



Ngātiwai Trust Board

Frequently Asked Questions (FAQ's)

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Kia Tūpato!

*Ka tangi a Tūkaiaia kei te moana, ko Ngātiwai kei te moana e haere ana;
Ka tangi a Tūkaiaia kei tuawhēnua, ko Ngātiwai kei tuawhēnua e haere ana.*

Beware!

*When Tūkaiaia calls at sea, Ngātiwai are at sea;
When Tūkaiaia calls inland, Ngātiwai are inland.*

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FREQUENTLY ASKED QUESTIONS

	Page
About Ngātiwai	
1. Who is Ngātiwai?.....	4
2. Where is the Ngātiwai Rohe or Tribal Area?.....	4
3. How many Ngātiwai are there?.....	5
4. Why should members register with the Ngātiwai Trust Board?.....	5
About the Claim	
5. What are you claiming a settlement for?.....	6
6. What do you want the Crown to do about your claim?.....	6
7. How will the settlement affect the general public?.....	9
About the Settlement Process	
8. How will you achieve a settlement?.....	10
9. What is a mandate or “Deed of Mandate”?.....	11
10. What happens next?.....	11
About Money Matters	
11. Who pays for the settlement process?.....	12
12. How will your members benefit from the Settlement	12

About Ngātiwai

1. Who is Ngātiwai?

Te Iwi o Ngātiwai (Ngātiwai) is unified in descent from one of the oldest descendent groups in Te Taitokerau – **Ngāti Manaia**. Although Ngātiwai are an amalgam of a number of older Iwi groups, it is the unbroken line of descent from the eponymous ancestor Manaia; his descendant Manaia II and his people of Ngāti Manaia which gives the Iwi its unique and distinctive identity and ancient rights of “take tūpuna”.

Unlike surrounding Iwi, Ngātiwai has occupied the eastern coastline of lower Northland since the first period of human occupation, extending back to Māui-tikitiki-a-Taranga and Māui Pae. Through this, Ngātiwai has a unique right of “take whenua kite hou” (the right of discovery or first inhabitation).

Ngātiwai includes the many related hapū and persons affiliated to the kāinga and marae occupying the eastern coastline of the North Island. While there are a number of historic hapu the current Ngātiwai hapu include:

- Ngare Raumati
- Te Kapotai
- Ngāti Tautahi
- Te Uri o Hikihiki
- Te Whānau Whero-mata-mamoe
- Te Aki Tai
- Te Kainga Kurī
- Ngāti Toki ki-te-moana
- Te Whānau ā Rangiwhakaahu
- Ngāti Takapari
- Ngāti Kororā
- Te Waiariki
- Te Patuharakeke
- Ngāti Manuhiri*
- Ngāti Rehua*

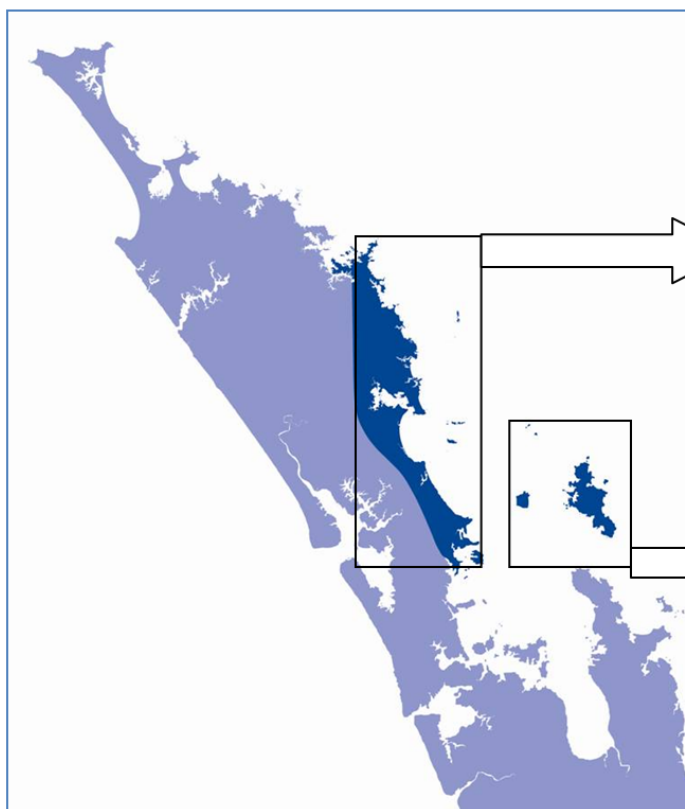
Hapu indicated with an astrix (*) above are not included in the settlement process associated with the Ngatiwai Trust Board as they have (or they are in the process of) settling their Treaty Claims with the Crown separately - as part of the Auckland/Tamaki Collective settlement process.

