



Deed of Settlement

BETWEEN THE CROWN AND MORIORI

General background

Moriari is an imi (tribe) with 872 adult members and 860 children registered with Hokotehi Moriari Trust (HMT). HMT estimate that there are a greater number of unregistered members who are still to reconnect to their Moriari hokopapa. The Moriari area of interest is centred in and around Rēkohu and Rangihau (Chatham and Pitt Islands).

In November 2003, the Crown first recognised the mandate of the HMT to represent Moriari in comprehensive historical Treaty settlement negotiations. In March 2016, following a pause in negotiations, HMT reconfirmed its mandate. In August 2017, the Crown and HMT signed an Agreement in Principle.

In December 2018, HMT established the post-settlement governance entity (PSGE), Moriari Imi Settlement Trust, to receive and manage settlement assets on behalf of Moriari. At the same time, Moriari agreed for the mandate to finalise Treaty settlement negotiations to transfer from HMT to the Moriari Imi Settlement Trust.

On 13 August 2019, the Crown and Moriari initialled a Deed of Settlement (Deed). The Deed is subject to ratification by Moriari members and conditional on the enactment of the settlement legislation.

The Office for Māori Crown Relations – Te Arawhiti, 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 former Minister for Treaty of Waitangi Negotiations, the Honourable Christopher Finlayson, and the current Minister for Treaty of Waitangi Negotiations, the Honourable Andrew Little, represented the Crown in high-level negotiations with Moriari.

Summary of the historical background to the claims by Moriari

Moriari karāpuna (ancestors) were the waina-pono (original inhabitants) of Rēkohu, Rangihau, Hokoreoro (South East Island), and other nearby islands (making up the Chatham Islands). They arrived sometime between 1000 and 1400 CE and all Moriari hokopapa to (are descended from) the founding ancestor Rongomaiwhenua. Moriari developed an egalitarian society where there was little differentiation of rank, and warfare and killing was outlawed. Moriari lived undisturbed for many centuries until their first contact with Pākehā, in 1791.

In late 1835, about 900 people of two Māori iwi, whose traditional rohe was in Taranaki, sailed on a British ship to Rēkohu after hearing of the islands' attractiveness for settlement and believing Moriari would offer little resistance. The newcomers were welcomed and fed by Moriari in accordance with tikane Moriari (Moriari custom). The newcomers soon began to walk the land. Some Moriari wanted to resist the invaders, but the elders Torea and Tapata urged the people to obey Nunuku's law of peace, arguing that to violate it would be contrary to their ancient beliefs and customs. Upon returning to their villages they were attacked, and many were killed. Māori accounts put the number of Moriari killed in 1835-36 at around 300, or about one-sixth of the population. Those Moriari who survived the invasion were enslaved and forced to do manual labour. Slavery was foreign to and totally at odds with tikane Moriari.

In 1842, Rēkohu and the surrounding islands were annexed to New Zealand, as the Chatham Islands. The Crown took no action before the late 1850s to alleviate the conditions of Moriari enslavement. Moriari sent letters and petitions to the Crown detailing their plight, including the names of those killed in the invasion and those who had subsequently died of despair. In 1862 Moriari wrote an extensive petition to the Crown seeking recognition of their ancient land rights and claiming the protection of the Crown and English law. In an 1862 letter, Moriari stated that they continued to be enslaved by Maori. In 1863, a new Resident Magistrate was appointed who set about improving some conditions for Moriari.

In June 1870, the Native Land Court sat on the Chatham Islands. At that time the population of the Chathams comprised just under 100 Moriari and about 20 Māori, but some Māori returned to the Chatham Islands from Taranaki to conduct their case and support their claim. The Court sat for eight days at Waitangi and heard claims over the whole of Rēkohu as just five blocks, as well as claims to Hokoreoro (South East Island) and Rangihau (Pitt Island). The Court, applying its own understanding of 'Native customs', gave particular weight to pre-1840 conquest, where it was accompanied by subsequent occupation.

The Court awarded more than 97 per cent of the land to the recently arrived Māori and less than 3 per cent to Moriari. Tikane Moriari did not recognise conquest as a means of gaining land rights. Moriari arguments focused on holding rights in accordance with tikane, in particular through ancestral occupation and adherence to their own ancient law of peace. Although under Moriari customary tenure land was held communally, Crown title was awarded to individuals. As a result of being left virtually landless, many Moriari who had survived the enslavement were forced to abandon Rēkohu.

