

Ngati Tama Claims Settlement Bill

Government Bill

As reported from the Māori Affairs Committee

Commentary

Recommendation

The Māori Affairs Committee has examined the Ngati Tama Claims Settlement Bill and recommends that it be passed with the amendments shown.

Introduction

This bill records the acknowledgments and apology given by the Crown to Ngati Tama, and gives effect to the deed of settlement¹ negotiated between those parties. The details of the settlement are set out in the preamble to the bill.

In considering the bill we have been mindful of the constraints placed on us by rules relating to legislation to confirm agreements such as deeds of settlement. These mean that we cannot substantively amend this bill in a manner that is not acceptable to the parties to the deed being implemented. Amendments must also be relevant to the subject matter of the bill.

We received 10 submissions. Of these, six raised concerns about the settlement. We wish to draw the following matters to the attention of the House:

- mandate of the negotiators
- overlapping claims

¹ *Deed of Settlement to Settle Ngati Tama Historical Claims, 20 December 2001.*

- participation rate for the ratification process.

Background to negotiation process

The historical claims of Ngati Tama were heard by the Waitangi Tribunal between 1990 and 1995. In 1996, as part of the process for achieving a mandate from Ngati Tama to negotiate their Treaty claims in Taranaki, the proposal for the mandate to be held by the Ngati Tama Iwi Development Trust ('the Trust') was publicised. On ratification of the governance entity, the Ngati Tama Iwi Development Trust was wound up on 20 January 2003, and the governance entity Te Runanga o Ngati Tama ('the Runanga') was established.

The Crown received submissions from the Nga Hapu o Mokau Claims Committee, objecting to the proposed mandating of the Trust. The vice-chairman and the treasurer of this committee are also members of Ngati Tama Whanau Whanui ('Whanau Whanui'), the major group opposing the Trust's mandate.

In November 1996 the Crown recognised the mandate of the Trust as negotiator. At that time negotiations were conducted under the auspices of the Claims Progression Team of the Northern Alliance (Ngati Tama Iwi Development Trust, Ngati Mutunga Iwi Authority Board, Ngati Maru Tribal Council/Iwi Authority, and Te Atiawa Iwi Authority).

In August 1997 the Trust and the Crown entered into terms of negotiation, which resulted in the parties entering into a non-binding heads of agreement in September 1999.

Mandate to represent Ngati Tama

We were told by the Office of Treaty Settlements that in early June 1997 it received a challenge to the mandate of the Ngati Tama Iwi Development Trust from Ngati Tama Whanau Whanui. The submission was organised and co-ordinated by Whanau Whanui representatives affiliated to the Mokau group of families. The challenge consisted of over 435 form letters, which represents about 40 per cent of Ngati Tama.² The letters were written by individuals who affirm Ngati Tama affiliation, revoke any other mandate, and nominate one person to establish a mandate to represent their interests in the negotiation of Ngati Tama's Treaty claim.

² *Assessment of a formal challenge to the mandate of the Ngati Tama Iwi Development Trust*. Office of Treaty Settlements, 11 August 1997.

The challenge was derived from earlier concerns expressed during the northern Taranaki mandate assessment conducted by the Office of Treaty Settlements in mid-1996. The challenging group, known at that time as the Nga Hapu o Mokau Claims Committee, had yet to decide whether to pursue their claims under the Ngati Tama or Ngati Maniapoto umbrellas, or remain independent of both. Whanau Whanui claims whakapapa links to both Ngati Tama in the south and Ngati Maniapoto in the north. Whanau Whanui representatives are critical of the apparent domination of Ngati Tama affairs by one family, and perceive a lack of democracy and transparency in the structure of the Trust.

We respect the concerns and arguments that Whanau Whanui raise. At the hearing we had clear evidence from Whanau Whanui and other Ngati Tama iwi living outside the tribal area that the mandating process by the Ngati Tama Trust was inadequate. We are concerned about the level of dissent that has occurred within Ngati Tama over these issues. We consider it essential that the mandating process be improved to ensure that Treaty settlements are fair and durable.