2. Where is the Ngātiwai Rohe or Tribal Area?

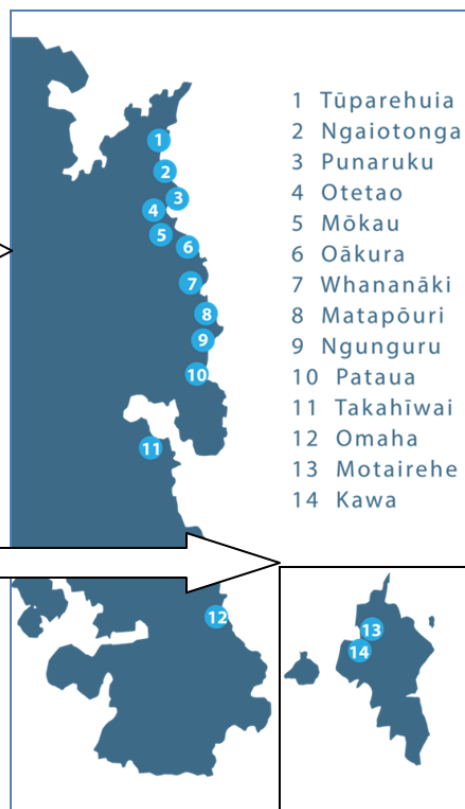
The Ngātiwai rohe or tribal area extends along the eastern coastline of the North Island from Rākaumangamanga (Cape Brett) in the north to Matakanakana (the Matakana River) in the south. Ngātiwai also has ancestral interests in the coastal area extending south of Matakanakana to the Okura River.

Ngātiwai has mana whenua, mana moana over the chain of islands extending from Motukōkako off Te Rāwhiti, Rimuriki off Mimiwhāngata, to Tawhiti-rahi and Aorangi (The Poor Knights), High Peak Rocks, Sugar Loaf Rocks, the Marotiri Islands and Tāraua (The Hen and Chickens Group), Tūturu (Sail Rock), Pokohinu and Motukino (The Mokohīna Islands), Te Hauturu o Toi (Little Barrier), Aotea (Great Barrier), Te Kawau-tūmaro-o-Toi (Kawau Island) and Te Mau Tohorā-o-Manaia (Motuora Island).

Ngātiwai Rohe or Area of Interest



Ngātiwai Marae



3. How many Ngātiwai are there?

As of 10 July 2014 the Ngātiwai Trust Board has 7,010 registered members in total. However, the Ngātiwai Trust Board estimates the total population of Ngātiwai to be well in excess of 10,000 members and work is underway to locate members for registration on the Ngātiwai tribal database.

If you are a member please contact us for information on how to register or register online on our website at: <http://www.ngatiwai.iwi.nz/index.php/register>

4. Why should members register with the Ngātiwai Trust Board?

The purpose of registering with Ngātiwai is to:

- Declare yourself as a Ngātiwai tribal member.
- Enable you to access education scholarships and grants distributed by Ngātiwai.
- Entitle you to vote (if you are 18 years and over) in Marae elections.
- Entitle you to be nominated as a candidate to stand as a trustee on the Ngātiwai Trust Board.
- Have the option of receiving our e-panui which keeps you up to date with current news, events and activities that you may want to participate in.

