



# Deed of Settlement

## BETWEEN THE CROWN AND HERETAUNGA TAMATEA

### Background

Heretaunga Tamatea and its hapū is one of six large natural groupings negotiating the settlement of the historical Treaty of Waitangi claims of Ngāti Kahungunu. Heretaunga Tamatea's area of interest extends from the Tūtaekurī River in the north following the ridge of the Ruahine Range south to Takapau and turns seawards to Pōrangahau in the south. The rohe includes five major river systems - the Tūtaekurī, the Ngaruroro, the Tukituki, the Maraetōtara and the Pōrangahau/Tāurekaitai - and comprises an alluvial plains system powered by the Heretaunga and the Ruataniwha aquifers. Heretaunga Tamatea have a population of approximately 15,900 people (2013 Census).

Heretaunga Tamatea mandated He Toa Takitini to negotiate a Deed of Settlement with the Crown, by undertaking consultations and meetings amongst claimant groups on 25 August 2010.

The Crown conditionally recognised the mandate of He Toa Takitini on 15 October 2010 and, following further mandating hui for members of Heretaunga Tamatea living outside the Heretaunga Tamatea area of interest, unconditionally recognised this mandate on 4 February 2011.

The mandated negotiators and the Crown by terms of negotiation dated 19 December 2011, agreed on the scope, objectives, and general procedures for the negotiations. On 11 June 2014, Heretaunga Tamatea and the Crown signed an agreement in principle that they were willing to enter into a Deed of Settlement on the basis set out in the agreement. Since the agreement in principle, He Toa Takitini and the Crown have in good faith conducted extensive negotiations and negotiated and initialled a Deed of Settlement.

The trustees of the Heretaunga Tamatea Settlement Trust, the post-settlement governance entity, will manage the settlement assets.

The Office of Treaty Settlements, with the support of the Department of Conservation 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 Heretaunga Tamatea.

### Summary of the historical background to the claims by Heretaunga Tamatea

Heretaunga Tamatea was a community of proud and self-sustaining independent hapū with an economy and polity consistent with tikanga Māori and traditional practices of the time.

In the late 1840s, Heretaunga Tamatea rangatira invited the Crown to acquire land in their rohe in the expectation of gaining economic opportunities from European settlement. During negotiations for its first land purchase in Heretaunga Tamatea in 1851, the Crown encouraged customary owners to accept a low price for their land in order to gain access to these anticipated benefits. Days before the Waipukurau deed was signed in 1851, Crown officials arranged for a large area to be added to the block without the knowledge of the area's occupants.

During the 1850s, the Crown purchased large areas of land in Heretaunga Tamatea. In a number of instances the Crown acquired land secretly without seeking the consent of all customary owners. The Crown continued purchasing land despite being aware that its approach to negotiations was creating tensions among hapū and their rangatira, and in 1857 these tensions led to fighting in which a number of people, including leading rangatira, were killed. Following this, Heretaunga Tamatea rangatira made internal political arrangements to preserve their remaining lands, and by 1860 land sales in Heretaunga Tamatea had stopped.

The Native Lands Act 1865 provided for title to Māori land, previously held in customary collective tenure, to be awarded to no more than 10 individual grantees as absolute owners (the 'ten-owner rule'). The hapū of Heretaunga Tamatea understood that individual grantees were to act as trustees for their wider communities. However, the Native Lands Act 1865 enabled the shares of individual grantees to be alienated without the consent of the other grantees or other right-holders not named on the title.

The Native Lands Act 1865 did not prevent some settlers using practices such as extending credit to grantees, and then using those debts to acquire the freehold of grantees' shares. Some observers stated that many of the grantees who took goods on credit or signed mortgages were pressured to do so, or did not fully understand the potential ramifications of the documents they were signing. By such means, Heretaunga Tamatea hapū were soon dispossessed of further large areas of land. After 1865, the Crown and private parties also purchased a number of the areas that Māori had asked to be reserved from the sales of the 1850s. Other reserved areas became the subject of long-running disputes due to surveying errors or a failure to complete surveys.

The Crown was slow to address the dispossession of hapū under the ten-owner rule despite strong protests from the hapū of Heretaunga Tamatea. Those measures it did take provided little relief for the hapū of Heretaunga Tamatea because they were not retrospective, or did not apply where land had already been alienated.

