CROWN APOLOGY

The Crown apologises to Ngāti Porou for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These include the detention without trial of some Ngāti Porou on the Chatham Islands, the Crown's abuse at times of its monopoly powers to purchase Ngāti Porou land, and the Crown's failure in a number of ways to respect Ngāti Porou rangātiratanga in the administration of their own land.

1(B) AIRING OF TREATY GRIEVANCES PROCESS

Prior to settlement date Ngāti Porou will have the opportunity to air Treaty grievances before the Crown for approximately 10 days over a three week period in the Ngāti Porou rohe. The proceedings will be recorded and transcribed for Ngāti Porou and contribute to the compilation of a Ngāti Porou history.

1(C) NEW ZEALAND DEFENCE FORCE SCHOLARSHIPS AND HIGHER DEFENCE TRAINING

The Crown recognises that Ngāti Porou have a proud record of military service overseas in New Zealand's defence. The New Zealand Defence Force and Ngāti Porou seek to affirm their relationship through the naming of officer entry scholarships, and higher defence training programmes that are awarded to people of Ngāti Porou descent. The naming will be subject to the recipient's approval.

Cultural redress

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

2(A) STRATEGIC CONSERVATION PARTNERSHIP

A strategic partnership arrangement where the Crown and Ngāti Porou jointly develop a separate section of the East Coast Bay of Plenty Conservation Management Strategy to be known as *Ngā Whakahaere Takirua mō Ngā Paanga Whenua o Ngāti Porou*. This arrangement will provide Ngāti Porou with input into the strategic governance of specified public conservation lands within the Ngāti Porou area of interest.

2(B) SITES TRANSFERRED TO NGĀTI POROU

Fifteen sites of cultural and historical significance will be vested in Ngāti Porou, totalling approximately 5,898 hectares. These sites are currently administered by the Department of Conservation except for one site, Taitai (170 hectares), which is Crown forest land administered by Land Information New Zealand. The vesting of these sites is subject to specific conditions including protection of public access (except in the case of Taitai which does not have any existing provision for public access):

- Awanui
- Raparapaririki
- Waipare Redwoods
- Herenga
- Pakaturi
- Whangaokeno
- Te Puia
- Taitai
- Whanokao
- Ruataupare
- Anaura
- Aorangī
- Paraheka
- Waimahuru
- Pukeamaru

2(C) MANAGEMENT OF SITES

The Department of Conservation will provide management services for Anaura, Aorangī, Pukeamaru, Waimahuru and Whangaokeno, which have high conservation values.

2(D) STATUTORY ACKNOWLEDGEMENTS

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

The Crown offers Statutory Acknowledgements over the Waiapu and Uawa Rivers and their tributaries, and over the Tūrangānui River and the Waimata River (as a tributary of the Tūrangānui River) and their tributaries within the area of interest.

3. Relationships

3(A) PROTOCOLS

The Deed of Settlement will provide for protocols to facilitate good working relationships between Ngāti Porou and the Department of Conservation, the Ministry of Economic Development and the Ministry for Culture and Heritage on matters of mutual importance.

3(B) LETTER OF COMMITMENT

Ngāti Porou, the Department of Internal Affairs (as a party on behalf of the National Library and Archives New Zealand), and the Museum of New Zealand Te Papa Tongarewa will enter into a letter of commitment to facilitate the care and management, access and use, and development and revitalisation of Ngāti Porou taonga.

3(C) RELATIONSHIP ACCORD

The Crown and Ngāti Porou have committed to develop an enhanced relationship through an accord, which will be established to address contemporary issues within the Ngāti Porou rohe. The accord aims to deliver improved outcomes from government investment in the Ngāti Porou rohe. The accord also aims to strengthen Ngāti Porou input into priority setting and decision-making related to government funding and responsibilities within particular portfolios focused on erosion control, social services and public infrastructure.

As the first stage of this relationship, the Crown will undertake commitments regarding erosion in the Waiapu River catchment and health services in the Ngāti Porou rohe.

4. Cultural retention and development

On settlement date \$20 million will be paid to Ngāti Porou to be applied towards the cultural and historical redress aspirations of Ngāti Porou.