By 1901, the Moriari population on Rēkohu had collapsed from a pre-contact population of at least 2000 to only 31 (out of a total Chatham Islands population of 418 comprising Moriari, Māori and Europeans). At the turn of the century several prominent Moriari elders died. With the loss of this generation, none remained who had first-hand knowledge of Moriari language and traditions. Moriari awareness of their language, hokopapa, and traditions subsequently went further into decline.

In 1867 the Crown extended political representation to all Māori men who lived within four electoral districts. The Chatham Islands were outside all electoral districts meaning Moriari and other Chatham Islands residents could not vote or have political representation. It was not until 1922 that legislation was enacted to correct this.

For more than a hundred years individuals and institutions (including the Colonial Museum, a Crown institution) collected and exchanged kōimi t'chakat Moriari (the skeletal remains of Moriari ancestors) taken from Rēkohu and surrounding islands. Moriari assert that that removal of kōimi t'chakat Moriari violated the tchap' (tapu) of these miheke (taonga) and eroded Moriari authority by interfering with their ability to act as tchieki (guardians) of their miheke.

In the early twentieth century prominent ethnographers wrongly portrayed Moriari as extinct and racially distinct from, and inferior to, Māori. The Crown contributed to the dissemination of this myth through the publication of The School Journal. The 1916 and 1946 editions of The School Journal taught generations of New Zealand schoolchildren that Moriari were an inferior race and had occupied New Zealand prior to the arrival of Māori and had been driven out to the Chatham Islands by the later

migrants. These myths caused much damage to Moriori and still persist today.

The stories popularised and spread through The School Journal had a significant impact on many children of Moriori descent and they carried this through into adulthood. As a result of the stigma associated with persistent myths generations have been reluctant to identify as Moriori or have not been told that they are Moriori, growing up in ignorance of their heritage. Moriori are still dealing with this legacy of loss today.

Since the late 1970s Moriori descendants have been working to rebuild their identity and culture as a distinct people with a unique heritage. What has been achieved over the past 40 years is testament to their resilience as a people and their determination to reclaim their rightful place in the history of Rēkohu and Aotearoa New Zealand.

Summary of the settlement between the Crown and Moriori

Overview

The Deed is the final settlement of all historical Treaty of Waitangi claims of Moriori 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 acknowledgements and apology;
- cultural redress; and
- financial and commercial redress.

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

Crown acknowledgements and apology

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

The Deed of Settlement also includes a Crown apology to Moriori 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 Moriori. These include the failure to act in a more reactive and proactive manner to end their enslavement, the failure to protect ta rē Moriori, the failure to protect Moriori from becoming virtually landless, the collection and trade of kōimi t'chakat Moriori (human remains) and the Crown's contribution to the stigmatisation of Moriori as a racially inferior people who became extinct.

Cultural redress

Cultural redress is intended to recognise the cultural, historical and traditional associations of Moriori within their area of interest. A range of mechanisms are used to achieve this recognition.

VESTING OF LAND

Eight sites will be transferred to Moriori as cultural redress. Some sites will transfer subject to certain conditions which will protect existing third party rights, and existing values such as public access and conservation.

The table below lists the sites and conditions of transfer. Images of each site can be found in the Deed Plans in the Attachments Schedule to the Deed of Settlement.

Vested in Moriori			
Site	Location	Area (ha)	Conditions of Vesting
Owenga Property	Chatham Island	1.6	Subject to a marginal strip being laid off, to be managed by Moriori

Vested in Moriori			
Site	Location	Area (ha)	Conditions of Vesting
Te Awanui	Chatham Island	2	Unencumbered
Waihere block	Pitt Island	767	Subject to Local Purpose (Ecological Restoration and Community Purposes) Reserve
Glory block	Pitt Island	461	Subject to Local Purpose (Ecological Restoration and Community Purposes) Reserve
Glory housing property	Pitt Island	5	Subject to a restrictive covenant for low-impact housing
Waipaua coastal property	Pitt Island	26	Subject to Scenic Reserve status
Waipaua property	Pitt Island	1	Unencumbered
Rangiauria	Pitt Island	36	Subject to Scenic Reserve status property

OVERLAY CLASSIFICATION

An overlay classification acknowledges the traditional, cultural, spiritual and historical associations of Moriori with certain sites of significance. Overlay classifications provide for the Crown to acknowledge Moriori values in relation to that area.