In the 1870s, Heretaunga Tamatea rangatira established the Repudiation movement which sought to revoke earlier land transactions, and to address broader issues around the alienation of Māori-owned land by promoting collective decision making and political organisation. This movement was soon taken up by a number of other North Island tribes. In the 1880s and 1890s, the Kotahitanga movement adopted a similar approach, and in 1892 the first Māori Paremata (Parliament) was held at Waipatu near modern-day Hastings.

By 1900, approximately 1.2 million acres out of 1.4 million acres of Heretaunga Tamatea land had passed from Māori ownership, mostly through purchases carried out by the Crown. In the early 20th century, the Crown continued to purchase Māori-owned land in Heretaunga Tamatea, until by 1930 approximately 6% remained. During the 20th and 21st centuries, Heretaunga Tamatea hapū and whānau have suffered social, economic, and cultural marginalisation, and today more than half of their people live outside the traditional rohe.

# Summary of the Heretaunga Tamatea settlement

## Overview

The Heretaunga Tamatea Deed of Settlement will be the final settlement of all historical claims of Heretaunga Tamatea resulting from acts or omissions by the Crown before 21 September 1992 and is made up of a package that includes:

- an agreed historical account, acknowledgements and apology
- cultural redress
- financial and commercial redress.

The benefits of the settlement will be available to all members of Heretaunga Tamatea, wherever they live. The redress was negotiated by He Toa Takitini, the mandated entity.

## Crown acknowledgements and apology

The Deed of Settlement contains acknowledgements that historical Crown actions or omissions caused prejudice to Heretaunga Tamatea or breached the Treaty of Waitangi and its principles.

The Deed of Settlement also includes a Crown apology to Heretaunga Tamatea for its acts and omissions which breached the Crown's obligations under the Treaty of Waitangi and for the damage that those actions caused to Heretaunga Tamatea. These actions include using secret transactions and other divisive tactics to purchase huge areas of Heretaunga Tamatea land, and continuing to negotiate disputed purchases – despite being warned that its actions were creating serious tensions – that ultimately led to war among Heretaunga people in 1857. The Crown also apologises for introducing Native Land Laws that facilitated the further dispossession of the hapū of Heretaunga Tamatea, and for continuing to purchase land until by 1930 the whānau and hapū of Heretaunga Tamatea were virtually landless. The Deed also includes an apology for the damage that the Crown's breaches of the Treaty of Waitangi have caused to generations of Heretaunga Tamatea people, including severely limiting their economic and social opportunities and eroding their tribal structures

## Cultural redress

Cultural redress recognises the traditional, historical, cultural and spiritual association of Heretaunga Tamatea with places and sites owned by the Crown within their primary area of interest. This allows Heretaunga Tamatea and the Crown to protect and enhance the conservation values associated with these sites.

### SITES VESTED IN HERETAUNGA TAMATEA

The Deed of Settlement provides for the vesting of five Crown owned sites to Heretaunga Tamatea. The settlement legislation will vest these sites in the post settlement governance entity, Heretaunga Tamatea Settlement Trust, on settlement date.

The following sites will be vested in fee simple in Heretaunga Tamatea:

- Blackhead property
- Omahu property
- Parimāhu Beach property

The following sites will be vested as a recreation reserves in Heretaunga Tamatea:

- Lake Hatuma (Whatumā) property
- Pūrimu Lake property

### VEST AND GIFT BACK

- Cape Kidnappers Gannet Protection Reserve
- Cape Kidnappers Nature Reserve

### OVERLAY CLASSIFICATIONS

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of Heretaunga Tamatea with certain sites of significance. Overlay classifications apply to conservation land and require the New Zealand Conservation Authority (and any other relevant conservation board) to have particular regard to Heretaunga Tamatea values and protection principles. The settlement provides for the following overlay classifications:

- A'Deanes Bush Scenic Reserve
- Cape Kidnappers Gannet Protection Reserve
- Cape Kidnappers Nature Reserve
- Gwavas Conservation Area

### STATUTORY ACKNOWLEDGEMENTS

The Statutory Acknowledgements are acknowledgements by the Crown of statements by Heretaunga Tamatea of their special cultural, historical, or traditional association with certain areas of Crown-owned land.

These acknowledgements are recognised under the Resource Management Act 1991 and the Heritage New Zealand Pouhere Taonga Act 2014.

The authorities who give resource consents under these Acts, the Environment Court and Heritage New Zealand, must also have regard to these statements for certain purposes.

