

Heads of Agreement between the Crown and Te Atiawa

**Minister in Charge of Treaty of
Waitangi Negotiations
Sir Douglas Graham**

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General Background

Te Atiawa is one of eight generally recognised iwi of Taranaki (see attached map). The iwi has approximately 13,000 members.

The history of Te Atiawa'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 Te Atiawa is included in the Heads of Agreement. A summary of this is included in the attached material. The claim relates 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 land and other land dealings

Negotiations on a settlement package with Te Atiawa began in April 1998. The Heads of Agreement signed today is an agreement in principle and not legally binding. The Heads of Agreement records the main components of the settlement. After further discussion with Te Atiawa on the details of the settlement provisions there will be a formal Crown offer to Te Atiawa. This offer will then be put to iwi members for their consideration. If the iwi ratifies the formal Crown offer, the two parties will then sign a binding Deed of Settlement conditional only on the approval of Parliament to the settlement legislation.

Te Atiawa was represented in negotiations by the Claims Progression Team. The Office of Treaty Settlements headed by Ross Philipson and Chief Crown Negotiator Hekia Parata, 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 Sir Douglas Graham chaired the Ministerial group that represented the Crown in high level negotiations with Te Atiawa.

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Summary of Historical Background to the Claims by Te Atiawa.

The outbreak of war in Taranaki in 1860 followed disputed land purchases by the Crown of large areas of Te Atiawa and Taranaki Iwi land in North and Central Taranaki. The Crown had failed to obtain the general agreement of the rangatira and hapu concerned, and strongly expressed opposition by some hapu members to the sales was ignored by the Crown.

From the late 1840s, as pressure to accommodate settlers on land mounted, Taranaki Maori opposition to sales north and south of New Plymouth became more evident. The flashpoint for the wars in Taranaki was the Crown's purchase of lands at Waitara. The prevention of the survey of this block by unarmed Maori was viewed as rebellion by the Crown, and it proclaimed martial law throughout Taranaki. War finally broke out when the Crown attacked the pa of Wiremu Kingi and his supporters that had been built on the Waitara block.

While the Crown subsequently renounced the Waitara purchase, it was too late to halt the continuing conflict and the Crown continued armed campaigns in Taranaki until 1869. Conflict also spread to other parts of the Central North Island.

Under the New Zealand Settlements Act of 1863 the Crown confiscated 185,000 acres (68,500 hectares) of land within the rohe of Te Atiawa. Confiscations were indiscriminate with land being taken from "rebels" and "loyals" alike.

Subsequent redress through the compensation provisions of the NZ Settlements Act and the West Coast Commissions resulted in the award of meagre entitlements of poor quality land. Very few awards were properly implemented and customary forms of tenure were ignored in the awards, almost all of which were made to individuals.

Acts of passive resistance to the confiscations by the ploughmen and fencers organised by Te Whiti and Tohu were followed by the invasion of Parihaka in the Taranaki iwi rohe by an armed force of almost 1600 in 1881. More than 1500 men, women and children were arrested, crops were burnt and homes destroyed. Te Atiawa was also adversely affected by this conflict.

Reserves allocated to Maori were placed under the control of the Public Trustee and a large portion of this land was subject to perpetually renewable leases to settlers without the consent of owners. By 1974 more than 63% of the reserves vested in the Public Trustee had been sold.

A 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 pounds to compensate all Taranaki iwi for the confiscations. A sum of 300 pounds was paid to compensate for loss of property at Parihaka. These payments were not discussed with iwi, nor did they accept them as adequate. 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 for the confiscations and the actions of the Crown at Parihaka. There is no evidence iwi agreed to this and the settlement sums, as with the rents on reserved lands, were not protected from the effects of inflation.

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Heads of Agreement - Te Atiawa

The Te Atiawa Heads of Agreement is made up of a package that includes

1. An agreed historical account which forms the basis for a Crown Apology to Te Atiawa
2. Cultural Redress
3. 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 Te Atiawa will cover the Waitara Purchase, the subsequent wars, land confiscation, reserve lands and perpetual leases, Parihaka and the cumulative impact of these events on Te Atiawa.

Cultural Redress

1. Restoration of Te Atiawa access to traditional foods and food gathering areas, including

1(a) Customary Fisheries

Te Atiawa will be appointed as an Advisory Committee to the Minister of Conservation and the Minister of Food, Fibre Biosecurity and Border Control. These Committees will provide will provide advice on the management of fisheries in the Te Atiawa rohe, including the customary interest of Te Atiawa in those fisheries and in a specified list of taonga species contained in those fisheries.

Other provisions include

- De-commercialisation of fishing for Waikoura and acknowledgement of the existing prohibition on Piharau/Lamprey as a target species
- If the numbers of specified customary or taonga species (Waikoura, Korama/Cats Eyes, Kakahi/Freshwater mussels, Kotoretore/Sea Anemone, Karengo/Sea Lettuce, Kina) rise to levels that make a commercial catch possible, the Ministry of Fisheries will consult with Te Atiawa and safeguard Te Atiawa's existing customary fishing rights.