5. What are you claiming a settlement for?

A historical account and apology for the Treaty breaches: First and foremost it is about obtaining a written record and an acknowledgement from the Crown that it has breached the agreements set out in the Treaty of Waitangi since 1840. This occurred through various legislation and policies deliberately designed to alienate Ngātiwai whanui from almost all of our ancestral homelands (see the Ngatiwai Trust Board Annual Report 2013 page 8-9).

While this alienation has occurred over many generations a settlement of historical grievances would only explore the period from 1840 when the Treaty of Waitangi was signed up until September 1992 – an arbitrary date chosen by the Crown to mark the distinction between claims it is willing to entertain now (i.e. historical claims) and claims it has yet to entertain (i.e. contemporary claims).

Documented evidence/research showing the claims are well founded: The written record would set out the nature and extent of Crown Treaty breaches against Ngātiwai for the public record clarifying Ngatiwai rights and interests during this period. The claim would set out the downstream effects of Crown Treaty breaches on the people of Ngātiwai including the social, cultural, economic and other effects (i.e. the loss and pain suffered).

6. What do you want the Crown to do about your claim?

Atone for its past behaviour and provide redress: Secondly and subsequently, it is about reaching an agreement on a package of measures to right the wrongs of the past that are to be detailed in a Deed of Settlement and following that legislation.

Usually as part of a settlement:

- The Crown recognises the wrongs done – it does this through the historical account Crown acknowledgements, and apology
- The Crown provides financial and commercial redress, in recognition of breaches by the Crown of the Treaty of Waitangi and its principles, which can be used to build an economic base for the claimant group, and
- The Crown provides redress recognising the claimant group's spiritual, cultural, historical, or traditional associations with the natural environment, sites, and areas within their area of interest – often called cultural redress.

Together these three areas of redress make up a balanced settlement package that the claimant group may accept in final settlement of their historical grievances.

Financial and Commercial redress: Financial redress refers to the portion of the total settlement that Ngātiwai would receive in cash, and commercial redress refers to any Crown assets, such as property, that contribute to the total redress quantum. Aspects of the claims that are considered in determining the quantum include:

- how much land was lost from Ngātiwai through the Crown's breaches of the Treaty and its principles
- the relative seriousness of the breaches involved (i.e. were people killed in the taking of land (termed "Raupatu") compared with land that was taken "not by the sword but by the pen")
- what the Crown has given in existing settlements for similar grievances
- how many people belong to the tribe today and are therefore impacted by the Treaty breaches.

Types of commercial redress: In general commercial redress can include:

- **Transfer of Crown properties:** From the overall quantum commercial redress can involve the transfer of properties or land under Crown ownership based on valuations of any such properties.
- **Cash:** Any commercial redress is then subtracted from the quantum until the quantum is either exhausted or where it isn't; the remainder is paid out in cash.

Cultural redress: On the other hand this usually involves the identification of sites of significance to an Iwi such as wahi tapu, rivers, forests, lakes or important harvesting or garden areas etc; where a number of statutory instruments can apply. This might include:

- **recognition** of cultural, spiritual, historical and traditional associations with areas or natural resources including recognition of the role of Māori as kaitiaki of the natural environment
- **protection** of wāhi tapu and other sacred sites
- **access** to resources of cultural significance

Types of cultural redress: Cultural redress is generally achieved through "statutory instruments" included in settlement legislation. Examples include:

- **Statutory vesting** for example of lands, rivers, lakebeds. This provides ownership or title, with rights to use or manage these varying from site to site. This might sometimes involve statutory vesting and then gifting back of sites of outstanding significance, where ownership of such a site is vested in a

claimant group for a specified period and is then returned unconditionally to the Crown for all New Zealanders.

