



# Deed of Settlement

Between the Crown  
and Ngati Tama

## General Background

Ngati Tama is an iwi of Taranaki and its members are the descendants of Whata, Rakaeiora, and Tamaariki of the Tokomaru waka. Ngati Tama are the descendants of Whata, Rakeiora, and Tamaariki of the Tokomaru waka. Ngati Tama is located in Northern Taranaki (see attached map of Taranaki) and has approximately 1000 members.

The history of Ngati Tama's interaction with the Crown has been detailed in the Waitangi Tribunal's Taranaki Report published in 1996. An account of the historical background agreed between the Crown and Ngati Tama plus the Crown's acknowledgements of breaches of the Treaty of Waitangi and a Crown apology for those breaches are included in the Deed of Settlement.

Ngati Tama's claims relate in general terms to breaches by the Crown of its obligations under the Treaty of Waitangi and in particular the wars in Taranaki which resulted in loss of life, the confiscation of land and other land dealings.

Negotiations on a settlement package with Ngati Tama began in April 1998. The Deed of Settlement was agreed between the Crown and Ngati Tama's negotiators on 5 November, 2001 and was then subject to ratification by the members of Ngati Tama. Ratification was achieved and the deed is now subject only to the establishment of a suitable governance entity to receive and manage the settlement, and the passage of the settlement legislation.

Ngati Tama was represented in negotiations by the Claims Progression Team led by Mr Greg White. The Office of Treaty Settlements with the support of Treasury, Ministry of Fisheries and the Department of Conservation, represented the Crown in day to day negotiations. The Minister in Charge of Treaty of Waitangi Negotiations, Hon Margaret Wilson, represented the Crown in high-level negotiations with Ngati Tama.

## Historical Background to the Claims by Ngati Tama

From the late 1840s, as pressure mounted to accommodate settlers on land, opposition from Taranaki Maori to sales north and south of New Plymouth became more evident. Despite this, the Crown continued to attempt to purchase land. Resistance to the survey of the Pekepeka block at Waitara in 1860 by opponents of the sale was deemed an act of rebellion by the Crown and the Crown commenced hostilities in the province. During the course of these campaigns, which continued in North Taranaki until 1865, the Crown established military redoubts on Ngati Tama waahi tapu at Pukearuhe Pa and Waititi.

In 1865 the Crown declared three confiscation districts in Taranaki under the New Zealand Settlements Act of 1863. Despite the fact that the fighting had not extended into the rohe of Ngati Tama 74,000 acres (29,970 hectares) was taken from the southern portion of their ancestral lands. Confiscations were indiscriminate with land being taken from "rebels" and "loyals" alike.

The compensation process for confiscated land provided for in the confiscation legislation was inadequate and ignored customary forms of land tenure. None of the compensation awards had been implemented by 1880 and the Crown appointed the West Coast Commissions in the 1880s to remedy this situation and to fulfil Crown promises.

Ngati Tama people supported the acts of passive resistance organised by prophets Te Whiti and Tohu in response to the confiscations and lack of reserves. In 1881 the Crown invaded Parihaka, in central Taranaki, with armed Crown troops numbering more than 1500. Some 1600 men, women and children were expelled from the settlement, crops were burned and homes destroyed.

Ngati Tama suffered further in 1882 when the Native Land Court ruled that Ngati Tama did not retain an interest in two large blocks of land north of the confiscation line. This ancestral land was lost to Ngati Tama.

The West Coast Commissions finalised the return of limited land to iwi in Taranaki in the mid-1880s. The amount of land awarded to Ngati Tama was small, of poor quality and insufficient for their needs. The land returned was done so under individual title and placed under the control of the Public Trustee. Much was farmed by settlers under perpetually renewable leases. Title amalgamation in 1963 meant owners no longer had specific interests in customary land but a proportional interest in reserves throughout Taranaki. By 1974, because of the ability of the Public and Maori Trustees to alienate certain types of land, over 60% of reserved Taranaki land originally vested in the Public Trustee had been sold and a further 26% was under perpetual lease.

The subsequent investigation of the confiscations by the Sim Commission of 1926-27 was limited and did not fully investigate the return of land, wahi tapu and other taonga. The Commission recommended an annuity of £5000 to compensate all Taranaki iwi for the confiscations and a single payment of £300 for the loss of property at Parihaka. These recommendations were not discussed with the iwi concerned by the government of the day and were never accepted by the iwi as adequate. The sums due in the early 1930s were not fully paid.