- A Right of First Refusal to buy a proportion of surplus Crown quota for surf clams and kina in the quota management area covering Te Atiawa's rohe if these species become part of the quota management system.
- Should tendering for coastal space for marine farming occur, Te Atiawa will have the preferential right to buy, at the tender price, authorisations to apply for up to 10% of the allocated space within Te Atiawa's rohe. Te Atiawa retains the right to participate in other tenders for coastal space authorisations.
- A commitment from the Crown to consider a proposal from Te Atiawa to extend the prohibition on commercial fishermen using trawl nets and set nets to certain parts of Te Atiawa's rohe.
- Provision to consult on the taking of undersized tuna (eel) as part of stocking or re-stocking of waterways and aquaculture projects.
- Protection of Te Atiawa's customary non-commercial interest in paua should this species become commercially viable in the Te Atiawa rohe.

2(b) Camping licences or Nohoanga.

These are areas of up to one hectare near a waterway which give access to traditional sources of food. Te Atiawa members will have the right to use these entitlements for non-commercial, lawful fishing and food gathering for up to 210 days a year. One licence is being offered and another two sites suitable for nohoanga are being transferred to Te Atiawa.

2. Recognition of Te Atiawa's traditional, historical, cultural and spiritual associations to places and sites owned by the Crown within their rohe. This allows the Crown and iwi to protect and enhance the conservation values associated with these areas and sites and includes

2(a) Statutory Acknowledgements

These register the special association Te Atiawa has with an area and will be included in the settlement legislation. They are recognised under the Resource Management Act and the Historic Places Act.

There are to be ten such acknowledgements; Tarata Conservation Area, the Meeting of the Waters Scenic Reserve, Ratapihipihi Scenic Reserve, Awe-te-take Scenic Reserve, Mahoetahi Historic Reserve, Katere Scenic Reserve, Waitara Scenic Reserve, Huatoki Stream Marginal Strip, the Waitara River and one that applies to the coastal marine area adjacent to the Te Atiawa Rohe.

2(b) Deeds of Recognition

Obliges the Crown to consult Te Atiawa and have regard for its views regarding Te Atiawa's special association with a site and specifies the nature of Te Atiawa's input into management of those areas by the Department of Conservation. There will be seven Deeds covering the seven reserves that will receive Statutory Acknowledgements.

2 © Special Area or Topuni

This is an additional status for an existing reserve which acknowledges Te Atiawa's traditional, cultural, spiritual and historic values and associations.

Special Area status requires the Minister of Conservation and Te Atiawa to develop and publicise a set of principles which will assist the Minister to avoid harming or diminishing Te Atiawa values in the Special Area. The NZ Conservation Authority and Taranaki/Wanganui Conservation Board will also be required to have regard to the principles and consult with Te Atiawa.

There is one Special Area proposed for the Te Atiawa rohe; this will cover the Sugar Loaf Islands/Nga Motu.

2(d) Protocols with Other Government Departments and Third Parties

The Heads of Agreement also provides for the establishment of protocols to develop a good working relationship between Te Atiawa and Ministry of Fisheries, the Department of Conservation, the Ministry Culture and Heritage and Land Information New Zealand on cultural matters of importance to Te Atiawa. A protocol will also be developed between Te Atiawa and the Land information New Zealand regarding the process for the disposal of paper roads.

The protocols with Government departments will be developed in detail between the signing of a Heads of Agreement and the final Deed of Settlement.

The Crown has also agreed to facilitate the development of protocols between Te Atiawa and the Taranaki Regional Council and the New Plymouth District Council, the Taranaki/Wanganui Conservation Board and Taranaki Fish and Game Council, Landcare Research and the National Institute of Water and Atmospheric Research.

2(e) Placenames

A total of 11 existing placenames will, in future, also have an official Maori name. Three existing Maori place names will receive new Maori names and two sites currently without official names will be named. Te Atiawa will also be notified by the New Zealand Geographic Board about future name proposals in their rohe (**see attached list**).

2(f) Sites Transferred to Te Atiawa

Four areas of significance to Te Atiawa, the Omata Road Conservation Area, Taumata Historic Reserve, Kerekereinga Conservation Area and Waionganga Stream Conservation Area, will be returned to Te Atiawa. Two of the sites are intended to be used for camping licenses or nohoanga. These are small sites that cover a total of 1.5 hectares.

Two existing reserves will have their status changed. The reclassified Manukorihi Recreation Reserve will become an historic reserve to be called Ngangana Pa Historic Reserve and the Crown Land Conservation Area will become the Rewa Rewa Historic Reserve.

In addition, Te Atiawa will receive the title to the Awe-te-take Pa Historic Reserve and the Pukerangiora Pa Historic Reserve and they will administer them as reserves under the Reserves Act. These reserves cover a total of 18.7 hectares.

