



# Deed of Settlement

Between the Crown  
and Ngati Awa

## General Background

Ngati Awa is an iwi of the Eastern Bay of Plenty descended from Awanuiarangi II of the Mataatua waka. Ngati Awa has approximately 13,000 members and 22 hapu.

Ngati Awa's early interactions with the Crown were outlined in the Waitangi Tribunal's Ngati Awa Raupatu Report, published in 1999.

An account of the historical background agreed between the Crown and Ngati Awa is included in the Deed of Settlement along with acknowledgements of Crown breaches of the Treaty of Waitangi and a Crown Apology for those breaches. Summaries of these are included in the attached material. Ngati Awa's claims relate in general terms to the confiscation of land, the compensation process and the operation and impact of the Native land laws.

Pre-negotiations with Ngati Awa began in 1995 and formal negotiations leading to the Deed of Settlement commenced in 1997. A Heads of Agreement indicating the broad outline of a settlement package was signed in December 1998. A revised settlement offer was agreed in October 2000.

A full Deed of Settlement, which details the formal Crown offer to settle all of Ngati Awa's historical claims against the Crown, was then developed and was initialled by the Crown and the mandated representatives of Ngati Awa on 8 July 2002. The Deed was then ratified by the members of Ngati Awa through a postal ballot. The Deed of Settlement will be implemented following the ratification and establishment by Ngati Awa of a governance entity to receive and manage the settlement redress, and the passage of settlement legislation.

Te Runanga o Ngati Awa was mandated by Ngati Awa to represent them in settlement negotiations with the Crown. The Runanga is chaired by Dr Hirini Mead, Ngati Awa's Chief Negotiator. The Office of Treaty Settlements, headed by Andrew Hampton, and Chief Crown Negotiator Brian Roche, with the support of Te Puni Kokiri, the Treasury, 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 Awa.

## Summary of Historical Background to the Claims by Ngati Awa

Some Ngati Awa chiefs signed the Treaty of Waitangi at Pohaturoa, near Whakatane in June 1840. Prior to the 1860s, however, there were few European settlers within the Ngati Awa rohe.

Fighting broke out between the Crown and Maori in the early 1860s in Taranaki and later Waikato. In 1864 some Ngati Awa hapu joined a Te Tai Rawhiti force planning to go to Waikato to assist the tribes there. Most of the force was prevented from travelling through the Rotorua region by local iwi, supported by Crown warships and military personnel.

In July 1865 a Crown official, James Te Mautaranui Fulloon, and three others were killed at Whakatane by some Ngati Awa supporters of Pai Marire. In August 1865, a Crown expeditionary force of approximately 500 men, drawn largely from some neighbouring iwi, entered the rohe of Ngati Awa to execute an arrest warrant for the killing of Fulloon and others. This force destroyed Ngati Awa kainga, wharenui, pataka and waka, seized cattle, horses and other property, and was involved in skirmishes with Ngati Awa in which some were killed.

In September 1865 the Crown issued a Proclamation of Peace declaring that the war, which began in Taranaki, was at an end. The proclamation pardoned those who had been in arms against the Crown but excluded those responsible for the killing of Fulloon. It stated that if those responsible were not given up then the Crown would take parts of the lands of those tribes who concealed the murderers.

Subsequently, the Crown expeditionary force laid siege to pa at Matata, Whakatane and Te Teko. In October 1865 over 30 men were arrested for the killing of James Fulloon and related offences. Many were found guilty at trial by Courts-Martial and sentenced to death. They were re-tried before the Supreme Court in Auckland. All were found guilty of at least one charge and were sentenced to imprisonment or execution. Two men were subsequently executed for the murder of Fulloon and three others died while in prison.

Governor George Grey deemed the Bay of Plenty tribes to have been in rebellion and in January 1866 approximately 448,000 acres of land was confiscated. Ngati Awa state that approximately 245,000 acres of this land was within their rohe. Confiscation affected all Ngati Awa and all bore the stigma of being 'tangata hara' or rebels including the many hapu who had not been involved in any conflict.

Approximately 77,000 acres were returned to Ngati Awa through the compensation process but this land was returned to individuals rather than to iwi or hapu and did not reflect customary forms of land tenure. It often took up to 10 years before a Crown grant was issued for returned land and some hapu received land which had previously been occupied by other hapu.

From the 1870s Ngati Awa claimed land south of the confiscation line before the Native Land Court but in many cases the Court awarded parts of those lands, regarded by Ngati Awa as theirs, to other iwi. Those lands Ngati Awa did gain title to were awarded to individuals rather than to iwi or hapu and became more susceptible to partition, fragmentation and alienation. This contributed to the erosion of the traditional tribal structures of Ngati Awa. Further land was lost through acquisitions under public works legislation in the twentieth century, including urupa and other waahi tapu.

