



Deed of Settlement

BETWEEN THE CROWN AND NGĀTI TAMA KI TE TAU IHU

General background

The rohe of Ngāti Tama ki Te Tau Ihu is included within the top of the South Island.

In October 2006, the Crown recognised the mandate of Ngāti Tama Manawhenua Ki Te Tau Ihu Trust to negotiate a comprehensive Treaty of Waitangi Settlement on behalf of Ngāti Tama ki Te Tau Ihu through the 'Tainui Taranaki' collective. The Crown signed terms of negotiations with the umbrella entity Tainui Taranaki ki te Tonga Limited, which included Ngāti Tama Manawhenua Ki Te Tau Ihu Trust, on 27 November 2007.

On 11 February 2009, the Crown and 'Tainui Taranaki' iwi, including Ngāti Tama ki Te Tau Ihu, signed a Letter of Agreement which formed the basis for this settlement. The Deed of Settlement was initialled on 7 October 2011 and signed on 20 April 2013. The settlement will be implemented following the passage of settlement legislation.

The Office of Treaty Settlements, 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 Minister for Treaty of Waitangi Negotiations, Hon Christopher Finlayson, represented the Crown in high-level negotiations with Ngāti Tama ki Te Tau Ihu.

Summary of the historical background to the claims of Ngāti Tama ki Te Tau Ihu

Ngāti Tama ki Te Tau Ihu (Ngāti Tama) came to Te Tau Ihu o te Waka a Maui (the northern South Island) in the late 1820s and established pā and kāinga at several localities in Te Tau Ihu including Te Tai Tapu, Golden Bay and Wakapuaka.

In 1839 the New Zealand Company signed deeds with Māori that purported to purchase the entire northern South Island. No Ngāti Tama signed the Company's deeds. In 1842 the New Zealand Company established its Nelson settlement and distributed gifts to local Māori, including Ngāti Tama, as 'a present upon settling on the land'. Some Ngāti Tama from Wakapuaka who received gifts also objected to their land being sold by the 1839 deeds.

In 1844 a Crown-appointed Commissioner investigated the Company's purchases. He heard from only one Māori witness in Nelson before suspending the inquiry to enable the Company to negotiate a settlement. Māori, including Ngāti Tama, signed deeds of release in return for payments which the Commissioner described as gifts to assist settlement rather than payments for the land. Golden Bay Ngāti Tama were not present at the Commissioner's hearing or arbitration. Nonetheless a share of the money was set aside for them.

In 1845, on the Commissioner's recommendation, the Crown prepared a grant to the New Zealand Company of 151,000 acres of land in Tasman and Golden Bays which would have reserved 15,100 acres for Māori. However the Company objected to several aspects of this grant. In 1848 the Company accepted a new Crown grant for a larger area of land in Te Tau Ihu that reserved only 5,053 acres of land at Nelson and Motueka, as well as areas in Golden Bay and Wairau.

Ngāti Tama had negligible involvement in the administration of the Nelson and Motueka reserves, known as the 'Tenths'. Most were leased to settlers to generate income that was spent on Māori purposes. In 1853 the Crown granted land at Motueka, including 918 acres of Tenths reserves, to the Church of England to establish a school. This forced some Ngāti Tama whānau to move from the reserves. In 1862 the Crown allocated parts of at least four Motueka Tenths sections for Ngāti Tama occupation. However ownership of these lands was not separately granted to Ngāti Tama. From 1887 the Tenths were leased under perpetually renewable leases. Rentals were infrequently reviewed and over time inflation reduced the value of rental returns. During the twentieth century the Tenths reserves were reduced by the compulsory acquisition of uneconomic shares and the sale of reserves.

In 1852 the Crown purchased the mineral-rich Pakawau block paying only for its agricultural value. In 1853 the Crown purported to purchase all remaining Māori land in Te Tau Ihu through the Waipounamu deed. Ngāti Tama as an iwi was not involved in the negotiation and protested the Crown's actions. The Crown did not meet with resident Māori to finalise the purchase until 1855 when Crown agents applied pressure on Ngāti Tama by presenting their land as already sold. Ngāti Tama and another iwi received £600 for their remaining interests in Te Waipounamu, although Ngāti Tama excluded Wakapuaka from the sale. Many of the reserves created for Ngāti Tama from the Waipounamu purchase were found over time to be inadequate for development in the new economy. Some reserves were quickly sold. In 1892 the Native Land Court awarded the remaining reserves to individual Ngāti Tama. Over time, ownership of the reserves became increasingly fragmented through successions to the interests of deceased owners.