We note the recent efforts of the Office of Treaty Settlements in actively assisting and encouraging Whanau Whanui, and others who reside outside tribal boundaries, to register as members of Te Runanga o Ngati Tama. We hope that Whanau Whanui and others who feel disenfranchised will make the most of the opportunity to fully participate in the first election of Runanga trustees on 31 January 2004.

Overlapping claim of Ngati Maniapoto

We were told that during negotiations with Ngati Tama, Ngati Maniapoto challenged the provision of redress made in areas subject to claim by the latter. In the heads of agreement a distinction was made between the Ngati Tama exclusive area south of the confiscation line, and the area further north subject to a claim by Ngati Maniapoto. While recognising that Ngati Maniapoto have interests north of the confiscation line, the Crown considered it was appropriate to offer settlement redress to Ngati Tama in that area, subject to resolution of overlapping Ngati Maniapoto interests to the satisfaction of the Crown.

The revised offer still contained exclusive redress to Ngati Tama in the overlapping claim area, where Ngati Tama were found to have sufficient interest to justify this redress.

In March 2002 the Waitangi Tribunal endorsed the Crown's policy to the overlapping claim issues. The Crown did not support the case made by Ngati Maniapoto at the hearing of evidence by the Select Committee, as it presumes a level of Ngati Maniapoto interest in the area that is not supported by independent research.

Ratification of the deed of settlement

The Office of Treaty Settlements told us that of the 61 percent of eligible members of Ngati Tama who participated in the ratification of the deed of settlement, 97 percent were in favour.

Ratification of the governance entity

We were told that of the 32 percent of adult registered members of the Ngati Tama Development Trust who participated in the ratification of the governance entity (Te Runanga o Ngati Tama), 98 percent were in favour. We are very concerned at such low participation of eligible voters in the governance ratification process. We consider that the Crown, through the Office of Treaty Settlements, must continue to endeavour to develop initiatives that will increase participation in the ratification processes for future settlements.

National Party view

National supports the Ngati Tama settlement. However, National members are concerned that measures in the bill that make provision for preferential rights to coastal space, are proceeding at a time when major public policy decisions relating to aquaculture, and the ownership of foreshore and seabed have yet to be taken. A specific settlement of an historic grievance should not, of itself, be seen as setting a general precedent.

Technical amendments

Minor technical amendments to the bill consist mainly of changes to the types of encumbrances on the fee simple titles to sites to be vested in the governance entity listed in schedule 1 (cultural redress properties). Changes were also necessary to reflect the Resource Management Act Amendment Act 2003.

Appendix

Committee process

The Ngati Tama Claims Settlement Bill was referred to the Māori Affairs Committee on 15 April 2003. The closing date for submissions was 30 June 2003. We received and considered 10 submissions from interested groups and individuals. We heard 9 submissions at the single hearing in New Plymouth. Hearing of evidence took 3 hours 24 minutes, and consideration took 2 hours 50 minutes.

We received advice from the Office of Treaty Settlements and the Parliamentary Counsel Office.

Committee membership

Mahara Okeroa (Chairperson)

Hon Georgina te Heuheu (Deputy Chairperson)

Bill Gudgeon

Dr Wayne Mapp (from 4 November 2003)

Hon Murray McCully (to 4 November 2003)

Mita Ririnui

Metiria Turei

Hon Tariana Turia

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,	Text struck out unanimously
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New (unanimous)

Subject to this Act,	Text inserted unanimously
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(Subject to this Act,) Words struck out unanimously