Since 1867 Ngati Awa have sought redress for the wrongs inflicted on the iwi by the Crown. Several petitions were sent to the Crown relating to the confiscations, imprisonments and the loss of land. The Sim Commission considered the Ngati Awa claims in 1927 but generally did not find in their favour. The Commission did find, however, that there were insufficient reserves for two hapu and recommended the award of land at Matata. This never eventuated. As a result of the Sim Commission other iwi had annuities paid by the Crown and Trust Boards were established for some raupatu iwi, but not for Ngati Awa.

# Settlement

## Summary of the Ngati Awa settlement

### Overview

The Ngati Awa Deed of Settlement is a package that includes:

- An agreed historical account, Crown acknowledgements and a Crown Apology to Ngati Awa
- Cultural redress
- Financial and commercial redress.

No private land is included as redress, only Crown assets.

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

### Crown Apology

The Crown apologises to Ngati Awa for past dealings that breached the Crown's obligations under the Treaty of Waitangi including the confiscation of land, the compensation process, the operation and impact of the native land laws and the cumulative impact of these events on Ngati Awa, which undermined traditional tribal structures and left Ngati Awa virtually landless.

### Cultural Redress

**1. Recognition of Ngati Awa's traditional, historical, cultural and spiritual associations to places and sites, within their area of interest, that are owned by the Crown. This includes:**

#### 1(a) STATUTORY ACKNOWLEDGEMENTS

Statutory Acknowledgements register the special association Ngati Awa has with an area. They are recognised for certain purposes relating to standing and notification under the Resource Management Act and the Historic Places Act. There are eleven such acknowledgements: part of the Whakatane, Rangitaiki and Tarawera rivers, Moutohora (Whale) Island Wildlife Management Reserve, Part of Ohiwa Harbour, Te Kaokaoroa Historic Reserve, Kohi Point Scenic Reserve, Ohope Scenic Reserve, Mokorua Scenic Reserve, Uretara Island Scenic Reserve, and the former Matahina A5 block.

#### 1(b) DEEDS OF RECOGNITION

A Deed of Recognition requires the Crown to consult Ngati Awa and have regard for their views about Ngati Awa's special association with a particular Crown-owned site. The Deed specifies the nature of Ngati Awa's input into management of those areas by the Department of Conservation and Commissioner of Crown Lands. There will be four Deeds of Recognition covering the Crown-owned parts of the Whakatane, Rangitaiki and Tarawera riverbeds and Uretara Island.

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

The Deed of Settlement provides for the establishment of protocols to promote good working relationships between Ngati Awa and the Ministry of Fisheries, the Department of Conservation and the Ministry of Culture and Heritage on matters of cultural importance to Ngati Awa.

The Department of Internal Affairs has undertaken to consult Ngati Awa should the Department conduct a review of the administration

by local government of the following: Motiti Island, Tokata Island, Rurima Island, Moutoki Island, Moutohora Island, Whakaari/White Island and Te Paepae o Aotea (Volkner Rocks).

Ngati Awa will also be able to express their views to the Ministry for the Environment on the application of the Treaty and relevant parts of the Resource Management Act in Ngati Awa's area of interest. The Ministry will monitor the performance of local authorities in Ngati Awa's area of interest in relation to these matters.

In addition, the Crown has written to a number of third parties, such as Environment Bay of Plenty, inviting them to consider meeting with Ngati Awa to discuss matters of importance to the iwi.

#### 1(d) PLACE-NAMES

Three official place-name changes have been agreed between the Crown and Ngati Awa. Once the settlement legislation has been enacted, Volkner Rocks (owned by Ngati Awa on behalf of Mataatua) will be known as Te Paepae o Aotea. Awaateatua Beach will be known as Te Awa a Te Atua Beach. Braemar Springs will be known as Te Waiu o Pukemarie/Braemar Springs. In addition, Thornton Wildlife Management Reserve will be known as Okorero/Thornton Wildlife Management Reserve.

#### 1(e) SITES TRANSFERRED AND MANAGEMENT INPUT

Seven areas of special significance to Ngati Awa will be returned to the iwi. These are:

- Kaputerangi Historic Reserve
- Te Paripari Pa Historic Reserve
- Otitapu Pa (within the Mangaone Scenic Reserve)
- Former Matahina A4 Block
- Te Toangapoto (within the Western Whakatane Recreation Reserve)
- Te Ihukatia (part of the Port Ohope Recreation Reserve), and
- Whakapaukorero (within the Matata Scenic Reserve).

