



Deed of

Deed of Settlement
between the Crown and
Ngāti Kōata

Settlement

General background

Ngāti Kōata has customary interests in northern South Island, a region often referred to as Te Tau Ihu.

In October 2006, the Crown recognised the mandate of Ngāti Kōata along with other 'Tainui Taranaki' iwi to enter negotiations for a comprehensive Treaty of Waitangi Settlement. The Crown signed terms of negotiations with the mandated negotiator on 27 November 2007.

On 11 February 2009, the Crown and 'Tainui Taranaki' iwi, including Ngāti Kōata, signed a Letter of Agreement which formed the basis for this settlement. The Deed of Settlement was initialled on 7 October 2011 and signed on 21 December 2012. 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, 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 Kōata.

Summary of the historical background to the claims of Ngāti Kōata

Ngāti Kōata first came to Te Tau Ihu (the northern South Island) in the mid-1820s, after receiving a tuku of land from Tūtepourangi, and also as part of an invasion. Ngāti Kōata primarily settled at Rangitoto Island, Croisilles, Whakapuaka, and Whakatū.

In 1839 the New Zealand Company signed deeds with other iwi that purported to purchase the entire northern South Island. The following year several Ngāti Kōata chiefs signed the Treaty of Waitangi at Rangitoto Island.

In 1842 the Company presented gifts to local Māori upon establishing its Nelson settlement. In 1844 a Crown-appointed commissioner investigated the Company's purchases. He heard only one Māori witness in Nelson before suspending the inquiry to enable the Company to negotiate a settlement. Māori signed deeds of release in return for accepting payments described by the commissioner as gifts to assist settlement rather than payments for the land.

In 1845, on the commissioner's recommendation, the Crown prepared a Company grant of 151,000 acres in Tasman and Golden Bays which would have reserved 15,100 acres for Māori. However, the Company objected to several aspects of this grant. In 1848 the Company accepted a new Crown grant for a larger area of land that reserved only 5,053 acres at Nelson and Motueka, and areas in the Wairau and Golden Bay.

Ngāti Kōata had negligible involvement in the administration of the Nelson and Motueka reserves, known as 'Tenth's', which were leased to settlers to generate income that was spent on Māori purposes. From 1887 the Tenth's were let under perpetually renewable leases. Rentals were infrequently reviewed and over time inflation reduced rental returns. During the twentieth century the Tenth's were reduced by the compulsory acquisition of uneconomic shares and the sale of reserves.

In 1852 the Crown purchased the mineral-rich Pakawau block and paid only for its agricultural value. In 1853 the Crown signed the Waipounamu deed with other iwi, and purported to have purchased most of the remaining Māori land in Te Tau Ihu. Ngāti Kōata did not sign the deed but were to receive a share of the purchase money. The Crown used the 1853 deed as the basis for negotiations with resident Ngāti Kōata in 1856, which led to the alienation of most of their remaining interests for £100. Rangitoto Island was excluded from this purchase.

The reserves created for Ngāti Kōata from the Waipounamu sale were mostly inadequate for customary use or effective development. In 1883 and 1892 the Native Land Court awarded ownership of the reserves and Rangitoto Island to individual Ngāti Kōata. Over time, sales and successions to the titles made the lands increasingly fragmented and uneconomic.

In 1883 Ngāti Kōata participated in the Native Land Court's title investigation of Whakapuaka. Ngāti Kōata claimed interests on the basis of the tuku and ongoing occupation. The Court deemed that Ngāti Kōata did not have interests and they were excluded from ownership. Ngāti Kōata were again excluded at a rehearing of the block in 1937.

By the late nineteenth century, some Ngāti Kōata were virtually landless. In 1894 the Crown allocated some landless Ngāti Kōata individuals land at Te Māpou and Te Raetihi, but did not issue titles to them until 1968.

Ngāti Kōata struggled to secure safe drinking water and social services on their reserves and Rangitoto Island well into the twentieth century. Many Ngāti Kōata came to Nelson for work, educational and health purposes. A Māori hostel in Nelson used by Ngāti Kōata families was frequently overcrowded resulting in unhygienic conditions.

By the end of the twentieth century most of Ngāti Kōata's remaining land, including their reserves and Rangitoto Island, had been sold. Virtual landlessness has meant that Ngāti Kōata has lost connection and access to many of their traditional resources and sites, and the demise of a strong cultural base.