Subject to this Act, Words inserted unanimously

Hon Margaret Wilson

Ngati Tama Claims Settlement Bill

Government Bill

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Preamble

- (1) The Treaty of Waitangi, as set out in English and in Maori in the First Schedule to the Treaty of Waitangi Act 1975, was signed in 1840:
- (2) Recitals (3) to (13) of this Preamble present, in summary form, the background to the Ngati Tama Taranaki historical claims that is set out in Part 6 of the deed of settlement entered into by Ngati Tama and the Crown: 5
Taranaki wars
- (3) The Crown proclaimed martial law throughout Taranaki on 22 February 1860. The Taranaki wars of 1860–61 and 1863–69 followed. During the course of the wars, the Crown built redoubts at Pukearuhe and Waititi to secure military occupation of the land. These also provided security for military settlements that were established on confiscated land. Both redoubts were built on wahi tapu: 15
Confiscation
- (4) In 1863, the New Zealand Settlements Act 1863 was enacted. This Act provided for the confiscation, by the Crown, of lands of Maori whom the Crown assessed to have been in “rebellion” against the authority of the Queen. On 30 January 1865, the Governor declared “Middle Taranaki” to be a confiscation district, and set aside blocks at Oakura and Waitara South as “eligible Sites for settlements for colonisation”. On 2 September 1865, the Governor declared 2 further confiscation districts, “Ngatiawa” and “Ngatiruanui”. The Governor also designated “Ngatiawa Coast” and “Ngatiruanui Coast” as 20
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eligible sites for settlement. These eligible sites took in a substantial part of the land in the rohe of Ngati Tama. All the Ngati Tama land that could be confiscated within the declared confiscation districts was confiscated, despite the declaration that land of “loyal inhabitants” would be taken only where “absolutely necessary for the security of the country”:

Compensation Court

- (5) A Compensation Court was set up under the New Zealand Settlements Act 1863 to compensate some of those whose land was confiscated by the Crown. The compensation process and its outcomes added to the uncertainty, distress, and confusion among the people of Ngati Tama as to where they were to live and whether they had security of title. Those considered to be rebels could not make claims. All of the Compensation Court awards within the rohe of Ngati Tama were based on out-of-court settlements. By the time these were made, most of the readily usable land in the north had already been disposed of by the Crown. These settlements were not properly investigated by the Compensation Court. All of the awards made by the Compensation Court on the basis of these settlements were made to individuals, rather than to hapu. Often awards did not include traditional whanau and hapu land. The awards did not reflect customary forms of land tenure. Out of some 74 000 acres confiscated from Ngati Tama, 3 458 acres were awarded to Ngati Tama individuals. By 1880, title had not been issued to this land. Some claimants were informally aware of the location of their awards and believed they had a right to occupy the land, only to find that it was classified as Crown land. In 1867, the Crown promised awards of land to the absentee owners from each iwi. By 1880, these awards were still undefined on the ground:

Parihaka

- (6) The prophets Te Whiti o Rongomai and Tohu Kakahi introduced a policy of passive resistance to the surveyors and the European settlers who followed. Prior to the Crown’s attack on Parihaka, this policy was supported by the people of Ngati Tama and other iwi. Such resistance in 1879–80 led to more than 420 “ploughmen” and 216 “fencers” being arrested. Most were denied a trial and many prisoners were held in the South Island. Prison conditions were harsh and included hard labour:

- (7) On 5 November 1881, more than 1 500 Crown troops invaded and occupied the settlement of Parihaka. Over the following days, some 1 600 Maori were forcibly expelled from Parihaka and made to return to their own settlements. Houses and crops were systematically destroyed, and stock was driven away or killed. Taranaki Maori report that women were raped and otherwise molested by soldiers: 5
- (8) The leaders of Parihaka, Te Whiti o Rongomai and Tohu Kakahi, were arrested, and special legislation provided for their imprisonment without trial: 10
West Coast Commissions and West Coast Settlement Reserves
- (9) Two West Coast Commissions were appointed in 1880. The first was established to inquire into the Compensation Court awards and specific promises made by the Crown to Maori in Taranaki concerning confiscated lands. The second was established to implement the recommendations of the first. Almost all of the productive land confiscated within the rohe of Ngati Tama had already been provided to military settlers. Ngati Tama were left with insufficient agricultural land for their present and future needs: 15 20
- (10) Of the land that was returned to Ngati Tama, all was returned under individualised title. Many of the reserves were protected against sale when granted, but those restrictions were later removed and much of this land was permanently alienated: 25
- (11) The reserves made by the West Coast Commission were vested in the Public Trustee in trust for Maori owners, with Maori thereby losing legal ownership and control of their lands. The Public Trustee had full power to sell the alienable reserves and lease the inalienable ones under terms imposed by statute. The West Coast Settlement Reserves Act 1881 provided for perpetually renewable leases with rent based on the unimproved value of the land: 30
- (12) In 1926, the Sim Commission was set up to investigate confiscations under the New Zealand Settlements Act 1863 and subsequent legislation. The Commission’s recommendations for an annuity of £5,000 for all the Taranaki confiscations and a single payment of £300 for the loss of property at Parihaka were not discussed with the iwi concerned and were never 35 40