These sites total approximately 64 hectares. Kaputerangi Historic Reserve, Te Paripari Pa Historic Reserve, Te Toangapoto, Te Ihukatia, and Whakapaukorero will be re-reserved under the Reserves Act, which means that public access will be maintained. Otitapu Pa will be subject to a protected private land agreement to protect conservation values.

The Kaputerangi Historic Reserve and Te Toangapoto site are currently vested in or administered by the Whakatane District Council and the Council has agreed to relinquish their interests in the areas subject to Ngati Awa managing these reserves in a way that is compatible with the existing management plans. Under the Deed of Settlement, Ngati Awa has undertaken to acknowledge the significance of the site to other iwi in any published and interpretation material that it produces about the Kaputerangi Historic Reserve.

Two joint committees, one advisory and one management committee, are to be established over five reserves.

- A Joint Advisory Committee is to be established over the Matata Scenic Reserve and the Matata Wildlife Refuge Reserve. This committee will be made up of equal numbers of members nominated by Ngati Awa and the Department of Conservation.

- A Joint Management Committee is to be established for Moutohora (Whale) Island Wildlife Management Reserve, Tauwhare Pa Scenic Reserve, and Ohope Scenic Reserve. This committee will have representatives nominated by Ngati Awa, the Department of Conservation and the Bay of Plenty Conservation Board. Ngati Awa will, as part of the agreement on Moutohora Island, no longer require permits to extract hangi stones traditionally sourced from the island, but will still need a permit to gain access to the island.

#### 1(f) GIFTS

The Crown will gift Ngati Awa \$1 million to assist in the redevelopment of the Mataatua meeting house complex. The Mataatua meeting house was returned to Ngati Awa in 1996 in partial settlement of Ngati Awa's historical claims.

The Crown will also gift the land under the Whakatane Airport to Ngati Awa, if it ever ceases to be reserved as an airport.

#### 1(g) WAHI TAPU SITES

The Deed of Settlement acknowledges that certain sites on Crown-owned land, within Ngati Awa's area of interest, are considered by Ngati Awa to be wahi tapu.

## 2. Restoration of Ngati Awa access to traditional foods and food gathering areas, including:

#### 2(a) CUSTOMARY FISHERIES

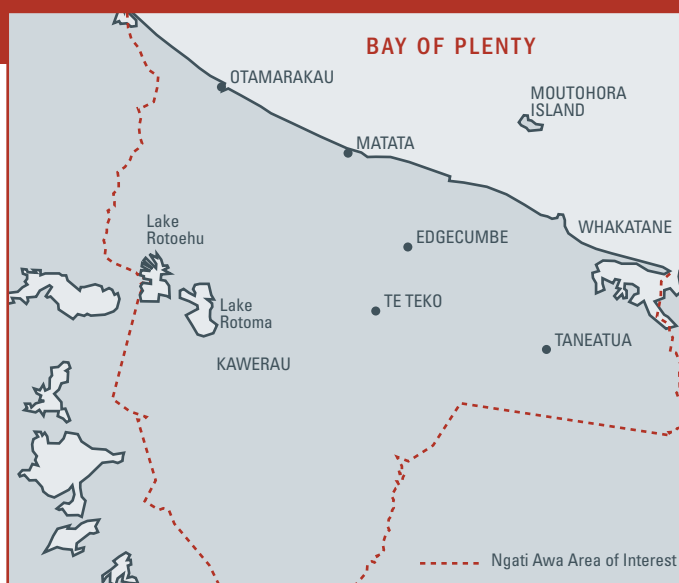
Ngati Awa will be appointed as an Advisory Committee to the Minister of Conservation and the Minister of Fisheries. One committee will provide advice to the Minister of Conservation on all matters concerning the management and conservation by the Department of Conservation of freshwater fish. The other committee will provide advice to the Minister of Fisheries on all matters concerning the utilization of aquatic life and seaweed administered by the Ministry of Fisheries.

The Deed of Settlement will include a provision that if the Minister of Conservation offers by public tender any part of the coastal marine area within a specified part of the Ohiwa Harbour, Ngati Awa will have a preferential right to purchase up to 5% of the authorisations that are the subject of that tender.

#### 2(b) CAMPING LICENCES OR NOHOANGA

Camping licences are an area of up to one hectare near a waterway that give access to traditional food gathering areas. The camping licences will not impede existing public access to or along the waterway. Subject to gaining any necessary resource consent, Ngati Awa members will have an exclusive right to use this entitlement for non-commercial, lawful fishing and food gathering for up to 210 days a year.

Four nohoanga will be established. They are located in: the Matata Wildlife Refuge Reserve, the Thornton Lagoon Wildlife Management Reserve, the Port Ohope Recreation Reserve, and the Ohineteraraku Scenic Reserve.