Te Atiawa will also become administering body for the Ngangana Historic Reserve, the Waiwhakaiho Rd Conservation Area, the Rewa Rewa Historic Reserve (formerly the Crown Land Conservation Area), the Sentry Hill Redoubt Historic Reserve, the Puketarata-Parihamore Pa Historic Reserve and the Puketetauere Pa Historic Reserve. The Department of Conservation may provide technical assistance on a basis to be agreed between Te Atiawa and the Department for the administration of these reserves.

2(g) Cultural Materials

The Heads of Agreement provides for the legal use by Te Atiawa of materials already in their possession that are derived from plants, animals, marine mammals and birds that are of importance in the maintenance of its culture.

Commercial Redress

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

1. A total of **\$34 million** in cash or a combination of cash and Crown properties up to that value.
- 2 **Right of First Refusal** - Te Atiawa will also have, for a period of 50 years, a Right of First Refusal to buy, at full market value, properties in the Te Atiawa rohe currently owned by the Crown should they be declared surplus.

Mount Taranaki

There is no redress proposed in the Heads of Agreement 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 Te Atiawa will recognise the traditional, cultural, historical and spiritual significance of Mount Taranaki to all iwi of Taranaki.

Administrative Body

The existing Te Atiawa Iwi Authority (TAIA) will not be the body which accepts and administers any settlement. It is up to Te Atiawa members what the body which accepts any Crown settlement looks like.

The Crown has made it clear it will not transfer settlement assets until a transparent and accountable body to hold the settlement assets has been established with the participation and approval of iwi members. This will be decided by all members at a later stage in the settlement process.

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Questions and Answers

1 What is the total cost to the Crown?

\$34 million plus interest from the date of the signing of the Deed of Settlement plus the cost of land returned under 2(f).

2 Is there any private land involved?

No

3 Are the public's rights affected?

Generally, no, but

- Camping license sites or Nohoanga, which are similar to other concessions granted by the Department of Conservation, will be for the exclusive use of Te Atiawa for up to 210 days a year. Each site is up to 1 hectare in size and there will be one site in Te Atiawa's rohe. This does not affect public access to waterways.
- Four small reserves and conservation areas of significance to Te Atiawa are to be transferred to the iwi. The total area transferred is 1.5 hectares.

4 What is a Camping license or Nohoanga?

It is a licence to temporarily occupy a piece of land of up to one hectare near a traditional Te Atiawa food gathering area such as a river or a lake. It is set back from the marginal strip and does not impede public access to or along a waterway.

5. What is a Special Area or Topuni?

A Special Area Reserve or Topuni classification recognises the cultural, spiritual and historical values of a site or area. It gives an Iwi the right to be consulted in the management of an area or site but does not override existing classifications or protections, such as National Park status.

6. What is a Statutory Acknowledgement?

These acknowledge areas or sites with which Iwi 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 Iwi, such as burial grounds, were simply cleared or excavated without either permission or consultation. It does not give Iwi 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 Iwi's special association with a site as stated in a Statutory Acknowledgement and specifies the nature of the Iwi's input into the management of the site.

7. Are any place names changed?

The Crown has agreed to dual Maori/English placenames for a number of significant sites. Eleven places will have dual Maori/English names while 5 existing placenames will be amended. Te Atiawa also sought changes to names which are under the jurisdiction of local bodies and the Crown has agreed to facilitate discussions between Councils and Ngati Ruanui on this subject. (see attached list for details)

8. What about Mt Taranaki?

Because of the significance of the mountain to all eight Taranaki Iwi the question of an apology and redress for the unjust confiscation of the mountain is to be deferred until all eight 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 is involved.

10. Are any National Parks affected in the Settlement?

No

11. What happens to memorials on private titles?

The settlement will remove the legislative restrictions (memorials) placed on the sale of Crown properties and some former Crown properties in anticipation of a settlement.

12. Does the Settlement create any special rights for Te Atiawa

No new rights are being created. Provisions in relation to conservation, such as Statutory Acknowledgements and Special areas, simply 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.

13. Does Te Atiawa have the right to come back and make further claims about the behaviour of the Crown in the 19th Century?

No. If the Heads of Agreement signed today proceeds to settlement it will be a fair and final settlement for all historical or pre 1992 claims. The settlement legislation, once passed, will prevent Te Atiawa from re-litigating the claim before the Tribunal or the Courts. The Heads of Agreement does not cover the question of compensation for loss of rentals since the mid 1970s to the

owners of Maori reserved land, represented in Taranaki by the Parininihi Ki Waitotara Incorporation.

14. What about the 1944 settlement? Wasn't that final?

The settlement of 1944 was made unilaterally, without agreement with Te Atiawa.

15. What happens next?

The Heads of Agreement are an agreement in principle and are not legally binding on either party. The next step for the Crown and Iwi is to negotiate a formal Deed of Settlement which, if ratified by the full Iwi membership, will be enshrined in legislation in the same form as previous settlements.

16. Who benefits from the settlement?

All members of Te Atiawa wherever they may live.

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