- **Overlay classifications.** This is a statement that recognises the associations of a claimant group to a highly significant site on land administered by the Department of Conservation (DoC). It describes the values and principles associated with the site and its ongoing management. It also provides an opportunity for a claimant group to have ongoing input into the management of the site.
- **Statutory acknowledgements.** This is a statement that recognises the associations of a claimant group to a significant site on land owned by the Crown (including for example, rivers, lakes, mountains, wetlands and coastal areas). This process formally recognises claimant group associations with a place and enhances their ability to participate in resource management processes.
- **Deeds of recognition.** These may follow from a statutory acknowledgement. Here the Minister responsible for the management of a place subject to a statutory acknowledgement acknowledges a statement of the claimant group's associations, and agrees to consult and have regard for the claimants group's views on specified matters.
- **Advisory committee appointments.** This enables the claimant group to advise a Minister directly on specific matters – for instance, advice to the Minister of Fisheries in relation to a taonga (or iconic) fish species.
- **Protocols.** These are issued by a Minister setting out how a Government department will exercise its powers, functions and duties within a claimant group area, and how it will engage with a claimant group.
- **Joint advisory or management committee.** Such as joint DoC and iwi group committees may be established to manage a site of importance to both parties.
- **Nohoanga (camping entitlements).** This mechanism provides a claimant group with an entitlement to camp temporarily on specified Crown-owned land for the purpose of lawful gathering of traditional foods and other natural resources.
- **Place-name changes.** Settlement legislation can be used to change official place-names within the claimant group area to joint Māori-English names and in some limited circumstances to Māori only names. This process is generally undertaken in consultation with the New Zealand Geographic Board.

A unique challenge for the Ngātiwai settlement will be to seek redress in relation to our alienation from the ocean and its resources and in relation to the flora and fauna within our tribal rohe or area.

7. How will the settlement affect the general public?

In general, public interests are not affected by Treaty settlements particularly if the settlement is pursued via direct negotiations (see below). This is because the Crown has a policy to avoid the creation of new grievances in the process of settling past grievances.

In effect this means that the Crown will not force the return of privately owned lands as part of a redress package – even if those lands were originally owned by a particular iwi in the first place. The Crown offers lands that are Crown owned (including lands owned by various Government agencies) and usually only if they are surplus to Crown requirements, although this is a matter for negotiations to determine.

The Ngātiwai Trust Board does not foresee any exceptions to this rule concerning private land ownership. However, public access to traditional resources and places of outstanding significance both to Ngātiwai and the Crown (on behalf of the public) may be impacted but usually not in any material way that is any different from the *status quo* (i.e. the status quo may be formalised through the settlement process with the use of statutory instruments).

About the Settlement Process

8. How will you achieve a settlement?

Along with other Iwi throughout Aotearoa the Ngātiwai Trust Board took steps to ask its members if the time was right to seek a Treaty Settlement with the Crown. In doing so it acknowledged there were two options:

- **Waitangi Tribunal then Direct Negotiations:** One option involves going to the Waitangi Tribunal and then into negotiations with the Crown. This is a longer process by comparison and provides the opportunity for grievances to be thoroughly documented and publicly aired - in the Tribunal hearings and in a report on the Tribunal's findings.
- **Straight to Direct Negotiations:** The other option is to go into direct negotiations with the Crown and by-pass the Waitangi Tribunal. This option also provides for rigorous research to be completed documenting the Treaty breaches and for an alternative process for the "airing of grievances" to be arranged instead of the Waitangi Tribunal hearings process. By comparison this is a shorter process reducing time and costs for both the Ngātiwai Trust Board and the Crown although this cannot be guaranteed.

The Waitangi Tribunal may take up to 2020 to complete its findings: It is difficult to put a finger on exactly how long it would take to complete the Waitangi Tribunal process including hearings and a report on its finding. Indications the Ngātiwai Trust Board has received unofficially are estimated to be at least 2016 before the third rotation of hearings would be completed and possibly 2020 or longer before a final report would be released with the Tribunal's findings.

The opportunity to by-pass the Waitangi Tribunal is limited: It should be noted that the Waitangi Tribunal pathway is the default process in the absence of a mandate for direct negotiations. It should also be noted that direct negotiations is not an option available to all iwi at the same time. This is because Crown resources must be made available to support direct negotiations and as these resources are limited they are managed by the Crown usually focusing effort in a particular region. Therefore if iwi are not on the Crown's current work program there is little other alternative to the Waitangi Tribunal hearings process until Crown resources become available.