accepted as adequate. The timing of the payment of the annuity was uncertain, and the sums due in the early 1930s were not fully paid:

Ngati Tama lands

- (13) In 1882, the titles to 2 large blocks totalling more than 120 000 acres on the northern side of the confiscation line (Mohakatino–Paraninihi) were investigated by the Native Land Court. Although the area was part of Ngati Tama’s ancestral lands, Chief Judge Fenton awarded full ownership of both blocks to Ngati Maniapoto claimants, citing conquest and possession, although admitting that occupation prior to 1840 was “sparse”. The Judge subsequently refused to hear an appeal by Ngati Tama. This outcome magnified the impact of any adverse consequences of decisions by the Compensation Court regarding Ngati Tama lands, and meant that in the future the Crown did not recognise Ngati Tama as being able to speak for these blocks. It also meant that Ngati Tama considered it futile to make further claims to land in this area through the Native Land Court. The Crown has acquired Ngati Tama land under Public Works legislation. Land taken includes wahi tapu of particular significance to Ngati Tama. As a result of these actions by the Crown, and the decisions of the Compensation and Native Land Courts, Ngati Tama in Taranaki were left with very little land and none in tribal ownership:
- Ngati Tama have long sought to have their grievances redressed*
- (14) Taranaki Maori, including Ngati Tama, have longstanding claims against the Crown. Those claims have been expressed through petitions and protests made by Taranaki Maori, including Ngati Tama. Those petitions and protests contributed to the establishment, in the 19th and 20th centuries, of various committees of inquiry into lands confiscated from Taranaki Maori:
- Claims under Treaty of Waitangi Act 1975*
- (15) The enactment of the Treaty of Waitangi Amendment Act 1985 made it possible for Maori to bring claims before the Waitangi Tribunal in respect of acts or omissions on or after 6 February 1840 by, or on behalf of, the Crown that were inconsistent with the principles of the Treaty of Waitangi:

- (16) Between 1990 and 1995, the Waitangi Tribunal investigated 21 claims concerning Taranaki Maori, including Ngati Tama: *Interim views of Waitangi Tribunal*
- (17) On 11 June 1996, the Waitangi Tribunal released its interim report on the collective Taranaki Maori claims (Wai 143) entitled *The Taranaki Report: Kaupapa Tuatahi*: 5
- (18) This report contained the preliminary views of the Waitangi Tribunal and was issued—
- (a) based on the Tribunal’s inquiry up to the date of the report (noting, in particular, that the Crown was yet to be heard on many matters raised); and 10
 - (b) in order to expedite intended negotiations for a settlement in relation to the Taranaki claims:
- (19) The Waitangi Tribunal expressed some preliminary views concerning the Taranaki claims, including that— 15
- (a) the claims stood on 2 major foundations, land deprivation and disempowerment, with the latter being the main one. By disempowerment, the Waitangi Tribunal meant the denigration and destruction of Maori autonomy or self-government: 20
 - (b) the Waitangi Tribunal’s Interim Report had introduced the historical claims of the Taranaki hapu and shown the need for a settlement:
 - (c) generous reparation policies were needed to remove the prejudice to Maori, to restore the honour of the Government, to ensure cultural survival, and to re-establish effective interaction between the Treaty partners: 25
- (20) The Crown acknowledged to the Waitangi Tribunal, in its interim response to the Taranaki claims, that— 30
- (a) the Waitara purchase and the wars constituted an injustice and were therefore in breach of the principles of the Treaty of Waitangi:
 - (b) the confiscation of land, as it occurred in Taranaki, also constituted an injustice and was therefore in breach of the principles of the Treaty of Waitangi: 35
 - (c) confiscation had a severe impact on the welfare, economy, and development of Taranaki iwi:
 - (d) in general terms, the delays in setting aside reserves contributed to the adverse effects of the confiscations: 40