In 1883 the Native Land Court awarded Wakapuaka to a sole Ngāti Tama individual. This disinherited other Ngāti Tama who had lived on Wakapuaka since the 1830s. Protests from Ngāti Tama eventually led the Crown to promote legislation authorising a reinvestigation of the remaining portions of Wakapuaka. In 1937 some Ngāti Tama were awarded interests, but not all Ngāti Tama whānau who had previously resided on Wakapuaka were admitted to the title.

By the end of the twentieth century the virtual landlessness of Ngāti Tama had contributed to some Ngāti Tama leaving Te Tau Ihu and losing their connection with their iwi and turangawaewae.

Summary of the Ngāti Tama ki Te Tau Ihu settlement

Overview

The Ngāti Tama ki Te Tau Ihu Deed of Settlement is the full and final settlement of all historical Treaty of Waitangi claims of Ngāti Tama ki Te Tau Ihu 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 to Ngāti Tama ki Te Tau Ihu
- cultural redress
- financial and commercial redress.

The benefits of the settlement will be available to all members of Ngāti Tama ki Te Tau Ihu wherever they may live.

The Ngāti Tama ki Te Tau Ihu settlement was negotiated alongside settlements with the other seven iwi with historical claims in Te Tau Ihu. Some redress in the Ngāti Tama ki Te Tau Ihu settlement is joint redress with other iwi or overlaps with redress in other Te Tau Ihu settlements. The settlement legislation to enact the Ngāti Tama ki Te Tau Ihu Deed of Settlement is drafted as part of an omnibus bill that will implement all Te Tau Ihu Treaty settlements.

Crown acknowledgements and apology

The Deed of Settlement contains a series of acknowledgements by the Crown where its actions arising from interactions with Ngāti Tama ki Te Tau Ihu have breached the Treaty of Waitangi and its principles.

The Crown apologises to Ngāti Tama ki Te Tau Ihu for its acts and omissions which have breached the Crown's obligations under the Treaty of Waitangi. These include: the Crown's failure to adequately protect the interests of Ngāti Tama ki Te Tau Ihu during the process by which land was granted to the New Zealand Company; the failure to provide sufficient reserves, including tenths reserves, and to provide for Ngāti Tama ki Te Tau Ihu to control those tenths they occupied and used; the administration of the tenths reserves; the failure to adequately protect Ngāti Tama ki Te Tau Ihu interests during Crown purchases between 1853 and 1856; the operation and impact of the native land laws on Ngāti Tama ki Te Tau Ihu land; and the failure to ensure Ngāti Tama ki Te Tau Ihu retained sufficient land for their future needs.

Cultural redress

1. The cultural redress recognises the traditional, historical and spiritual associations of Ngāti Tama ki Te Tau Ihu with places and sites owned by the Crown within their rohe. This allows Ngāti Tama ki Te Tau Ihu and the Crown to protect and enhance the conservation values associated with these sites.

1(A) VESTING OF SITES

The settlement provides for four sites to be vested in Ngāti Tama ki Te Tau Ihu and seven sites jointly vested in Ngāti Tama ki Te Tau Ihu and one or more other iwi with claims in Te Tau Ihu, totalling

approximately 169.71 hectares. The vesting of these sites is subject to specific conditions including protection of conservation values and public access.

Sites to be vested in Ngāti Tama ki Te Tau Ihu are:

- Wainui Urupā, approximately 3.4 hectares;
- Hori Bay, approximately 100 hectares;
- Tākaka River Mouth, approximately 3.8 hectares; and
- Parapara Peninsula, approximately 11.17 hectares.

Sites to be jointly vested in Ngāti Tama ki Te Tau Ihu and one or more other iwi with Te Tau Ihu claims:

- Pūponga Farm Triangle Flat, approximately 0.2 hectares;
- Pūponga Farm Cape House, approximately 5 hectares;
- Puketawai, approximately 11.9473 hectares;
- Te Tai Tapu (Anatori South), approximately 15 hectares;
- Te Tai Tapu (Anatori North), approximately 5 hectares;
- Pūponga Point Pā site, approximately 14 hectares; and
- Mātangi Āwhio, approximately 0.2061 hectares.

1(B) VEST AND GIFT BACK

The settlement provides for two sites – Kaka Point and Te Tai Tapu – totalling approximately 28,602.0209 hectares, to jointly vest in Ngāti Tama ki Te Tau Ihu and certain other Te Tau Ihu iwi on settlement date and then re-vest back in the Crown seven days later as a gift from those iwi to the people of New Zealand.