The compensation was enshrined in the Taranaki Maori Claims Settlement Act 1944 which states that Maori had agreed to accept the sums as full settlement of claims relating to the confiscations and Parihaka. There is no evidence Ngati Tama or other iwi agreed to this and the settlement sums, as with the rents on reserved lands, were not protected from the effects of inflation. As a result of various Crown actions and decisions of the Courts, Ngati Tama were left with very little land and none in tribal ownership.

# Settlement

## Deed of Settlement - Ngati Tama

The Ngati Tama Deed of Settlement is made up of a package that includes:

1. An agreed historical account which forms the basis for a Crown Apology to Ngati Tama.
2. Cultural Redress
3. Financial and Commercial Redress

No private land is involved in the redress, only Crown assets.

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

## Crown Apology

The Crown's apology to Ngati Tama covers the wars in Taranaki, land confiscation, reserved lands and perpetual leases, Parihaka and the cumulative impact of these events on Ngati Tama that left the iwi virtually landless.

## Cultural Redress

1. Recognition of Ngati Tama's traditional, historical, cultural and spiritual associations with places and sites owned by the Crown within their area of interest. This allows Ngati Tama and the Crown to protect and enhance the conservation values associated with these areas and sites and includes

### 1(a) STATUTORY ACKNOWLEDGEMENTS

These register the special association Ngati Tama has with an area and will be included in the settlement legislation. Statutory Acknowledgements are recognised under the Resource Management Act 1991 and the Historic Places Act 1993.

The acknowledgements also require that consent authorities provide Ngati Tama with summaries of all resource consent applications that may affect the areas named in the acknowledgements.

There are to be twelve such acknowledgements:

Part of the Mimi-Pukearuhe Coast Marginal Strip, part of Mt Messenger Conservation Area, Moki Conservation Area, the Pou Tehia Historic Reserve, Tongaporutu Conservation Area, Mohakatino Swamp Conservation Area, Mohakatino River (no 1) Marginal Strip, Mohakatino Coastal Marginal Strip, the Mohakatino River (no 2) Marginal Strip, the Coastal Marine Area adjoining the Ngati Tama area of interest, the Mohakatino River and the Tongaporutu River.

### 1(b) DEEDS OF RECOGNITION

Deeds of Recognition oblige the Crown to consult Ngati Tama and have regard for its views regarding Ngati Tama's special association with a site and specifies the nature of Ngati Tama's input into management of those areas by the Department of Conservation and the Commissioner of Crown Lands. There will be eight Deeds of Recognition covering:

Part of the Mimi-Pukearuhe Coast Marginal Strip, part of Mt Messenger Conservation Area, Moki Conservation Area, the Pou Tehia Historic Reserve, Tongaporutu Conservation Area, Mohakatino Swamp Conservation Area, the Mohakatino River, the Tongaporutu River.

### 1(c) PROTOCOLS WITH GOVERNMENT DEPARTMENTS AND THIRD PARTIES

The Deed of Settlement provides for the establishment of protocols to develop good working relationships between Ngati Tama and the Ministry of Fisheries, the Ministry of Economic Development, the Department of Conservation and the Ministry of Culture and Heritage on cultural matters of importance to Ngati Tama. A protocol will also be established between Ngati Tama and Land Information New Zealand regarding the process for the disposal of paper roads.

The Crown has also agreed to encourage the development of memoranda of understanding between Ngati Tama and the Taranaki Regional Council, the New Plymouth District Council, the Taranaki/Wanganui Conservation Board, Taranaki Fish and Game Council, Landcare Research and the National Institute of Water and Atmospheric Research.

The Ministry for the Environment will also have a role in monitoring local government and the application of the Resource Management Act in Ngati Tama's area of interest.

### 1(d) PLACE NAMES

In future, the New Zealand Geographic Board will notify Ngati Tama of any naming proposals in their area of interest.

### 1(e) SITES TRANSFERRED TO NGATI TAMA

Five areas of Crown-owned land of special significance to Ngati Tama will be returned to the iwi. A variety of arrangements are being entered into to ensure ongoing protection of values associated with these areas.

These sites are:

- The Pukearuhe site (4.3 hectares)
- Part of the Tongaporutu Conservation Area (6 ha)
- The Uruti Conservation Area (252.9 hectares)
- The Mt Messenger Scenic Reserve and part of the Mt Messenger Conservation Area (295 hectares)
- Part of the Whitecliffs Conservation Area (1308 hectares). This land was originally confiscated from Ngati Tama under the New Zealand Settlements Act of 1863.