Financial and commercial redress

5. This redress recognises the economic loss suffered by Ngāti Porou arising from breaches by the Crown of its Treaty obligations. The Crown recognises that Ngāti Porou have contributed to New Zealand's development by foregoing a substantial degree of compensation sought in relation to their historical claims. The financial and commercial redress is aimed at providing Ngāti Porou with resources to assist them to develop their economic and social well-being. It includes:

5(A) FINANCIAL REDRESS

Ngāti Porou and the Crown have agreed Ngāti Porou will receive a financial settlement of \$110 million, comprising \$90 million in financial and commercial redress and \$20 million in cultural redress. Ngāti Porou will also receive interest accrued on the financial and commercial redress since 23 October 2008.

The financial settlement sum includes the value of Licensed Crown Forest Land purchased as part of the settlement.

5(B) COMMERCIAL REDRESS

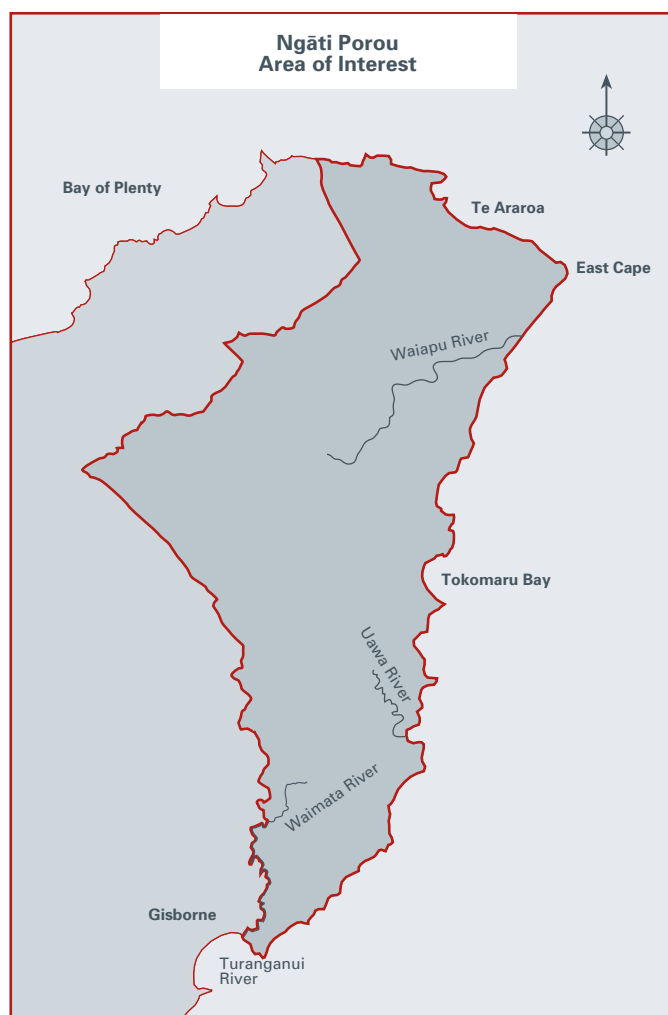
Six Crown properties will be vested in Ngāti Porou as commercial redress.

Te Rūnanganui o Ngāti Porou will purchase the Ruatoria and Tokomaru Licensed Crown Forest Land properties.

Te Rūnanganui o Ngāti Porou will have the opportunity to:

- purchase 21 Crown-owned properties through a deferred selection process for two years after settlement date. Each of these properties will be leased back to the Crown.
- purchase specific surplus Crown-owned and Housing New Zealand Corporation properties within the Ngāti Porou area of interest, for a period of up to 170 years from Settlement Date, through a Right of First Refusal.

The return of any surplus Crown-owned properties is subject to any offer back requirements under 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 \$110 million plus interest on \$90 million from 23 October 2008, the value of the cultural redress properties to be vested, as listed at 2(B), and the value of the commercial redress properties to be vested, as listed at 5(B).

2. Is there any private land being transferred?

No.

3. Are the public's rights affected?

Generally, no. However one site, Taitai, totalling approximately 170 hectares will be returned to Ngāti Porou without provision for continued public access as it is commercial forestry land and there is no current access to the site through the surrounding land. Public access to all other sites and to public conservation land will be unaffected.

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 Acknowledgement is not a property right. Neither is it exclusive.

5. Are any place names changed?

No.

6. Are any National Parks affected by the Settlement?

No.

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

The settlement will still allow Ngāti Porou 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 Ngāti Porou, wherever they may now live.

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