## Financial and Commercial Redress

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

3(a) A combination of Crown-owned land selected by Ngati Awa and cash up to a value of **\$42.39 million**. Among the properties Ngati Awa has selected are portions of the Kaingaroa and Rotoehu Forests (land only).

3(b) **Right of First Refusal** – Ngati Awa will have, for a period of 50 years, a Right of First Refusal to buy, at full market value, Crown-owned properties in a specified area, should they be disposed of by the Crown.

## Awanuiarangi II Title

The Deed of Settlement provides that Ngati Awa may hold any land in a new category of land title (Awanuiarangi II Title). Ngati Awa may declare settlement properties held under Awanuiarangi II Title to also be Protected Land. In such case the settlement properties will have some of the characteristics of “Maori Land” (as defined in Te Ture Whenua Maori Act 1993).

## Previous Redress

Ngati Awa have already received the following in part-settlement of their historical claims:

- Ngati Awa Station, a former Landcorp property near Whakatane (1990)
- The Mataatua meeting house, formerly in the Otago Museum (1996)
- A statutory pardon from the Crown in 1988 for those who were arrested, tried and labelled as rebels and in respect of all matters arising out of the land wars in 1865.

## Ngati Awa Ancillary Claims

On the recommendation of the Waitangi Tribunal in 1999 the Crown also intends to settle three ancillary claims separate from the broader Ngati Awa claim. There will be separate Deeds of Settlement for the three ancillary claims and the timeline for settlement will differ from the main Ngati Awa settlement. The ancillary claims are:

- **Wai 79** concerning Awakeri Springs
- **Wai 247** concerning a quarry site in the Waiohau C26 block
- **Wai 248** concerning a quarry site in the Rangitaiki 60C block.

# Questions and Answers

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

\$42.39 million plus interest from the date of the signing of the Deed of Settlement plus the cost of the cultural sites returned under 1(e), and the gifts made under 1(f).

## 2. Is there any private land being transferred?

No.

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

Generally, no, but:

- camping licences or nohoanga, which are similar to other concessions granted by the Department of Conservation, will be for the exclusive use of Ngati Awa for up to 210 days a year. A site is up to one hectare in size. It will not affect public access to waterways.
- The site of Otitapu Pa, totalling approximately six hectares, will no longer be available for public access as of right. However public access to the remainder of the Mangaone Scenic Reserve will be unaffected.

## 4. What is a camping licence or Nohoanga?

It is an entitlement to temporarily occupy a piece of land of up to one hectare near a traditional Ngati Awa food gathering area such as a river or lake. It is set back from the marginal strip and does not impede public access to or along a waterway. It is the same concept as a nohoanga in the Ngati Tahu settlement.

## 5. What are a Statutory Acknowledgement and a Deed of Recognition?

**Statutory Acknowledgments** acknowledge areas or sites on Crown-owned land with which a claimant group has a special relationship and will be recognised in any proceedings under the Resource Management Act or the Historic Places 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 Crown Lands) and the iwi, 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.

## 6. Are any place-names changed?

There are three official place-name changes. Volkner Rocks (owned by Ngati Awa on behalf of Mataatua) will be amended to Te Paepae o Aotea, Awaateatua Beach will be changed to Te Awa a Te Atua Beach to reflect the correct grammatical spelling and a name will be allocated to a spring currently not officially named, Te Waiu o Pukemairie/Braemar Springs. In addition, Thornton Wildlife Management Reserve will be renamed with a dual name, Okerero/Thornton Wildlife Management Reserve.

## 7. Are any National Parks affected in the settlement?

No.

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

The settlement legislation will remove the Waitangi Tribunal's statutory power to order the Crown to resume certain former Crown land (which have memorials noted on the title, and may be in private ownership) within a specified area.

## 9. Does the settlement create any special rights for Ngati Awa?

Aside from a new legal mechanism for Ngati Awa to hold land (Awanuiarangi II Title), 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 (e.g. section 6) and the Conservation Act (e.g. section 4) which provide for Maori participation in conservation and planning matters.

## 10. Does Ngati Awa have the right to come back and make further claims about the behaviour of the Crown in the 19th and the 20th Century?

No. A Deed of Settlement is a fair and final settlement for all Ngati Awa's historical or pre 1992 claims against the Crown, wherever they may be. The settlement legislation, once passed, will prevent Ngati Awa from re-litigating their historical claims (or bringing any new historical claims) before the Waitangi Tribunal or the courts.

The settlement package will still allow Ngati Awa or members of Ngati Awa 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.

## 11. Who benefits from the settlement?

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

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