The Deed of Settlement provides overlay classifications over:

Name of Site
Waikokopu (Canister Cove) Scenic Reserve & Waipāua Scenic Reserve
Mangere Island Nature Reserve
Part Wharekauri site 100 (eastern part)
Rangatira Nature Reserve
Wharekauri site 102
Manaua (Ocean Mail) Scenic Reserve

STATUTORY ACKNOWLEDGEMENTS AND DEED OF RECOGNITION

A statutory acknowledgement recognises the association between Moriori and a particular site or area and enhances the ability of Moriori to participate in specified resource management processes. A deed of recognition obliges the Crown to consult with Moriori on specified matters and have regard to their views regarding their special associations with certain areas.

The Deed of Settlement provides statutory acknowledgements over the following areas:

Name of Site
Tikitiki Hill Conservation Area
Coastal statutory acknowledgement area

The Deed of Settlement provides statutory acknowledgements and deeds of recognition over the following areas:

Name of Site
11882 Owenga site
Hanson Bay South Marginal Strip
Henga Scenic Reserve
Lake Huro Marginal Strip
Owenga Marginal Strip
Pacific Ocean Marginal Strip

Name of Site
Petre Bay Marginal Strip
Pitt Straight Marginal Strip
Wharekauri site 101
Wharekauri site 103
Wharekauri site 104
Wharekauri site 105
Te Awatea Scenic Reserve
Waitangi Marginal Strip

CO-MANAGEMENT ARRANGEMENTS

Moriŕi Imi Settlement Trust will enter into co-management arrangement with the Department of Conservation over the following sites:

- J M Barker (Hāpūpū) Historic Reserve; and
- an area of remnant forest within Waipaua Conservation Area remaining in Crown ownership, and the Waipāua Coastal property transferring to Moriŕi.

RELATIONSHIP REDRESS

The settlement will provide for the Minister for Energy and Resources and the Minister of Agriculture, the Minister for Biosecurity, the Minister of Fisheries, the Minister for Food Safety and the Minister of Forestry to issue protocols that set out how their respective agencies will interact with and consult Moriŕi Imi Settlement Trust when carrying out statutory duties and functions. It will also provide for a Hokoetanga Tiaki Miheke, to facilitate a good working relationship between Moriŕi, the Ministry of Culture and Heritage, the Department of Internal Affairs and other cultural agencies.

Moriŕi Imi Settlement Trust will enter into relationship agreements with the Ministry for the Environment and the Department of Conservation.

The Chief Executive of the Office of Māori Crown Relations – Te Arawhiti will write letters to the following organisations to raise the profile of Moriŕi, advise of matters of particular importance to Moriŕi, and encourage better engagement with Moriŕi:

- Ministry of Education
- Ministry of Health
- Ministry of Social Development
- Ngā Taonga Sound and Vision
- Environmental Protection Agency
- Tertiary Education Commission

GEOGRAPHIC PLACE NAME CHANGES

Place names recognise associations with geographic areas. Fourteen place names will be changed through the settlement legislation:

Geographic place name changes approved by NZGB	
Existing Name	New official name
Waipaua	Waipāua
Hakepa	Hakepa
Blind Jims Creek	Pana / Blind Jims Creek
Point Alison	Waimihi / Point Alison
Napper Point	Tamarau Point
Taupeka	Tapuika
Red Bluff	Whenuahau Point

Geographic place name changes approved by NZGB	
Existing Name	New official name
Te Whenuahau	Whenuahau
Western Reef	Rangihokopoi / Western Reef
Hauptupu	Hāpūpū
Four unnamed sites as:	
Unnamed site, local use name Ocean Mail Beach	Manauaea
Unnamed site, local use name Murumuru Islands or The Nuggets	Te Rangakiore Islands
Unnamed site	Ta Upoko-o-Rangimene Reef
Unnamed site	Takapu Beach

In addition to place name changes, the names listed in the table below will be recorded as unofficial original Moriŕi names:

Existing Name	Unofficial original Moriŕi name
Mangere Island	Maung' Rē
Ohira	Ōuira
Te Rangaapene	Te Ranga-a-Pehe
South East Island (Rangatira)	Hokoreoreo
The Pyramid (Tarakoikoia)	Tcharako
Star Keys (Motuhope) [unofficial]	Motchu Hopo
The Sisters (Rangitatahi)	Rakitchu
Motuhara (Bertier or the Forty Fours) [unofficial]	Motchu Hara
Nairn River	Ōrea
Point Munning	Tok' Karoro
Point Somes	Rerau
Waitangi Bay	Waiteki Bay
Port Hutt (Whangaroa Harbour)	Tei Kohuru
Cape Patisson	Tapuaki-o-Hiti
Point Durham	Paroa
Cape L'Eveque	Ko Ku Hewa
Waitangi	Waiteki
Taupeka Point	Tapuika Point
Round Rock (Rangituka)	Rangituka
Rabbit Island	Wharekaikite

