

REPORT 1
(1215/11/IM)

NGĀTI TOA RANGATIRA SETTLEMENT - TRANSFER OF TAPUTERANGA ISLAND

1. Purpose of report

The purpose of this paper is to advise Council of the implications of the Ngāti Toa Rangatira settlement with the Crown especially in regard to the transfer of Taputeranga¹ Island. It also seeks approval for Council Officers to further investigate options for the use of the compensation money which will be received.

2. Executive summary

Ngāti Toa Rangatira signed a Deed of Settlement with the Crown on 7 December 2012. Draft legislation has been introduced to Parliament. The redress package includes the vesting of Taputeranga Island in the Crown and then vesting in Ngāti Toa Rangatira as Historic Reserve. The Council will continue to control and manage the reserve under the Reserves Act 1977 with public access maintained. The Council will receive \$700,000 compensation from the Crown for the transfer.

The Council has prepared a 5 year restoration plan for the Island. The paper identifies possible options for use of these funds including using part to fund ecological restoration of the island.

3. Recommendations

Officers recommend that the Council:

1. *Receive the information.*
2. *Note that the ownership of Taputeranga Island will pass from Wellington City Council to the Crown and vest in Ngāti Toa Rangatira (the Trustees of Toa Rangatira Trust) as part of the Crown's settlement of the Waitangi Tribunal claim*
3. *Note that this transfer of ownership will occur as part of the settlement legislation and will have the following effects:*
Taputeranga will be vested in Ngāti Toa Rangatira
 - (a) *The island will be declared a reserve and classified as historic reserve*

¹ The draft legislation refers to the island as one word Taputeranga, following Māori Language Commission orthographic convention.

- (b) It will be named Taputeranga Historic Reserve*
 - (c) Taputeranga can only be transferred to a Ngāti Toa Rangatira entity and requires the Minister of Conservation's agreement.*
 - (d) In the case of transfer Wellington City Council will remain the administering authority*
 - (e) The repeal of sections 2-4 of the Wellington City Council Empowering and Amendment Act*
 - (f) Will provide Wellington City Council with \$700,000 compensation*
4. *Note that the timing for the settlement legislation is anticipated for December 2013 and payment of compensation will be after settlement day in the first quarter of 2014*
5. *Agree that a project to complete the five year restoration of Taputeranga Island at an estimated cost of \$130,000 and options for the use of compensation funds will be considered as part of the 2014/2015 Annual Plan.*

4. Background

Iwi claims in the Wellington District have been the subject of a long process involving historical research, Waitangi Tribunal consideration of the various iwi claims and negotiation with the Crown. Following the publication of the Waitangi Tribunal report in 2003, two mandated iwi entities emerged – Port Nicholson Block Claims Team representing Te Ātiawa, Ngāti Tama, Taranaki and Ngāti Ruanui; and Te Rūnanga o Toa Rangatira Incorporated (Te Rūnanga) representing Ngāti Toa Rangatira. The Port Nicholson Block Claims team concluded their negotiations in 2008 with legislation enacted on 5 August 2009 which established the Port Nicholson Block Settlement Trust.

Te Rūnanga took a longer time largely because of the complexities around their claims at the top of the South Island involving other iwi. The Ngāti Toa Rangatira Deed of Settlement was signed on 7 December 2012 and settlement legislation has been drafted establishing Toa Rangatira Trust as the new Governance entity.

All settlements comprise three parts:

1. The historical account
2. Cultural Redress
3. Financial and Commercial redress

The full Deed of Settlement can be viewed on the Office of Treaty Settlement website at <http://www.ots.govt.nz/>

5. Discussion

Ngāti Toa Rangatira settlement – cultural redress

The Waitangi Tribunal Report on Te Whanganui ā Tara me ōna Takiwā found:

- At 1840, Ngāti Toa Rangatira had *ahi kā*² rights within the Port Nicholson Block at Heretaunga and parts of the South-west coast.
- Ngāti Toa Rangatira *take raupatu*³ put them in a position to further establish *ahi kā* over those lands within the Port Nicholson block where no other group had *ahi kā*.
- That Ngāti Toa Rangatira retained their interests by *take raupatu* in an area of 120,626 acres in the Port Nicholson Block which the Crown granted to the New Zealand Company in 1848 and which the Tribunal considered were never sold by Māori, nor were they paid for them.

The Tribunal concluded that the Crown breached the Treaty of Waitangi and its principles, specifically:

- The 1839 Deed of Purchase was invalid.
- The Crown failed to act reasonably and in good faith and failed to protect the customary rights of Ngāti Toa Rangatira.
- The Crown failed adequately to recognise, investigate, or take into account the full scale and nature of Ngāti Toa Rangatira's interests in the Port Nicholson block area and failed adequately to compensate Ngāti Toa Rangatira for the loss of such interests.