Settlement

Summary of the Ngāti Kōata Settlement

Overview

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

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

The Ngāti Kōata settlement was negotiated alongside settlements with the other seven iwi with historical claims in Te Tau Ihu. The settlement legislation to enact the Ngāti Kōata Deed of Settlement is drafted as part of an omnibus bill that will implement all Te Tau Ihu Treaty settlements. Some redress in the Ngāti Kōata settlement is joint redress with other iwi or overlaps with redress in other Te Tau Ihu settlements.

Crown acknowledgements and apology

The Deed of Settlement contains a series of acknowledgements by the Crown where its actions arising from interactions with Ngāti Kōata have breached the Treaty of Waitangi and its principles.

The Crown apologises to Ngāti Kōata for its acts and omissions which have breached the Crown's obligations under the Treaty of Waitangi. These include: the Crown's failure to adequately protect the interests of Ngāti Kōata during the process by which land was granted to the New Zealand Company; the failure to provide sufficient reserves, including 'tenths' reserves; the administration of the tenths reserves; the failure to adequately protect Ngāti Kōata interests during Crown purchases between 1853 and 1856; the operation and impact of the native land laws on Ngāti Kōata land; the failure to effectively implement the landless natives reserves scheme; and the failure to ensure Ngāti Kōata retained sufficient land for their future needs.

Cultural redress

1. This redress recognises the traditional, historical, cultural and spiritual association of Ngāti Kōata with places and sites owned by the Crown within their rohe. This allows Ngāti Kōata and the Crown to protect and enhance the conservation values associated with these sites.

1(A) VESTING OF SITES

The settlement provides for six sites to be vested in Ngāti Kōata and one site jointly vested in Ngāti Kōata and more than one other iwi with Te Tau Ihu claims totalling approximately 28.52 hectares. The vesting of these sites is subject to specific conditions including protection of conservation values and public access. This redress will be known as Ngā Maramara Hirahira.

Sites to be vested in Ngāti Kōata are:

- Catherine Cove, approximately 1.0 hectare

- Whangarae Bay (Okiwi Bay), approximately 0.09 hectares
- Lucky Bay, approximately 15 hectares
- Wharf Road (Okiwi Bay), approximately 1.4 hectares
- Whangarae Estuary, approximately 10 hectares
- Moukirikiriri Island, approximately 0.826 hectares.

Sites to be jointly vested in Ngāti Kōata and more than one other iwi with Te Tau Ihu claims:

- Mātangi Āwhio (Nelson), approximately 0.2061 hectares.

French Pass School and Teachers Residence (approximately 0.2009 hectares) will vest in Ngāti Kōata if it is cleared under the Public Works Act 1981.

1(B) OVERLAY CLASSIFICATION

An overlay classification (known as He Uhi Takai in the Ngāti Kōata settlement) acknowledges the traditional, cultural, spiritual and historical association of Ngāti Kōata 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 for overlay classifications over:

- Takapourewa/Takapourewa Nature Reserve
- Whakaterepapanui/Wakaterepapanui Island Recreation Reserve
- Rangitoto ki te Tonga/D'Urville Island site
- French Pass Scenic Reserve.

1(C) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

Statutory Acknowledgements (known as Ngā Tapuwae o Ngā Tūpuna, in the Ngāti Kōata settlement) register the special association Ngāti Kōata has with an area, and will be included in the settlement legislation. Statutory Acknowledgements are recognised under the Resource Management Act 1991 and Historic Places Act 1993. The acknowledgements require that consent authorities provide Ngāti Kōata with summaries of all resource consent applications named in the acknowledgements.

Deeds of Recognition (known as Te Waka Hourua in the Ngāti Kōata settlement) oblige the Crown to consult with Ngāti Kōata and have regard to their views regarding the special association Ngāti Kōata has with a site. They also specify the nature of the input of Ngāti Kōata into management of those areas by the Department of Conservation.