The names of public conversation lands (reserves) will be changed through the Moriŕi Deed of Settlement:

Name changes to public conservation lands	
Canister Cove Scenic Reserve	Waikokopu (Canister Cove) Scenic Reserve
JM Barker (Hauptupu) Historic Reserve	JM Barker (Hāpūpū) Historic Reserve
Ocean Mail Scenic Reserve	Manauaea (Ocean Mail) Scenic Reserve
Waipaua Scenic Reserve	Waipāua Scenic Reserve

Financial redress

\$18m quantum (plus interest accrued between signing the Agreement in Principle and the settlement date).

Shared redress

Moriŕi and Ngāti Mutunga o Wharekauri both have interests in the Chatham Islands. Their areas of interest overlap and encompass the entirety of the Chatham Islands.

Shared redress is still under negotiation between the Crown and Moriori. Shared redress will include:

- the transfer of the bed of Te Whanga Lagoon and some adjoining lands;
- a management regime for Te Whanga Lagoon and some adjoining lands;
- a right of first refusal over Crown properties on the Chatham Islands;
- a new regime for the management of customary fishing on the Chatham Islands;
- the establishment of a Joint Planning Committee of the Chatham Islands Council;
- official geographic place name changes;
- a joint overlay classifications over the Cape Young portion of Wharekauri site 100;
- four Tikitiki Hill sites; and
- Kaingaroa school (land only) sale and lease back.

Whilst the individual deeds and legislation will comprehensively settle the historical Treaty of Waitangi claims of Moriori and Ngāti Mutunga o Wharekauri, with the exception of the shared right of first refusal over Crown properties on the Chatham Islands and provision for customary non-commercial fishing regulations, shared redress between Moriori and Ngāti Mutunga o Wharekauri will be delivered through a separate shared redress deed and bill.

Questions and Answers

1. What happens next?

The initialled Deed of Settlement is subject to the approval of Moriori members by a vote (known as ratification). If the Deed of Settlement receives sufficient support, then it will be signed by the Crown and Moriori. The Crown will then introduce legislation to Parliament to give effect to the settlement.

2. What is the total settlement package?

- Crown acknowledgements and apology for historical breaches of the Treaty of Waitangi;
- an agreed historical account;
- cultural redress including the vesting of eight sites of significance, co-management arrangements with the Department of Conservation and relationship redress; and
- financial and commercial redress of \$18 million plus interest accrued between signing the Agreement in Principle and settlement date.

3. Is there any private land involved?

No.

4. Are the public's rights affected?

No, nothing will change for the public. Public access, recreational use, reserve status and existing third-party rights are maintained. Covenants and easements will guarantee continued public access, with the exception of the former Owenga School, Te Awanui and Waipāua property sites.

5. Are any place names changed?

Yes. A number of existing geographic names will change and four sites that do not currently have an official name will be assigned a geographic name.

6. What is an overlay classification?

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of an imi 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.

7. What are statutory acknowledgement and deeds of recognition?

A statutory acknowledgement acknowledges areas or sites with which iwi have a special relationship and will be recognised in any relevant proceedings under the Resource Management Act 1991. 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 iwi. A statutory acknowledgement does not convey a property right and is non-exclusive.

A deed of recognition sets out an agreement between the Minister of Conservation and a claimant group in recognition of its special association with a site and specifies the nature of iwi or hapū input into the management of the site.

8. 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.

9. When will the settlement take effect?

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

10. Do Moriori have the right to come back and make further claims about the behaviour of the Crown in the nineteenth and twentieth centuries?

No. When the Deed of Settlement is signed, and settlement legislation is passed it will be a final and comprehensive settlement of all historical (relating to events before 21 September 1992) Treaty of Waitangi claims of Moriori. The settlement legislation, once passed, will prevent Moriori re-litigating the claim before the Waitangi Tribunal or the courts.

The settlement will still allow Moriori to pursue claims against the Crown for acts or omissions after 21 September 1992 including claims based on the continued existence of aboriginal title of customary rights. The Crown also retains the right to dispute such claims or the existence of such title rights.

11. Who benefits from the settlement?

All members of the Moriori imi wherever they may now live.

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