A settlement is not full compensation: The reality is that no settlement, regardless of how well-founded or carefully worded and presented through the Waitangi Tribunal -or in direct negotiations with the Crown -will ever compensate whānau, hapū and Iwi for the full loss of land and hardship that has been suffered.

Ultimately there is a limit on the amount of redress offered and NTB considers the overall result of the Waitangi Tribunal pathway to settlement would not be any different from the direct negotiations pathway.

9. What is a mandate or “Deed of Mandate”?

Mandating in the Treaty settlement context is a process by which the claimant group (i.e. Ngatiwai) choose (or not) to support representatives (i.e. the Ngatiwai Trust Board) to act on their behalf in dealings with the Crown in settlement negotiations.

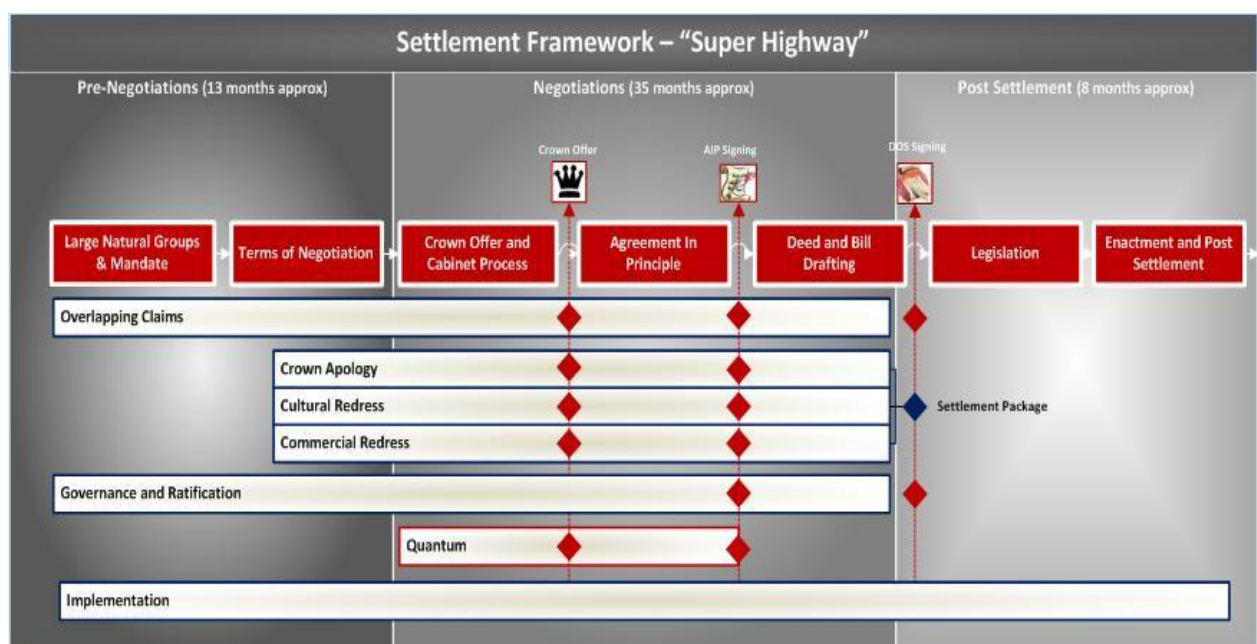
Given the context described above the Ngātiwai Trust Board took the view that its members should be given the opportunity to consider and choose which pathway is most appropriate to our current circumstances. Therefore as a consequence a mandate strategy was developed setting out how the Ngatiwai Trust Board proposed to seek a mandate for an iwi-wide decision on this matter. Details of the mandating process are set out in the Deed of Mandate which must be shown to be fair, open and transparent and consistent with key Crown settlement policies.

As a result in October 2013, 82% (of those who cast a vote) were in favour of bypassing the Waitangi Tribunal process and entering into direct negotiations with the Crown. The vote reinforced the Ngātiwai Trust Board’s preferred option for direct negotiations and provided reassurance that it was on the right track in terms of the wishes of its members.

10. What happens next?

The next step is for the Crown to undertake a final submission process and from it make a determination if it is able to recognise the Ngātiwai Trust Board mandate. If so funding will be made available from the Crown Forest Rental Trust (CFRT) so that research can be completed and negotiations can get underway (see below).