The Deed of Settlement provides for 27 Statutory Acknowledgements covering:

- Clive River and its tributaries
- Elsthorpe Scenic Reserve
- Hiranui Scenic Reserve
- Inglis Bush Scenic Reserve
- Kāhika Conservation Area
- Karamū Stream (with official name Karamu Stream) and its tributaries
- Part of Kāweka State Forest Park (with official name Kaweka State Forest Park)
- Māharakeke Stream (with recorded name Maharakeke Stream) and its tributaries
- Mākāretu River (with recorded name Makaretu River) and its tributaries within the Heretaunga Tamatea area of interest
- Maraetōtara River and its tributaries (with recorded name Maraetotara River)
- Maraetōtara Scenic Reserve (with official name Maraetotara Scenic Reserve)
- Maraetōtara Gorge Scenic Reserve (with official name Maraetotara Gorge Scenic Reserve)

- Mātai Moana Scenic Reserve (with official name Matai Moana Scenic Reserve)
- McLeans Bush Scenic Reserve
- Mohi Bush Scenic Reserve
- Monckton Scenic Reserve
- Ngaruroro River and its tributaries within the Heretaunga Tamatea area of interest
- Parkers Bush Scenic Reserve
- Pōrangahau/Tāurekaitai River (with recorded name Porangahau River) and its tributaries
- Ruahine Forest (East) Conservation Area
- Part of Ruahine Forest Park
- Springhill Scenic Reserve
- Te Aute Conservation Area
- Tukipō River (with recorded name Tukipo River) and its tributaries
- Tukituki River and its tributaries within the Heretaunga Tamatea area of interest
- Tūtaekuri River (with official name Tutaekuri River) and its tributaries within the Heretaunga Tamatea area of interest
- Waipawa River and its tributaries within the Heretaunga Tamatea area of interest

#### DEEDS OF RECOGNITION

Deeds of recognition require the Crown to consult with Heretaunga Tamatea, and have regard for Heretaunga Tamatea's special association with a site or place and specify Heretaunga Tamatea input into the management of those areas administered by the Department of Conservation or the Commissioner of Crown Lands.

The Deed of Settlement provides for 20 Deeds of Recognition covering:

- Clive River and its tributaries
- Elsthorpe Scenic Reserve
- Hiranui Scenic Reserve
- Inglis Bush Scenic Reserve
- Kāhika Conservation Area
- Karamū Stream (with official name Karamu Stream) and its tributaries
- Part of Kāweka State Forest Park (with official name Kaweka State Forest Park) Maraetōtara Scenic Reserve (with official name Maraetotara Scenic Reserve)
- Maraetōtara Gorge Scenic Reserve (with official name Maraetotara Gorge Scenic Reserve)
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- McLeans Bush Scenic Reserve
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- Ngaruroro River and its tributaries within the Heretaunga Tamatea area of interest
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- Ruahine Forest (East) Conservation Area
- Part of Ruahine Forest Park
- Springhill Scenic Reserve

- Te Aute Conservation Area
- Tūtaekuri River (with official name Tutaekuri River) and its tributaries within the Heretaunga Tamatea area of interest

#### RELATIONSHIP STATEMENT

The commitment to a post-settlement relationship with each of the Department of Conservation, the Ministry for the Environment, Ministry of Social Development, the Department of Internal Affairs, the Museum of New Zealand Te Papa Tongarewa, the Ministry for Primary Industries and the Ministry for Culture and Heritage.

#### PLACE NAME CHANGES

The Deed of Settlement includes a commitment to make 11 name changes.

## Financial and commercial redress

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

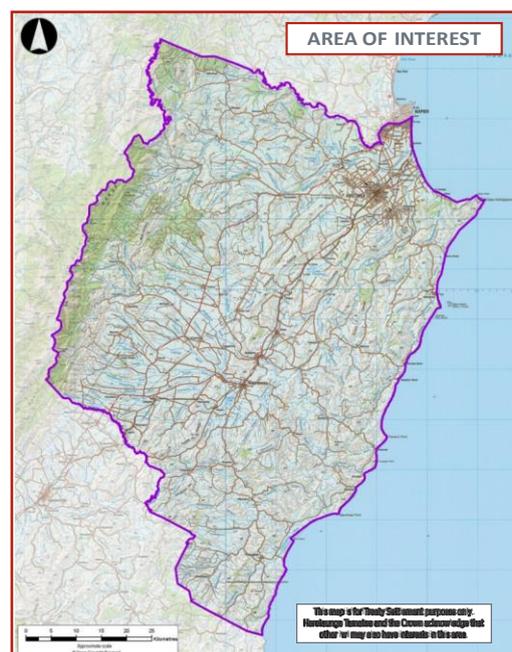
Financial and commercial redress of \$100 million, including the purchase of Kaweka and Gwavas Crown Forest land with Ahuriri Hapū and the right to purchase a number of Crown properties, plus interest on the financial and commercial redress accrued since the signing of the Agreement in Principle. A further \$5 million will be set aside to support the long-term sustainability of Te Aute College.