1(C) OVERLAY CLASSIFICATION

An overlay classification (known as Te Korowai Mana in the Ngāti Tama ki Te Tau Ihu settlement) acknowledges the traditional, cultural, spiritual and historical association of Ngāti Tama ki Te Tau Ihu with certain sites of significance. Overlay classifications apply to conservation land and require the New Zealand Conservation Authority (and any relevant conservation board) to have particular regard to Ngāti Tama ki Te Tau Ihu values and protection principles. The settlement provides for the following overlay classifications:

- Te Waikoropū Springs Scenic Reserve
- Farewell Spit Nature Reserve
- Heaphy Track (northern portion)

1(D) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION.

Statutory Acknowledgements register the special association Ngāti Tama ki Te Tau Ihu has with an area, and will be included in the settlement legislation. Statutory Acknowledgements are recognised under the Resource Management Act 1991 and Historic Places Act 1993. The acknowledgements require that consent authorities provide Ngāti Tama ki Te Tau Ihu with summaries of all resource consent applications that may affect the areas named in the acknowledgments.

Deeds of Recognition oblige the Crown to consult with Ngāti Tama ki Te Tau Ihu and have regard to their views regarding the special association Ngāti Tama ki Te Tau Ihu has with a site. They also specify the nature of the input of Ngāti Tama ki Te Tau Ihu into management of those areas by the Department of Conservation.

The Crown offers a Statutory Acknowledgement and Deed of Recognition over the following areas:

- Kaka Point (Statutory Acknowledgement only)
- Kaiteriteri Scenic Reserve
- Maungatapu
- Rotokura
- Lake Rotoiti, Nelson Lakes National Park
- Lake Rotoroa, Nelson Lakes National Park
- Westhaven (Te Tai Tapu) Marine Reserve and Westhaven (Whanganui Inlet) Wildlife Management Reserve (Statutory Acknowledgement only)
- Parapara Peak
- Pukeone/Mount Campbell
- Wharepapa/Arthur Range
- West of Separation Point/Te Matau
- Maitai River and its tributaries
- Waimea River, Wairoa River, and Wai-iti River and their tributaries
- Motueka River and its tributaries
- Tākaka River and its tributaries
- Aorere River and its tributaries
- Te Hoiere/Pelorus River and its tributaries
- Paturau River and its tributaries
- Anatori River and its tributaries
- Whangamoia River.

The Crown offers a Coastal Statutory Acknowledgement over the Te Tau Ihu coastal marine area.

Statutory Acknowledgments and Deeds of Recognition are non-exclusive redress, meaning more than one iwi can have a Statutory Acknowledgment or Deed of Recognition over the same site.

1(E) PLACE NAME CHANGES

The Te Tau Ihu settlements provides for 53 existing geographic names to change and 12 sites which do not currently have official names to be assigned geographic names. The full list of place name changes is included in the Ngāti Tama ki Te Tau Ihu Deed of Settlement, available on www.ots.govt.nz

1(F) CROWN PAYMENT

In recognition of the shared commitment of Ngāti Tama ki Te Tau Ihu and Te Rūnanga o Ngāi Tahu to a positive, co-operative and enduring relationship the Crown will pay Ngāti Tama ki Te Tau Ihu \$500,000.

1(G) MINERAL FOSSICKING

The settlement provides for the river beds within a specified area to be searched for natural material with the permission of the trustees of the governance entity, Ngāti Tama ki Te Waipounamu Trust.

2. Relationships

2(A) RELATIONSHIP REDRESS

The Deed of Settlement provides for the promotion of relationships between Ngāti Tama ki Te Tau Ihu and local authorities. Nelson City Council, Tasman District Council and Marlborough District Council are encouraged to enter into a Memorandum of Understanding with Ngāti Tama ki Te Tau Ihu.

2(B) PROTOCOLS

Protocols will be issued to encourage good working relationships on matters of cultural importance to Ngāti Tama ki Te Tau Ihu. Conservation, fisheries, taonga tūturu and minerals protocols will be issued.

2(C) LETTERS OF INTRODUCTION

The Deed of Settlement provides for the promotion of relationships between Ngāti Tama ki Te Tau Ihu and museums. The Crown will write letters of introduction to Te Papa Tongarewa, Golden Bay Museum, Motueka Museum and Nelson Provincial Museum.

2(D) RIVER AND FRESHWATER ADVISORY COMMITTEE

The Deed of Settlement provides for Ngāti Tama ki Te Tau Ihu to participate in an advisory committee providing input into local authority planning and decision making in relation to the management of rivers and fresh water under the Resource Management Act 1991, within the jurisdictions of Marlborough District Council, Nelson City Council and Tasman District Council.