The illustration below shows the bigger picture by outlining how the Deed of Mandate is one of the first in a series of steps towards negotiating a comprehensive settlement with the Crown on a full and final basis. There is a long way to go yet.



About Money Matters

11. Who pays for the settlement process?

CFRT provides funding and other assistance to claimants to prepare, present and negotiate claims, which involve, or could involve, Crown forest licensed lands. This assistance is available despite whichever pathway is taken, whether through the Waitangi Tribunal or through the direct negotiations process managed by the Office of Treaty Settlements.

CFRT provides assistance primarily by:

- Providing advice on all matters concerned with these processes.
- Funding specific settlement-related activities necessary for these processes.
- Planning and funding any research that is required to support the claimant's claim.
- Trustees define criteria for the activities and costs the Trust will fund, and the manner in which claimant groups will be funded.

The Ngātiwai Trust Board has been accepted as an “Approved Client” by CFRT

OTS also makes a contribution to funding the negotiations process, which is provided for each of the settlement milestones. While this funding doesn't cover all expenses a group might incur during negotiations, it is paid as a contribution and is not deducted from financial redress

Funds don't have to be paid back: Any funds received by the Board to assist the negotiations are non-recoverable which means they do not have to be paid back. It should be noted that not all iwi are able to access these funds because they do not have Crown forest licensed lands within their rohe. In these circumstances they must fund their own settlement processes.

12. How will your members benefit from the Settlement?

This is a big question and one that many Iwi who have long-since settled with the Crown are still debating and rearranging today.

Current benefits available from the Ngātiwai Trust Board: It should be noted that the Ngātiwai Trust Board has always and continues to provide benefits and services to its members. Most of these benefits are derived from either Government grants (i.e. educational funds) or through income generated by the fisheries settlement. Examples of these benefits include:

- Annual funds provided to each Marae with a portion of that earmarked for Kaumatua and; sports or recreation.
- Scholarships available for educational purposes and occasional sponsorship (i.e. for sports, or in one case for a Ngātiwai ambassador to Wales).

- At a generic level the Ngātiwai Trust Board provides educational and resource management programs and services for members.

Therefore benefits are available to all members of Ngātiwai at present.

Future benefits are to be determined by a newly formed Entity:

There are several critical steps and building blocks that will need to be put in place before the Crown will hand over the settlement assets and therefore before any benefits can be distributed.

A “non-charitable” entity must be established: As part of the settlement process the NTB will be required to develop a proposal for a Post Settlement Governance Entity (PSGE) to receive and manage the settlement assets which are yet to be negotiated, settled and handed over by the Crown. A requirement is that the PSGE must not be a charitable entity. Therefore the Ngatiwai Trust Board which is a charitable entity cannot receive the assets in its current form. The Ngātiwai Trust Board anticipate that a final proposal for the PSGE will be presented to the Iwi for ratification at the same time as a settlement offer from the Crown is presented for approval and ratification.

A representational review must be undertaken: A key issue for consideration in the development of the PSGE is the basis upon which it will be constituted (i.e. what representational structure will be used to make decisions including decisions about how benefits will be determined). For example the Ngātiwai Trust Board is currently marae constituted where 14 marae elected trustees make key decisions about how existing funds are distributed. While the marae based system is the *status quo* or current arrangement that does not predetermine that it is the best representational arrangement most appropriate to Ngātiwai in the current context. Therefore various arrangements will need to be considered and debated before a final proposal will be put back to the Iwi to vote upon along with any settlement offer from the Crown.

The settlement must benefit both current and future generations: Once the PSGE and its representational members are in place and settlement assets have been handed over, the representatives on the PSGE will be charged with determining how best to invest any funds or apply any assets to generate future income. From this income the representatives will also be tasked with determining how benefits from the income earned should be distributed.

This will require a careful balance between:

- How much can be spend now on our current generation compared with
- how much will be left and available for our future generations to spend

Clearly this will be a major undertaking and one that will require further consideration of options, debate, and ratification by the iwi.