



Deed of

Between the Crown
and Ngāti Mutunga

Settlement

General Background

Ngāti Mutunga is one of eight generally recognised iwi of Taranaki. Mutunga is acknowledged by Ngāti Mutunga as the paramount and principal identifying ancestor from which ngā uri o ngā tūpuna o Ngāti Mutunga can trace descent. Ngāti Mutunga is located in northern Taranaki and has approximately 1300 members.

The history of the interaction between Ngāti Mutunga and the Crown has been detailed in the Waitangi Tribunal's Taranaki Report, published in 1996. The claims of Ngāti Mutunga relate in general terms to breaches by the Crown of its obligations under the Treaty of Waitangi and in particular the waging of war resulting in loss of life, the confiscation of all Ngāti Mutunga's land, and other land dealings.

An account of the historical background agreed between the Crown and Ngāti Mutunga 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.

Negotiations on a settlement package began in July 1997. On 24 September 1999, the Crown and Ngāti Mutunga signed a Heads of Agreement. The Crown and the mandated iwi representatives initialled a draft Deed of Settlement on 14 December 2004, which was then ratified by members of Ngāti Mutunga through a postal ballot, and signed on 31 July 2005. Ngāti Mutunga has also ratified a governance entity to receive and manage the settlement redress. The Deed of Settlement will be implemented following the passage of settlement legislation.

Ngāti Mutunga was represented in negotiations for their claims by the Ngāti Mutunga Iwi Authority Board. The Board is chaired by Jamie Tuuta, and day to day negotiations were managed by the Chief Negotiator, Dion Tuuta. The Office of Treaty Settlements, with the support of the Department of Conservation, Treasury and other government agencies, represented the Crown in day-to-day negotiations. The Hon Margaret Wilson, who was Minister in Charge of Treaty of Waitangi Negotiations at the time, represented the Crown in high-level negotiations with Ngāti Mutunga.

Summary of the Historical Background to the Claims by Ngāti Mutunga

From the late 1840s, as pressure mounted to accommodate settlers on land, opposition from Taranaki Māori to land sales north and south of New Plymouth became more evident. Despite this, the Crown continued to attempt to purchase land. In 1860, the Crown deemed resistance by Māori to the survey of the Pekapeka block at Waitara to be an act of rebellion, and waged war in north Taranaki. Many members of Ngāti Mutunga entered the war on the side of the non-sellers. During the course of the hostilities, which continued in North Taranaki until 1865, the Crown established military redoubts on Ngāti Mutunga pā sites at Urenui and Wai-iti, despite the fact that little fighting actually took place around these areas.

In 1865 the Crown declared three confiscation districts in Taranaki under the New Zealand Settlements Act of 1863. The entire rohe (territory) of Ngāti Mutunga was confiscated. The confiscation was indiscriminate in extent and application, with land being taken from "rebels" and "loyals" alike. The promise to restore land immediately to those who were prepared to submit to the Crown's authority was not fulfilled.

The compensation process provided for in the confiscation legislation was inadequate and ignored customary forms of land tenure. None of the compensation awards made by the Compensation Court in the mid 1860s had been implemented by 1880. This situation created distress, uncertainty and confusion for Ngāti Mutunga, including those people who returned from the Chatham Islands in 1868, as to where they would live and whether they had security of title.

In the 1860s, a movement for Māori peace and independence was established at Parihaka in central Taranaki. Ngāti Mutunga people supported the acts of passive resistance organised by the prophets Te Whiti o Rongomai and Tohu Kakahi in the late 1870s in response to the confiscation and lack of reserves. Passive resistance campaigns led to the arrest and imprisonment of more than 600 "ploughers" and "fencers" from throughout Taranaki. Many prisoners, including members of Ngāti Mutunga, were held in the South Island. Conditions were harsh and included hard labour.

In 1881, more than 1,500 Crown soldiers invaded Parihaka. Some 1,600 men, women and children were forcibly expelled from the settlement. Crops were burned, stock were driven away or killed and homes were destroyed.

The West Coast Commissions finalised the return of limited land to Māori of Taranaki in the mid-1880s. Awards of land were returned to individual Māori, not Ngāti Mutunga as an iwi. The West Coast Reserves were placed under the control of the Public Trustee. Many of these reserves were farmed by settlers under perpetually renewable leases or sold by the Trustee. Title amalgamation in 1963 meant beneficial owners no longer had specific interests in customary land but in all West Coast Reserves throughout Taranaki.