#### DEFERRED SELECTION PROPERTIES

Heretaunga Tamatea has the option to purchase six Office of Treaty Settlements Landbank-owned properties but does not have to confirm an intention to purchase these before settlement. The decision to purchase can be deferred for up to 18 months after settlement date.

#### RIGHT OF FIRST REFUSAL (RFR)

Heretaunga Tamatea has a right of first refusal for 174 years over the Hawke's Bay Regional Prison.



# Questions and Answers

## 1. What is the overall package of redress?

The settlement package is made up of:

- Acknowledgements and an apology by the Crown for the Crown's acts and omissions that caused prejudice to Heretaunga Tamatea and breached the Treaty of Waitangi and its principles
- Cultural redress, including an historical account, five significant site vestings, overlay classifications, statutory acknowledgements, deed of recognitions and geographic name changes
- Financial and commercial redress of \$100 million, including the purchase of Kaweka and Gwavas Crown Forest land with Ahuriri Hapū and the right to purchase a number of Crown properties, plus interest on the financial and commercial redress accrued since the signing of the Agreement in Principle. A further \$5 million will be set aside to support the long-term sustainability of Te Aute College.

## 2. Is there any private land involved?

No.

## 3. Are the public's rights affected?

In general, all existing public-access rights in relation to areas affected by this settlement will be preserved.

## 4. 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.

## 5. Does the Kaweka and Gwavas Crown Forest land include the Kaweka State Forest Park? Why is this being transferred?

Kaweka and Gwavas Crown Forest Licensed lands are legally separate from the Kaweka State Forest Park and the Gwavas Conservation Area. Heretaunga Tamatea will receive an overlay classification over the Gwavas Conservation Area and a deed of recognition and a statutory acknowledgement for parts of the Kaweka State Forest Park but these remain Conservation lands.

The Kaweka and Gwavas Crown Forest Licensed Lands are entirely within the Heretaunga Tamatea and Ahuriri Hapū areas of interest. The two parties will form a joint company to collectively own and manage the Crown Forest land. Heretaunga Tamatea will have a 66.66% shareholding and Ahuriri Hapū will have a 33.34% shareholding.

## 6. Are any place names changed? Why are they changing?

Place name changes acknowledge the history and association Heretaunga Tamatea have with sites within their rohe. This association was often undermined or cut off altogether by Crown actions. Place name changes recognise Heretaunga Tamatea associations with important sites in the rohe. The approved place name changes are:

Existing name (official and recorded local use)	Proposed name
Cape Kidnappers	Cape Kidnappers / Te Kauwae-a-Māui
Capstan Rock	Muhuaka / Capstan Rock
Flat Rock	Puapua
Hakakino	Hakikino
Kuku Reef/Rocks	Paparewa
Lake Hatuma	Lake Whatumā
Motuokura	Te Motu-o-Kura / Bare Island
Mount Erin	Kohinurākau or Kōhinerākau (alternative names)
Nga Puhake-o-te-ora	Ngā Puha-ake-o-te-ora
Puhokio Stream	Pouhōkio Stream
Waihakura	TeWai-a-Kura

## 7. Does Heretaunga Tamatea 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, the 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 Heretaunga Tamatea. The settlement legislation, once passed, will prevent the iwi and hapū of Heretaunga Tamatea from re-litigating the historical claims before the Waitangi Tribunal or the courts.

The settlement package does not prevent Heretaunga Tamatea from pursuing 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 relating to land or water. 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 Heretaunga Tamatea, wherever they may now live.

This and other settlement summaries are also available at [www.ots.govt.nz](http://www.ots.govt.nz)

Te Kāwanatanga o Aotearoa