- (e) events relating to the implementation of the confiscations leading to the invasion of Parihaka in 1881, the invasion itself, and its aftermath constituted a breach of the principles of the Treaty of Waitangi:
- Settlement negotiations* 5
- (21) In November 1996, the Crown recognised the mandate of the Ngati Tama Iwi Development Trust to represent Ngati Tama in negotiations for a settlement with the Crown:
- (22) The mandated negotiators for Ngati Tama and the Crown entered into— 10
- (a) terms of negotiation on 18 August 1997 specifying the scope, objectives, and general procedures for the negotiations:
- (b) a heads of agreement on 24 September 1999 recording that Ngati Tama and the Crown were, in principle, willing to enter into a deed of settlement on the basis of the Crown's settlement proposal set out in the heads of agreement: 15
- (23) A deed of settlement was agreed to by the Crown and the Ngati Tama Mandated Negotiators in a Letter of Exchange on 5 November 2001. The people of Ngati Tama then ratified the Crown's offer: 20
- (24) The Crown and Ngati Tama entered into a deed of settlement on 20 December 2001 recording matters required to give effect to a comprehensive settlement of all Ngati Tama's historical claims in Taranaki: 25

The Parliament of New Zealand therefore enacts as follows:

- 1 Title**
This Act is the Ngati Tama Claims Settlement Act **2003**.
- Part 1**
- Preliminary provisions, and acknowledgements and apology by the Crown to Ngati Tama** 5
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Purpose** 10
The purpose of this Act is—
- (a) to record the acknowledgements and apology given by the Crown to Ngati Tama in the deed of settlement dated 20 December 2001 and signed by the Minister in Charge of Treaty of Waitangi Negotiations, the Honourable Margaret Wilson, for the Crown, and by Stephen Taitoko White, Te Aramou Lake, Peter Te Maihengia White, Kenneth Crete Matuku, Nora Te Mate Horere Tahuna Tearanga Leatherby, Reece Baker, and Davis Rawiri McClutchie, for Ngati Tama; and 15
- (b) to give effect to certain provisions of the deed of settlement, which is a deed that settles the Ngati Tama historical claims. 20
- 4 Act to bind the Crown** 25
This Act binds the Crown.
- 5 Outline**
- (1) This section is a guide to the overall scheme and effect of this Act, but does not affect the interpretation or application of the other provisions of this Act or of the deed of settlement. 30
- (2) **Part 1** includes the preliminary provisions and records the acknowledgements and apology given by the Crown to Ngati Tama in the deed of settlement.
- (3) **Part 2** defines terms used in this Act, including key terms such as **Ngati Tama** and **Ngati Tama historical claims**. 35

- (4) **Part 3** provides that the settlement of Ngati Tama historical claims is final, and deals with related issues, including—
- (a) a statement of the effect of the settlement on the jurisdiction of a court, tribunal, or other judicial body to consider the Ngati Tama historical claims; and 5
 - (b) provision for consequential amendments to the Treaty of Waitangi Act 1975; and
 - (c) a statement of the effect of the settlement on certain resumptive memorials; and
 - (d) miscellaneous matters relating to the settlement, namely, the exclusion of the law against perpetuities, the timing of actions or matters provided for in this Act, and the fees of the Registrar-General. 10
- (5) **Part 4** authorises the actions necessary to implement certain aspects of the commercial redress. 15
- (6) **Part 5** includes provisions relating to the following matters:
- (a) the issue of protocols to the governance entity by the Ministers of Conservation, Fisheries, and Energy, the Minister for Arts, Culture and Heritage, and the Minister for Land Information; and 20
 - (b) the vesting in the governance entity of the fee simple estate in 6 cultural redress properties; and
 - (c) the vesting of a recreation reserve in the governance entity as an administering body under the Reserves Act 1977; and 25
 - (d) the establishment of a joint advisory committee to perform specified functions in relation to 3 cultural redress properties and the Whitecliffs conservation area; and
 - (e) an acknowledgement by the Crown of the statements made by Ngati Tama of their cultural, spiritual, historical, and traditional association with 12 statutory areas, with provision for entering into deeds of recognition in relation to 8 statutory areas, together with provisions as to the effect of these instruments; and 30
 - (f) an acknowledgement by the Crown of the customary non-commercial interest of Ngati Tama in the paua fishery within the fisheries protocol area; and 35
 - (g) a right of first refusal for 50 years in favour of the governance entity for certain shellfish quota; and
 - (h) a preferential right to purchase authorisations if the Minister of Conservation offers, by public tender under 40