The Crown offers a Statutory Acknowledgement and Deed of Recognition over the following areas:

- Maungatapu
- Matapehe
- Moawhitu (Rangitoto ki te Tonga/D'Urville Island)
- Askews Hill quarry site in Taipare Conservation Area
- Cullen Point
- Penguin Bay (Rangitoto ki te Tonga/D'Urville Island)
- Otuhaereroa Island

- Motuanauru Island
- Maitai River and its tributaries;
- Waimea River, Wairoa River and Wai-iti River and their tributaries
- Te Hoiere/Pelorus River and its tributaries
- Whangamoa River and its tributaries.

The Crown offers a Coastal Statutory Acknowledgement over the following area:

- Te Tau Ihu coastal marine area.

Statutory Acknowledgements and Deeds of Recognition are non-exclusive redress, meaning more than one iwi can have a Statutory Acknowledgement or Deed of Recognition over the same site.

1(D) CONSERVATION STATUTORY ADVISER

The Deed of Settlement provides for the appointment of a Te Pātaka a Ngāti Kōata trustee as a conservation statutory adviser (known as Ka Tika Te Reo Ka Puawai in the Ngāti Kōata settlement). The Statutory Adviser is to provide advice to the Minister of Conservation in relation to the management and restoration of native flora and fauna in the following areas:

- Takapourewa
- Whangarae
- Moawhitu.

1(E) RURUKU NGĀ TAI

The Deed of Settlement provides for Ruruku Ngā Tai, a statement of the maritime association of Ngāti Kōata. It includes an Iwi Management Plan that has been lodged with Tasman District Council, Nelson City Council and Marlborough District Council.

1(F) TAKAPOUREWA OPERATIONAL PLAN

The settlement provides for the Te Pātaka a Ngāti Kōata trustees and the Director-General of Conservation to jointly prepare and approve an operational plan for Takapourewa (known as He Whiringa Whakaaro in the Deed of Settlement). The operational plan will include the process for the customary use of fauna and flora by Ngāti Kōata.

1(G) STATEMENT OF HISTORICAL ASSOCIATION

The settlement will provide the Crown's acknowledgement of the statement by Ngāti Kōata of their historical association with West of Separation Point/Te Matau. This will be known as Tangi Wairua te Matangi in the Ngāti Kōata settlement.

1(H) GEOGRAPHIC NAMES

The Te Tau Ihu settlements will provide for 53 geographic names to change and 12 sites which do not currently have official names to be assigned geographic names. The full list of place name changes is included in the Ngāti Kōata Deed of Settlement, available at ots.govt.nz

1(I) MINERALS FOSSICKING

The settlement provides for the river beds within a specified area to be searched for natural material with the permission of the trustees of Te Pātaka a Ngāti Kōata.

1(J) RIGHT OF WAY FOR MOAWHITU FISHING RESERVE

The settlement will require the Minister of Conservation to provide Ngāti Kōata an unregistered right of way easement in gross in Moawhitu. This redress will be known as He Putanga Hua in the Ngāti Kōata settlement.

Relationships

2(A) RELATIONSHIP REDRESS

The Deed of Settlement provides for the promotion of relationships between Ngāti Kōata and local authorities. Nelson City Council, Tasman District Council, Marlborough District Council and Buller District Council are encouraged to enter into a Memorandum of Understanding with Ngāti Kōata.

2(B) PROTOCOLS

Protocols (known as Ngā Maunga Kōrērō in the Ngāti Kōata settlement) will be issued to encourage good working relationships on matters of cultural importance to Ngāti Kōata. Conservation, fisheries, taonga tūturu and minerals protocols will be issued.

2(C) LETTERS OF INTRODUCTION

The Deed of Settlement provides for the promotion of relationships between Ngāti Kōata and museums. This redress will be known as Ngā Wāwāhio and provides a link to the Tainui roots of Ngāti Kōata. The Crown will write letters of introduction to Te Papa Tongarewa, Canterbury Museum, Otago Museum and Nelson Provincial Museum.

2(D) RIVER AND FRESHWATER ADVISORY COMMITTEE

The Deed of Settlement provides for Ngāti Kōata to participate in an advisory committee providing input into local authority planning and decision making in relation to the management of rivers and fresh water under the Resource Management Act 1991, within the jurisdictions of Marlborough District Council, Nelson City Council and Tasman District Council.

2(E) MEMORANDUM OF UNDERSTANDING

The settlement provides for a Memorandum of Understanding (known as Te Kupu Whakairo in the Deed of Settlement) to be created between Ngāti Kōata and the Department of Conservation. The Memorandum of Understanding will require that when the Department of Conservation undertake certain activities within Whangarae Bay, the trustees of Te Pātaka a Ngāti Kōata will be consulted.