Financial and commercial redress

3. This redress recognises the losses suffered by Ngāti Tama ki Te Tau Ihu arising from the breaches by the Crown of its Treaty of Waitangi obligations. It will provide Ngāti Tama ki Te Tau Ihu with resources to assist them in developing their economic and social well-being.

3(A) FINANCIAL REDRESS

Ngāti Tama ki Te Tau Ihu will receive financial settlement of \$12,060,000 in recognition of all their historical claims. Interest that has been accumulating since their Letter of Agreement was signed, in February 2009, will also be paid.

Questions and Answers

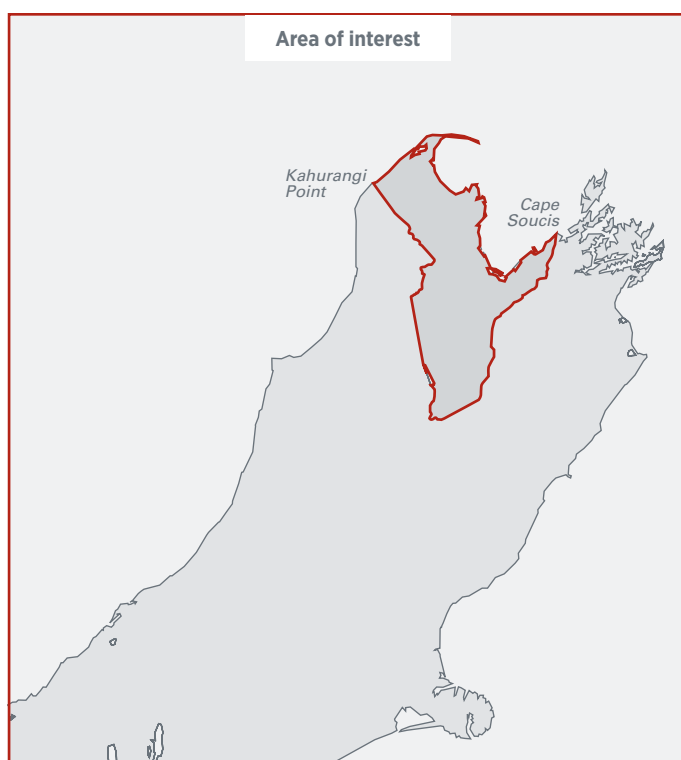
3(B) COMMERCIAL REDRESS

Ngāti Tama will purchase ten properties at settlement date, one of which will be leased back to the Crown. Ngāti Tama has a further 13 deferred selection properties that are available for purchase by Ngāti Tama ki Te Tau Ihu for three years after settlement date.

Ngāti Tama ki Te Tau Ihu will have the ability to purchase more than 17,047 hectares of the licensed Crown forest land in Te Tau Ihu, some of which is to be jointly owned with other iwi in Te Tau Ihu. Through the licensed Crown forest land Ngāti Tama ki Te Tau Ihu will receive a further (approximately) \$7.75 million in accumulated rentals, currently held by the Crown Forestry Rental Trust.

Ngāti Tama ki Te Tau Ihu will have a right of first refusal over a number of listed sites for a period of 169 years. They will also have a right of first refusal over Nelson Marlborough Institute of Technology for 169 years.

Ngāti Tama ki Te Tau Ihu will have shared rights of first refusal with other iwi in Te Tau Ihu over other types of Crown properties in Te Tau Ihu for 100 years from the settlement date.



1. What is the total cost to the Crown?

The total cost to the Crown of the settlement redress outlined in the Deed of Settlement is \$12.06 million (plus interest accrued since the signing of the Letter of Agreement), the value of the cultural redress properties to be vested and transferred for no consideration and the \$500,000 Crown payment.

2. Is there any private land involved?

No. In accordance with Crown policy, no private land is involved.

3. Are the public's rights affected?

No, all existing public rights to the area affected by this settlement will be preserved.

4. Are any place names changed?

Yes. The Deed of Settlement, along with other Te Tau Ihu Deeds of Settlement, will provide for 12 new place names and 53 name changes.

5. 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.

6. When will the settlement take effect?

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

Does Ngāti Tama ki Te Tau Ihu have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

No. If a Deed of Settlement is ratified and passed into law, both parties agree it will be a final and comprehensive settlement of all the historical (relating to events before 21 September 1992) Treaty of Waitangi claims of Ngāti Tama ki Te Tau Ihu. The settlement legislation, once passed, will prevent Ngāti Tama ki Te Tau Ihu from re-litigating their claim before the Waitangi Tribunal or the courts.

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

7. Who benefits from the settlement?

All members of Ngāti Tama ki Te Tau Ihu wherever they may now live.

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