Part VII of the Resource Management Act 1991, authorisations for any part of the specified coastal area.

- (7) There are 14 schedules setting out—
 - (a) the cultural redress properties; and
 - (b) a description of the areas over which statutory acknowledgements are made and those for which deeds of recognition may be entered into; and
 - (c) the texts of the statements by Ngati Tama of their association with the statutory areas.

- 6 Acknowledgements by the Crown** 10

The text of the acknowledgements made by the Crown, as set out in the deed of settlement, is as follows:

 - “(1) The Crown acknowledges that the wars in Taranaki constituted an injustice and were in breach of the Treaty of Waitangi and the principles of the Treaty of Waitangi. 15
 - “(2) The Crown acknowledges that—
 - “(a) the confiscations were indiscriminate in extent and application and had a devastating effect on the welfare, economy, and development of Ngati Tama:
 - “(b) the division of the ancestral land of Ngati Tama by the arbitrary placement of the northern confiscation boundary has resulted in iwi rights in these areas being assessed under 2 different systems: 20
 - “(c) the prejudicial effects of the confiscations were compounded by the inadequacies in the Compensation Court process that included long delays in the promised return of land to Ngati Tama individuals: 25
 - “(d) the confiscations of 1865 deprived Ngati Tama of access to their traditional sources of food and other resources associated with that confiscated land: 30
 - “(e) the confiscations were wrongful and in breach of the Treaty of Waitangi and the principles of the Treaty of Waitangi.
 - “(3) The Crown recognises that the lands and other resources confiscated from Ngati Tama have made a significant contribution to the wealth and development of New Zealand. 35
 - “(4) The Crown acknowledges—
 - “(a) the serious damage it inflicted on the prosperous Maori village of Parihaka and the people residing there, its

- forcible dispersal of many of the inhabitants, and its assault on the human rights of the people:
- “(b) that these actions caused great distress and were a complete denial of the Maori right to develop and sustain autonomous communities in a peaceful manner: 5
- “(c) that its treatment of the Ngati Tama people at Parihaka was unconscionable and unjust and that these actions constituted a breach of the Treaty of Waitangi and the principles of the Treaty of Waitangi.
- “(5) The Crown acknowledges that— 10
- “(a) the West Coast Commissions were inadequate in their scope and therefore did not fully address the injustices perpetrated by the confiscations:
- “(b) the reserves created by the Commissions in the 1880s were not sufficient for the present and future needs of Ngati Tama: 15
- “(c) the Crown’s actions with respect to the West Coast Settlement Reserves Act 1881, considered cumulatively (including the imposition of a regime of perpetually renewable leases and the sale of large quantities of land by the Public and Maori Trustee),— 20
- “(i) ultimately deprived Ngati Tama of the control and ownership of the lands reserved for them in Taranaki; and
- “(ii) were in breach of the Treaty of Waitangi and the principles of the Treaty of Waitangi. 25
- “(6) The Crown acknowledges that despite previous efforts made in the twentieth century, including those of the Sim Commission, it has failed to deal in an appropriate way with the grievances of Ngati Tama. In particular, the payments made under the Taranaki Maori Claims Settlement Act 1944 did not sufficiently address the grievances of Ngati Tama. 30
- “(7) The Crown recognises the efforts and struggles of Ngati Tama in pursuit of their claims for redress and compensation against the Crown for over 130 years.” 35