The investigation of the confiscation by the Sim Commission in 1926-27 was limited. The Commission recommended an annuity of £5,000 to compensate all of the iwi of Taranaki for the confiscations and a single payment of £300 for the loss of property at Parihaka. The government of the day did not discuss these payments with iwi, nor did iwi accept them as adequate. The sums due in the early 1930s were not fully paid.

The Taranaki Maori Claims Settlement Act 1944 stated that the sums were a full settlement relating to the confiscations and Parihaka. There is no evidence that Ngāti Mutunga or other iwi agreed to this and the sums were not inflation adjusted.

Settlement

Summary of the Ngāti Mutunga Settlement

Overview

The Ngāti Mutunga Deed of Settlement is the final settlement of all Ngāti Mutunga's historical claims in Taranaki 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 and Crown acknowledgements, which form the basis for a Crown Apology to Ngāti Mutunga;
- cultural redress; and
- 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 Ngāti Mutunga, wherever they live.

Crown Apology

The Crown apologises to Ngāti Mutunga for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These include the Taranaki wars, the confiscation of land, and the cumulative effects of these events, which have had a devastating effect on the welfare, economy, and social and economic development of Ngāti Mutunga in Taranaki.

Cultural redress

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

1(A) STATUTORY ACKNOWLEDGEMENTS

These register the special association Ngāti Mutunga has with an area. Statutory Acknowledgements are recognised under the Resource Management Act 1991 and the Historic Places Act 1993. The acknowledgements also require that consent authorities provide Ngāti Mutunga with summaries of all resource consent applications that may affect the areas named in the acknowledgements.

There are to be 17 such acknowledgements over the following sites: Part of Mimi – Pukearuhe Coast Marginal Strip; Waitoetoe Beach Recreation Reserve; Mimi Scenic Reserve; Mimi Gorge Scientific Reserve; Mataro Scenic Reserve; Mt Messenger Conservation Area within the Area of Interest; Taramoukou Conservation Area; Onaero River Scenic Reserve; Onaero Coast Marginal Strip; Onaero River Marginal Strip; Urenui River Marginal Strip; Coastal Marine Area adjoining the Area of Interest; Tangitu Conservation Area and Miro Scenic Reserve; Onaero River; Urenui River; Waitara River within the Area of Interest; and Mimi River within the Area of Interest.

1(B) DEEDS OF RECOGNITION

These oblige the Crown to consult with Ngāti Mutunga and have regard for their views regarding the special association Ngāti Mutunga have with a site. They also specify the nature of the input of Ngāti Mutunga into management of those areas by the Department of Conservation and/or the Commissioner of Crown Lands.

There will be 12 Deeds of Recognition covering: Part of Mimi – Pukearuhe Coast Marginal Strip; Waitoetoe Beach Recreation Reserve; Mimi Scenic Reserve; Mimi Gorge Scientific Reserve; Mataro Scenic Reserve; Mt Messenger Conservation Area within the Area of Interest; Taramoukou Conservation Area; Onaero River Scenic Reserve; Onaero River; Urenui River; Waitara River within the Area of Interest; and Mimi River within the Area of Interest;

1(C) PLACENAMES

The name of "Titoki Ridge" will be assigned to a previously unnamed ridge, and the name of "Te Urenui Pā" will be changed to "Te Urenui Pā".

1(D) SITES TRANSFERRED TO NGĀTI MUTUNGA

Ten areas of Crown-owned land of special significance to Ngāti Mutunga will be returned to the iwi.

These sites are:

- the Onaero Site;
- the Pukemiro Site;
- the Te Rau o Te Huia Pā Site;
- the Ngapapa Site;
- the Urenui Site;
- the Te Urenui Pā Site;
- the Okoki Pā Site;
- the Okoki Pā Historic Reserve;
- Onaero Domain Recreation Reserve; and
- Urenui Domain Recreation Reserve.

These sites total approximately 168 hectares. Where necessary, the settlement legislation will protect the sites' natural values, and public access to the sites. The Onaero and Urenui Domain Recreation Reserves will continue to be administered by the New Plymouth District Council, and leases over that land will continue under their current conditions.

2. Restoration of Ngāti Mutunga’s access to traditional foods and food gathering areas, including:

2(A) CUSTOMARY FISHERIES

The Ngāti Mutunga Governance Entity will be appointed as an Advisory Committee to the Minister of Fisheries. This committee will provide advice on the management of fisheries in the Ngāti Mutunga Area of Interest, including advice on the customary interest of Ngāti Mutunga in those fisheries.