The total area covered by these transfers is more than 1870 hectares. With the exception of the Pukearuhe site near Ngati Tama's main marae and the Tongaporutu site, the transfers are subject to the preservation of conservation values and public access.

### 1(f) JOINT ADVISORY COMMITTEE

Ngati Tama will have three of six members on a Joint Advisory Committee that will provide advice to the Minister of Conservation about the preservation of conservation values and the annual work programme for that part of the Whitecliffs Conservation Area

remaining in Crown ownership. It will also approve conservation management plans for any marine reserve in the waters adjoining Ngati Tama's area of interest.

The Joint Advisory Committee will also provide advice to Ngati Tama on conservation matters affecting the Whitecliffs, Uruti and Mt Messengers sites transferred to Ngati Tama.

Two of the other three members of the Joint Advisory Committee will come from the Department of Conservation and the third will be a nominee of Taranaki/Wanganui Conservation Board.

#### 1(g) ADMINISTERING THE UMUKAHA POINT RECREATION RESERVE

The Crown has offered Ngati Tama the opportunity to administer – with technical assistance provided by the Department of Conservation – the Umukaha Point Recreation Reserve.

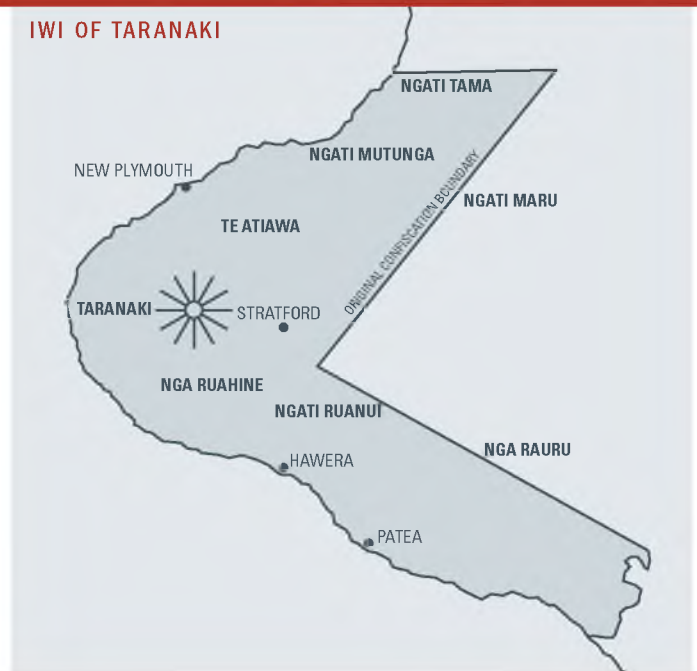
## 2. Recognition of Ngati Tama's customary and other interests in relation to fisheries and their management, including

#### 2(a) CUSTOMARY FISHERIES

Ngati Tama will be appointed as Advisory Committees to the Minister of Fisheries and the Minister of Conservation. These Committees will provide advice on the management of fisheries in the Ngati Tama area of interest, including the customary interest of Ngati Tama in those fisheries and taonga species in those fisheries.

Other provisions include:

- The Ministry of Fisheries will consult with Ngati Tama and safeguard Ngati Tama's existing customary fishing rights if the numbers of specified customary or taonga species (Waikoura, Pupu/Cats Eyes, Kakahi/Freshwater mussels, Kotoretore/Sea Anemone, Karengo/Sea Lettuce, Kina) rise to levels that make a commercial catch possible.
- A Right of First Refusal to buy a proportion of surplus Crown quota for surf clams and kina in the quota management area covering Ngati Tama's area of interest if these species become part of the quota management system.
- De-commercialisation of fishing for Waikoura (freshwater crayfish).
- Should tendering for coastal space for marine farming occur, Ngati Tama will have the preferential right to buy, at the tender price, authorisations to apply for up to 10% of the allocated space. Ngati Tama retains the right to participate in other tenders for coastal space authorisations.
- A commitment from the Crown to consider a proposal from Ngati Tama to extend the prohibition on commercial fishermen using trawl nets and set nets to certain parts of Ngati Tama's area of interest.
- Provision for the taking of undersized tuna (eel) as part of stocking or re-stocking of waterways and aquaculture projects.
- Protection of Ngati Tama's customary non-commercial interest in paua should this species become commercially viable in the Ngati Tama area of interest.