The actions of the Crown, that included political and military action against the senior Ngāti Toa Rangatira chiefs, ultimately left Ngāti Toa Rangatira virtually landless and without resources in both the North and South Islands.

Ngāti Toa Rangatira will receive financial redress including opportunities to purchase and lease back Crown properties and a right of first refusal over surplus Crown properties.

The Crown will introduce standalone legislation providing Ngāti Toa Rangatira with a right of attribution for the Ka Mate haka. The legislation will require the composer of the haka, Ngāti Toa Rangatira chief Te Rauparaha, to be attributed in certain circumstances.

A key part of the settlement is a multi-faceted redress package over Kapiti Island, reflecting its significance to the iwi. This includes a vesting and gift back over part of the island, the vesting of a total of 189 hectares, provision for an

² Ahi kā refers to non-contestable rights associated with occupation and is described as interests in:

“...those areas which a group resided on or cultivated, or where it enjoyed the continuing use of the surrounding resources, provided such occupation or use was not successfully challenged by other Māori groups. Ahi kā is used in the report only in respect of those areas where a group had established non-contestable rights...”

³ Take raupatu refers to rights associated with conquest and is described as interests in: “...a wider area in which a group had more general rights by virtue of having participated in the conquest of that area, provided the group had sufficient strength to sustain those rights.”

overlay classification over the reserves, establishment of a strategic advisory committee and a conservation management plan. The Department of Conservation will remain responsible for the management of Kapiti Island and public access will continue to be restricted to protect the high conservation values.

The following actions have affect within Wellington City environs:

- The vesting in fee simple of Taputeranga Island as historic reserve
- Statutory acknowledgements over:
 - Red Rocks Scientific Reserve (as shown on deed plan OTS-068-29);
 - Oteranga Bay Marginal Strip (as shown on deed plan OTS-068-23);
- Coastal Statutory acknowledgements over:
 - Cook Strait (as shown on deed plan OTS-068-38);
 - Wellington Harbour (Port Nicholson) (as shown on deed plan OTS-068-40);
 - Thoms Rock / Tokahaere (as shown on deed plan OTS-068-41).

Taputeranga Island

In 1827, the battle of Taputeranga sealed Ngāti Toa settlement, where an alliance of Ngāti Toa and Ngāti Mutunga defeated Ngāti Ira, the residing Iwi on the south coast of Wellington. Tamairangi, the Paramount Chieftainess of Ngāti Ira was taken captive and presented to Te Rangihaeata of Ngāti Toa at Ōhariu where she acceded to his protection. Tamairangi and her son Te Kekerengu settled on Mana Island.⁴

Taputeranga Island is located approximately 210 m off Island Bay, on the Wellington south coast. Taputeranga Island consists of a large island and a smaller islet and is approximately 3.2 hectares in size.

Taputeranga Island is the only offshore island within Wellington City Council District. It is zoned Conservation Site under the District Plan, and is vested in Wellington City Council as a Pleasure Ground. It is managed under the South Coast Management Plan (2002).

The Island is situated within the Taputeranga Marine Reserve. The waters surrounding the island are managed by the Department of Conservation as Taputeranga Marine Reserve. The Island is a recorded archaeological site and is included in the Wellington City Council District Plan heritage list. It is also part of a precinct, Taputeranga – Haewai. The New Zealand Historic Places Trust has listed this island as a wāhi tapu area.

Taputeranga is currently administered by Wellington City Council, and is responsible for undertaking periodic plant and animal pest control.

Originally Taputeranga was largely covered by a diverse mix of low-lying coastal scrub. Today the vegetation is dominated by low-lying taupata shrubland and coastal flaxland. Invasive shrubs and trees are dominant on the north and

⁴ Ngāti Toa Rangatira websites: <http://www.ngatittoa.iwi.nz/ngati-toa/iwi-origins/>

north-eastern side, with a large area of karo forest. Pohutukawa dominates the elevated rock outcrop.

Mice and rats are present on the island and have been subject to a regular and ongoing bait control programme run by the Council since 2009. This programme is currently implemented using community volunteers.

A 5 year ecological restoration plan for the Island was prepared in December 2011 which is estimated to require additional funding of up to \$130,000 (over five years) – see appendix 1.

The future plans for the Island include ongoing pest animal control work (continuing to work with the local community) and staged weed removal and replanting.