7 Apology by the Crown

The text of the apology made by the Crown to Ngati Tama, to their ancestors, and to their descendants, as set out in the deed of settlement, is as follows:

“The Crown profoundly regrets and unreservedly apologises to Ngati Tama for its actions, which have resulted in the virtual landlessness of Ngati Tama in Taranaki, and which have caused suffering and hardship to Ngati Tama over the generations to the present day. 5

“The Crown profoundly regrets, and unreservedly apologises for—

- the destructive and demoralising effects of its unconscionable actions on Ngati Tama, which have undermined the basis of their society and autonomy; and 10
- its actions at Parihaka; and
- its failure to acknowledge the mana and rangatiratanga of Ngati Tama.

“The Crown apologises to Ngati Tama for all the breaches of the Treaty of Waitangi and its principles acknowledged by the Crown. 15

“Accordingly, the Crown atones for these wrongs, and seeks to assist the process of healing with this Settlement and looks forward to building a relationship of mutual trust and co-operation with Ngati Tama.” 20

Part 2 Interpretation

8 Interpretation of Act generally

It is the intention of Parliament that the provisions of this Act are interpreted in a manner that best furthers the agreements expressed in the deed of settlement. 25

9 Interpretation

In this Act, unless the context otherwise requires,—

antiquities protocol means a protocol issued under **section 20** by the Minister for Arts, Culture and Heritage that— 30

- (a) sets out how the Ministry for Culture and Heritage will interact with the governance entity on the matters specified in that protocol; and
- (b) is in the form set out in Part 1 of the Cultural Redress Schedule, or as the protocol is amended under **section 20** 35

antiquities protocol area means the area shown on the map attached to the antiquities protocol, together with the adjacent waters

archaeological site has the meaning given to it in section 2 of the Historic Places Act 1993

business day means the period of 9 am to 5 pm on any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign’s Birthday, Labour Day, and Waitangi Day; and 5
- (b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and 10
- (c) the days observed as the anniversaries of the provinces of Wellington and Taranaki

Struck out (unanimous)

chief executive means the chief executive of Land Information New Zealand

consent authority has the meaning given to it in section 2(1) of the Resource Management Act 1991 15

Conservation Authority means the New Zealand Conservation Authority as defined in section 2(1) of the Conservation Act 1987

conservation board has the meaning given to it in section 2(1) of the Conservation Act 1987 20

conservation covenant means a covenant entered into under **subpart 2 of Part 5** in respect of specified cultural redress properties in the form set out in Part 3 of the Cultural Redress Schedule 25

conservation document means a national park management plan, conservation management strategy, or conservation management plan

conservation management plan has the meaning given to it in section 2(1) of the Conservation Act 1987 30

conservation management strategy has the meaning given to it in section 2(1) of the Conservation Act 1987

Crown has the meaning given to it in section 2(1) of the Public Finance Act 1989

Crown entity has the meaning given to it in section 2(1) of the Public Finance Act 1989 35

- Crown owned minerals** means a mineral (as that term is defined in section 2(1) of the Crown Minerals Act 1991) that is the property of the Crown under sections 10 and 11 of the Crown Minerals Act 1991 or over which the Crown has jurisdiction under the Continental Shelf Act 1964 5
- cultural redress property** means a property listed in **Schedule 1**
- Cultural Redress Schedule** means Schedule 2 set out in 8 parts in the deed of settlement
- deed of recognition** means a deed of recognition entered into by the Crown and the governance entity under **section 60** 10
- deed of settlement and deed—**
- (a) mean the deed of settlement dated 20 December 2001 and signed by the Minister in Charge of Treaty of Waitangi Negotiations, the Honourable Margaret Wilson, for the Crown, and by Stephen Taitoko White, Te Aramou Lake, Peter Te Maihengia White, Kenneth Crete Matuku, Nora Te Mate Horere Tahuna Tearanga Leatherby, Reece Baker, and Davis Rawiri McClutchie, for Ngati Tama; and 15
 - (b) includes—
 - (i) the schedules to the deed; and
 - (ii) amendments to the deed or to the attachments or the schedules 20
- Director-General** has the meaning given to it in section 2(1) of the Conservation Act 1987 25
- DOC protocol** means a protocol issued under **section 20** by the Minister of Conservation that—
- (a) sets out how the Department of Conservation will interact with the governance entity in relation to the matters specified in that protocol; and 30
 - (b) provides for Ngati Tama input into certain Department of Conservation processes in relation to the matters specified in the DOC protocol; and
 - (c) is in the form set out in Part 1 of the Cultural Redress Schedule, or as the protocol is amended under **section 20** 35
- DOC protocol area** means the area shown on the map attached to the DOC protocol
- effective date** means the date that is 6 months after the settlement date 40