## Financial and Commercial Redress

This redress recognises the economic loss suffered by Ngati Tama arising from breaches by the Crown of its Treaty obligations. It is aimed at providing Ngati Tama with resources to assist it to develop its economic and social well being. It includes

1. A total of \$14.5 million in cash.
2. Right of First Refusal - Ngati Tama will also have, for a period of 50 years, a Right of First Refusal to buy, at full market value, properties in the Ngati Tama area of interest currently owned by the Crown should they be declared surplus.
3. As well, the Crown has offered Ngati Tama the Right of First Refusal to purchase the land within the Tongaporutu Recreation Reserve should the reserve status of that land ever be lifted and the land be declared surplus Crown land. Public consultation would be required to lift the reserve status of the area.

## Mount Taranaki

There is no specific redress proposed in the Deed of Settlement relating to the confiscation of Mount Taranaki. This matter will be addressed at a later date in the settlement process in Taranaki when all the iwi of Taranaki are in a position to negotiate on this issue.

There will be no additional financial or commercial redress in relation to the mountain. Any cultural redress and apology agreed with Ngati Tama will recognise the traditional, cultural, historical and spiritual significance of Mount Taranaki to all iwi of Taranaki.

# Q&A

## Questions and Answers

### 1. What is the total cost to the Crown?

\$14.5 million plus interest from the date of the signing of the Deed of Settlement plus the cost of the land returned under 2 (e).

### 2. Is there any private land involved?

No

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

Generally, no, but

- Some small parcels of land of historic significance to Ngati Tama (including Pa sites) totalling just over 10 hectares will be returned to the iwi. The remaining Crown land transferred to Ngati Tama is subject to the preservation of conservation values and public access.

### 4. What is a Statutory Acknowledgement?

These acknowledge areas or sites with which claimant groups have a special relationship and will be recognized in any proceedings under the Resource Management Act. This provision aims to avoid past problems with land development for roading and other purposes when areas of significance to claimant groups, such as burial grounds, were simply cleared or excavated without either permission or consultation. It does not give claimant groups any specific property rights.

A Deed of Recognition sets out an agreement between the administering Crown body (The Minister of Conservation or the Minister of Lands) and the claimant group which recognises the claimant group's special association with a site as stated in a Statutory Acknowledgement and specifies the nature of the claimant group's input into the management of the site.

### 5. What about Mt Taranaki?

Because of the significance of the mountain to all Taranaki iwi the question of an apology and redress for the unjust confiscation of the mountain is to be deferred until all iwi are in a position to negotiate. Redress in relation to the mountain will consist of an apology and cultural redress. No further financial or commercial redress will be involved.

### 6. Are any National Parks affected in the Settlement?

No

### 7. What happens to memorials on private titles?

The settlement will remove the legislative restrictions (memorials) placed on the title of Crown properties and some former Crown properties now in private ownership.

### 8. Does the Settlement create any special rights for Ngati Tama?

No new rights are being created. Provisions in relation to conservation, such as Statutory Acknowledgements, give practical effect to existing provisions of both the Resource Management Act - section 6 - and the Conservation Act - section 4 - which provide for Maori participation in conservation and planning matters.

### 9. Does Ngati Tama have the right to come back and make further claims about the behaviour of the Crown in Taranaki in the 19th and 20th Centuries?

No. Now the deed of Settlement has been ratified by Ngati Tama and after it has been passed into law both parties agree that it will be a fair and final settlement for all Ngati Tama's historical or pre-1992 claims. The settlement legislation, once passed, will prevent Ngati Tama from re-litigating the claim before the Waitangi Tribunal or the Courts.

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

### 10. Does Ngati Tama gain any rights to petroleum under the settlement?

The Deed of Settlement settles all of Ngati Tama's historical claims against the Crown, including any historical claims regarding petroleum. The Deed does not preclude Ngati Tama from participating in any future changes to the petroleum management regime to recognise the Crown's contemporary obligations to Maori under the Treaty regarding natural resources.

### 11. What about the Taranaki Claims Settlement Act of 1944? Wasn't that final?

The settlement of 1944 was made unilaterally, without agreement with Ngati Tama. Taranaki iwi have never regarded the 1944 Act as adequate redress for Treaty breaches. The Crown also accepts the compensation under the Act was inadequate.

### 12. What happens next?

The Deed of Settlement agreed today is the formal Crown offer to Ngati Tama for final settlement of all historical or pre-1992 claims relating to the acts or omissions of the Crown. The Deed of Settlement is legally binding and subject only to the passage of the settlement legislation through Parliament.

### 13. Who benefits from the settlement?

All members of Ngati Tama, wherever they may now live.

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