Future management:

The island will vest in Ngāti Toa Rangatira and will be classified as Historic Reserve under the Reserves Act 1977 (the Act). The Council will continue to be the administering body under the Act and will be responsible for ongoing management in consultation with the new governance entity, Toa Rangatira Trust. Discussions with the Trust are needed to confirm whether a more formal Memorandum of Understanding (MOU) or similar is required. The restoration plan for the island has already been approved by Te Rūnanga o Toa Rangatira Incorporated.

The impact from the settlement is likely to be minimal, and has the potential to enable implementation of the restoration plan using some of the funds from the transfer (see below). There will be no change to public access to the Island.

Use of the Compensation funds

Crown compensation of \$700,000 will be received on “settlement date” which is 70 days after royal assent has been given to the settlement bill.

Council’s Revenue and Financing policy anticipates that the compensation would be used to repay debt. However, there will be community interest in this settlement and this is an opportunity to work with Toa Rangatira Trust to implement the restoration plan and invest the balance of the funds in either the south coast or some of the projects being considered as part of the implementation of a blue belt programme under Our Living City. This would recognise the specific nature of the funds received and enable protection of the cultural and natural heritage of the Island and the interests of the south coast. A proposal will be prepared for consideration during the 2014/15 Annual Plan.

6. Conclusion

Taputeranga Island will transfer from the Council to Ngāti Toa Rangatira as part of their treaty settlement with the Crown. The Council will continue to manage the reserve in partnership with Ngāti Toa Rangatira.

The Minister for Treaty of Waitangi Negotiations recommended to Cabinet that the legislation be enacted by December 2013. The vesting of Taputeranga in Ngāti Toa Rangatira will occur on settlement date. If the legislation is enacted by the end of this year, the settlement date would fall in the first quarter of 2014.

Contact Officers: *Nicky Karu, Manager Treaty Relations and Michael Oates, Manager Open Space and Recreation Planning.*

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

Council has long acknowledged it has obligations to the Treaty of Waitangi, and anticipated the settlement of historic Treaty grievances for Ngāti Toa Rangatira (Waitangi Tribunal Report issued in 2003).

2) LTP/Annual Plan reference and long term financial impact

Mana whenua partnerships in the Long Term Plan: We want to see the special position of mana whenua acknowledged and reflected in the way we make decisions about the city and its resources.

People-centred city: This activity promotes inclusiveness, celebrates social and cultural diversity, and enables us to respond to the needs and aspirations of Māori.

The next Long Term Plan should make provision for a comprehensive Taputeranga Historic Reserve Management Plan.

The amount of compensation for Taputeranga Island has been determined based on a market valuation of \$700,000. It is recorded as an asset in Council's fixed asset register at a book value of \$809,000. When the transfer is completed this will result in an accounting loss of \$109,000 which is not required to be funded.

3) Treaty of Waitangi considerations

We have received a Letter of Introduction from the Minister for Treaty Settlements encouraging Council to engage with Ngāti Toa Rangatira and formalise a partnership relationship. Our existing MOU requires review and updating.

Te Rūnanga o Toa Rangatira Incorporated has indicated that the new entity Toa Rangatira Trust will want to be included in discussions with regard to interim restoration plans and any community engagement initiatives.

Taranaki Whānui ki te Upoko o te Ika a Māui (Port Nicholson Block Settlement Trust) continue to dispute the historic interest of Ngāti Toa Rangatira to Taputeranga island.

4) Decision-making

The report requires Council to decide what should be done with the \$700,000 compensation from the Crown on settlement. Further decisions about the co-management of the reserve can be determined in due course with the iwi owner.

5) Consultation

a) General consultation

The settlement legislation in this matter will vest the island in Toa Rangatira Trust. Council is not required under legislation to consult on this matter. We are awaiting the Crown's instruction and legislation to come into effect.

b) Consultation with Maori

There has been no wider Māori community consultation in this matter.

6) Legal implications

The Office of Treaty Settlements has provided advice on the settlement implications within the Wellington City Council boundary.

7) Consistency with existing policy

The Revenue and Funding policy anticipates that the compensation will offset borrowing and repay debt. There are aspects of community and iwi interest that make this situation unique and this should be considered.

5 year cost plan for restoration of Taputeranga Island

Restoration plan for Taputeranga Island

Item	Description	Year 1	Year 2	Year 3	Year 4	Year 5
1	Woody weed control	5140	6740	3330	3330	2330
2	Herbaceous weed control	6060	6060	3030	3030	606
3	Pest animal control	100	100	100	100	100
4	Planting and releasing	12561	26584	23624	17393	8359
	TOTAL	23861	39484	30084	23853	11395

Total = \$128,677