

**FORESHORE AND SEABED: SUMMARY OF THE DEED OF AGREEMENT BETWEEN NGĀ HAPŪ O NGĀTI POROU AND THE CROWN**

Negotiations have now reached a point where the Crown and Ngāti Porou negotiators have agreed on a Deed of Agreement and the instruments it will contain. The Deed of Agreement was initialled by the parties on Thursday 7 August 2008.

The initialled Deed of Agreement aims to:

- recognise the unbroken, inalienable and enduring mana of the hapū of Ngāti Porou in relation to the public foreshore and seabed in their rohe, which is held and exercised as a collective right; and
- provide legal mechanisms that support the expression and protection of the mana of the hapū of Ngāti Porou both generally and in those specific areas where territorial customary rights are recognised.

The agreement describes nine instruments through which the mana of the hapū of Ngāti Porou, in relation to the public foreshore and seabed in their rohe, would be recognised at law in a way that is consistent with the object of the Foreshore and Seabed Act. These are:

1. A **Statutory Overlay** that recognises the special status of the public foreshore and seabed to the hapū of Ngāti Porou. It also ensures that this status is recorded in key public documents such as district and regional plans and statements and is taken account of in consent processes under the Resource Management Act and Historic Places Act.
2. An **Environmental Covenant**, which will ensure that statutory plans prepared and administered by Gisborne District Council take into account a statement by Ngāti Porou on the sustainable management of natural and physical resources for the public foreshore and seabed in their rohe.
3. A **Conservation Mechanism**, which provides for effective participation by hapū in a number of conservation proposals and applications, for example the establishment of marine reserves, conservation protected areas and marine mammal sanctuaries.
4. **Relationship Instruments** between the hapū of Ngāti Porou and a number of Ministers, which will set out how the hapū and the Ministers (and their departments) will interact. The Ministers are: The Minister of Fisheries, the Minister of Conservation, the Minister for the Environment, the Minister for Arts, Culture and Heritage and the Minister of Energy. The Crown will also encourage Gisborne District Council and the New Zealand Transport Agency to enter into a memorandum of understanding with the hapū of Ngāti Porou in full.

5. A **Fisheries Mechanism** that will allow Fisheries Management Committees to develop customary fisheries resource management plans and subsequent regulations (made by the Minister of Fisheries) to implement those plans and manage customary fisheries.
6. A **Wāhi Tapu** protection mechanism that will give hapū the right to restrict or prohibit access to wāhi tapu and wāhi tapu areas within the public foreshore and seabed in their rohe.
7. A **Protected Customary Activities** mechanism that will allow the supporting hapū the right to continue carrying out specified customary activities without resource consent in or on the public foreshore and seabed in their rohe.
8. A **Pouwhenua** instrument that provides that nga hapū of Ngāti Porou may agree matters relating to erecting signage with relevant departments.
9. A **Placenames** instrument that will officially recognise traditional names or alter names of culturally significant areas.

Where specific territorial customary rights are recognised as part of this agreement the hapū signing this agreement will also have the following additional protections within those territorial customary rights areas:

- A **Permission Right** instrument that will provide the right to approve or withhold approval for any resource consent for activity that will or is likely to have a significant adverse effect on the relationship of the hapū with the environment in the territorial customary rights area.
- An **extended Fisheries Mechanism** that provides the signatories with the ability to make by-laws under customary fishing regulations. The bylaws may place restrictions on fishing within territorial customary rights areas, either to preserve sustainability or for cultural reasons such as following a death by drowning in the area.
- An **extended Environmental Covenant**, which gives the signatories the ability to ensure all statutory plans that cover a territorial customary rights area recognise and provide for the approach of the hapū to the sustainable management of physical and natural resources in that area.
- An **extended Conservation Mechanism**, which provides territorial customary rights hapū the right to give or refuse to give their consent to a number of conservation proposals and applications, for example the establishment of marine reserves.

The initialled Deed of Agreement outlines that only those hapū that choose to ratify the Deed will have their claims affected by the Deed and will benefit from the instruments described. Any hapū that choose not to ratify will not have their claims resolved.

***What happens next?***

Now that the Deed of Agreement has been initialled by the Crown and Ngāti Porou negotiating representatives, it will be put before ngā hapū o Ngāti Porou for ratification.

Once ratified and signed by the representatives of the hapū of Ngāti Porou (that have ratified the agreement), appointed representatives of ngā hapū o Ngāti Porou will file an application in the High Court for confirmation that the requirements for a finding by the High Court under section 96 of the Foreshore and Seabed Act have been satisfied.

Legislation will also be required to give effect to the Deed of Agreement.