2(B) CAMPING ENTITLEMENT OR NOHOANGA

The nohoanga, at the Uruti Domain Site, is approximately 0.7 hectares. Ngāti Mutunga members will have the right to use this entitlement for non-commercial, lawful fishing and gathering of natural resources, for up to 210 days a year. The nohoanga will not impede existing public access to waterways.

3. Relationships

3(A) PROTOCOLS

Protocols will be established between Ngāti Mutunga and the Ministry of Economic Development, the Ministry of Fisheries, the Ministry for Culture and Heritage, Land Information New Zealand and the Department of Conservation, to encourage good working relationships on matters of cultural importance to Ngāti Mutunga.

Financial and commercial redress

4. This redress recognises the economic loss suffered by Ngāti Mutunga arising from breaches by the Crown of its Treaty obligations. It is aimed at providing Ngāti Mutunga with resources to assist them to develop their economic and social well-being. It includes:

4(A) CASH AMOUNT

Ngāti Mutunga will receive financial redress of \$14.9 million.

4(B) TRANSFER AND LEASEBACK

Ngāti Mutunga will purchase two commercial properties (Uruti School and Urenui School) out of their settlement funds and lease them back to the Crown.

4(C) RIGHT OF FIRST REFUSAL

Ngāti Mutunga will have, for a period of 50 years, a right of first refusal to buy, at full market value, certain surplus Crown-owned properties.



Mount Taranaki

There is no specific redress 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 Ngāti Mutunga will recognise the traditional, cultural, historical and spiritual significance of Mount Taranaki to all iwi of Taranaki while recognising the interests of the people of New Zealand generally in Mount Taranaki.

Q&A

Questions and Answers

1. What is the cost to the Crown?

\$14.9 million plus interest from the date of the signing of the Deed of Settlement, and the cost of cultural sites returned, as listed at 1(D).

2. Is there any private land involved?

No.

3. Are the public's rights affected?

Generally no, but:

- The camping entitlement or nohoanga is the same as camping entitlements granted in other Treaty settlements. Ngāti Mutunga will have the exclusive use of one site of 0.7 hectares for up to 210 days per year. This entitlement does not affect public access to waterways.

The symbolic transfer of the Onaero Domain and Urenui Domain Reserves to Ngāti Mutunga will preserve public access and all the rights of the existing private leaseholders on those reserves. The New Plymouth District Council will continue to administer the reserves.

4. What is a Statutory Acknowledgement?

These acknowledge areas or sites with which claimant groups have a special relationship and will be recognised 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 Māori, such as burial grounds, were simply cleared or excavated without either permission or consultation. It is not a specific property right.

5. Are any place names changed?

The name of "Te Urinui Pā" will be corrected to "Te Urenui Pā", and the name of "Titoki Ridge" will be assigned to a previously unnamed ridge.

6. What about Mt Taranaki?

Because of the significance of the mountain to all iwi of Taranaki, the question of an apology and redress for the unjust confiscation of the mountain and any other breaches 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.

7. Are any National Parks affected by the settlement?

No.

8. What happens to memorials on private titles?

The settlement will allow for the removal by legislation of the legislative restrictions (memorials) placed on the title of Crown properties and some former Crown properties now in private ownership.

9. Does the settlement create any special rights for Ngāti Mutunga?

No new rights are being created. Provisions in relation to conservation, such as Statutory Acknowledgements and nohoanga give practical effect to existing provisions of both the Resource Management Act and the Conservation Act that provide for Māori participation in conservation and planning matters.

10. Does Ngāti Mutunga have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries in Taranaki?

No. Both parties agree that the Deed of Settlement is fair in the circumstances and will be a final settlement for all Ngāti Mutunga's historical or pre-1992 claims in Taranaki. The settlement legislation, once passed, will prevent Ngāti Mutunga from re-litigating their Taranaki claims before the Waitangi Tribunal or the courts.

The settlement does not include Ngāti Mutunga claims to areas outside of Taranaki.

The settlement package will still allow Ngāti Mutunga or members of Ngāti Mutunga to pursue claims against the Crown for acts or 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.

11. Will Ngāti Mutunga gain any rights to the foreshore and seabed under the settlement?

No. The existence of aboriginal title or customary rights is not affected by the Deed of Settlement. The Deed of Settlement does not affect the Foreshore and Seabed Act 2004.

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

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

13. Who benefits from the settlement?

All members of Ngāti Mutunga, wherever they may now live.