Q&A

Questions and Answers

Financial and commercial redress

3. This redress recognises the losses suffered by Ngāti Kōata arising from breaches by the Crown of its Treaty of Waitangi obligations. It will provide Ngāti Kōata with resources to assist them in developing their economic and social well-being.

3(A) FINANCIAL REDRESS

Ngāti Kōata will receive a financial settlement of \$11,760,000 in recognition of all their historical claims. Interest that has been accumulating since the Agreement in Principle was signed in February 2009 will also be paid.

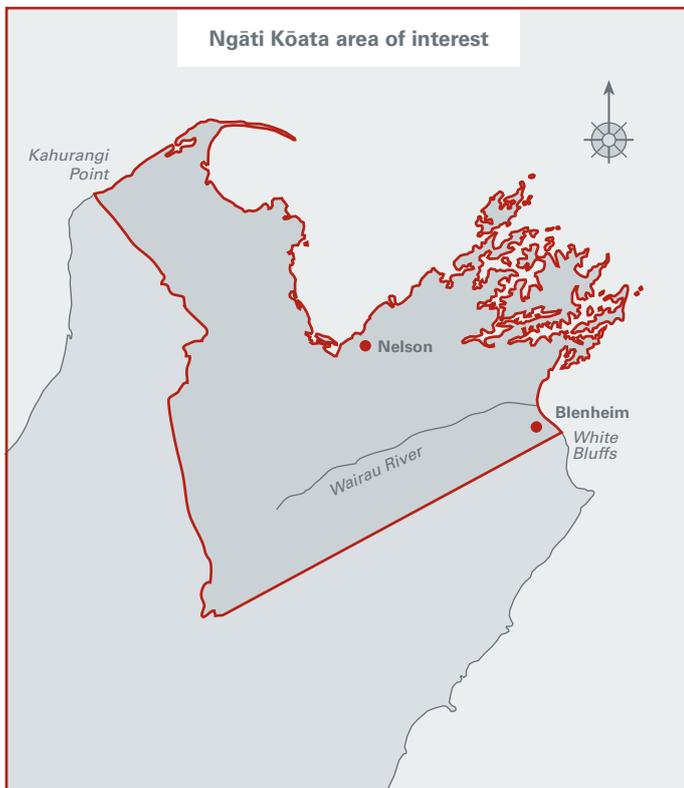
3(B) COMMERCIAL REDRESS

Ngāti Kōata will purchase four properties at settlement date that will be leased back to the Crown. Ngāti Kōata has a further 16 deferred selection properties that are available for purchase by Ngāti Kōata for three years after settlement date.

Ngāti Kōata will have the ability to purchase more than 9,000 hectares of the licensed Crown forest land in Te Tau Ihu, through which Ngāti Kōata will receive a further (approximately) \$7.75 million in accumulated rentals, currently held by the Crown Forestry Rental Trust.

Ngāti Kōata will have a right of first refusal over a number of listed properties for a period of 169 years. They will also have a right of first refusal over Nelson Marlborough Institute of Technology for 169 years.

Ngāti Kōata will also have shared rights of first refusal with other iwi in Te Tau Ihu over other types of Crown properties in Te Tau Ihu for 100 years from the settlement date.



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 \$11.76 million (plus interest accrued since the signing of the Agreement in Principle), and the value of the cultural redress properties to be vested and transferred for no consideration.

2. Is there any private land involved?

No. In accordance with Crown policy, no private land is involved.

3. Are the public's rights affected?

No, all existing public rights to the area affected by this settlement will be preserved.

4. Are any place names changed?

Yes. The Deed of Settlement, along with other Te Tau Ihu Deeds of Settlement, will provide for 12 new place names and 53 name changes.

5. 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.

6. When will the settlement take effect?

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

7. Does Ngāti Kōata 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 Ngāti Kōata. The settlement legislation, once passed, will prevent Ngāti Kōata from re-litigating their claim before the Waitangi Tribunal or the courts.

The settlement package will still allow Ngāti Kōata or members of Ngāti Kōata to pursue claims against the Crown for acts and 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 Kōata wherever they may now live.

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