encumbrance means, in respect of a cultural redress property, a tenancy, lease, licence, easement, covenant, permit, or other right or interest, whether registered or unregistered, and, without limitation, includes the encumbrances listed in **column 3 of Parts 1 and 2 of Schedule 1**

5

fisheries legislation means—

- (a) the Fisheries Act 1983:
- (b) the Fisheries Act 1996:
- (c) all regulations made under either or both of those Acts

fisheries protocol means a protocol issued under **section 20** by the Minister of Fisheries that—

10

- (a) sets out how the Ministry of Fisheries will interact with the governance entity in a way that will enable Ngati Tama to provide input into the processes of the Ministry on the matters specified in that protocol; and
- (b) is in the form set out in Part 1 of the Cultural Redress Schedule, or as the protocol is amended under **section 20**

15

fisheries protocol area means the area shown on the map attached to the fisheries protocol, together with the adjacent waters

20

governance entity means Te Runanga o Ngati Tama Trust established in accordance with clause 3.3 of the deed of settlement

Historic Places Trust means the New Zealand Historic Places Trust (Pouhere Taonga) provided for in section 38 of the Historic Places Act 1993

25

LINZ protocol means a protocol issued under **section 20** by the Minister for Land Information that—

- (a) sets out how Land Information New Zealand will consult with the governance entity before the Minister for Land Information resumes ownership from local authorities under section 323 of the Local Government Act 1974 of unformed roads within the LINZ protocol area; and
- (b) is in the form set out in Part 1 of the Cultural Redress Schedule, or as the protocol is amended under **section 20**

30

35

LINZ protocol area means the area shown on the map attached to the LINZ protocol

local authority has the meaning given to it in section 2(1) of the Resource Management Act 1991

40

- MED protocol** means a protocol issued under **section 20** by the Minister of Energy that—
- (a) sets out how the Ministry of Economic Development will interact with the governance entity in relation to the matters specified in that protocol; and 5
 - (b) is in the form set out in Part 1 of the Cultural Redress Schedule, or as the protocol is amended under **section 20**
- MED protocol area** means the area shown on the map attached to the MED protocol, together with the adjacent waters 10
- member of Ngati Tama** means every individual referred to in **section 10(1)**
- national park management plan** means a management plan as defined in section 2 of the National Parks Act 1980
- Ngati Tama** and **Ngati Tama ancestor** have the meanings set out in **section 10** 15
- Ngati Tama area of interest** means the area that Ngati Tama identify as their area of interest, as set out in Schedule 4 of the deed of settlement
- Ngati Tama historical claims** has the meaning set out in **section 11** 20
- protocol** means a protocol entered into in accordance with the provisions of **subpart 1 of Part 5**
- Registrar-General** means the Registrar-General of Land appointed in accordance with section 4 of the Land Transfer Act 1952 25
- resource consent** has the meaning given to it in section 87 of the Resource Management Act 1991
- responsible Minister**, in **subpart 1 of Part 5**, means any of the following Ministers: 30
- (a) the Minister of Conservation:
 - (b) the Minister of Fisheries:
 - (c) the Minister of Energy:
 - (d) the Minister for Arts, Culture and Heritage:
 - (e) the Minister for Land Information: 35
 - (f) any other Minister of the Crown authorised by the Prime Minister to perform functions and duties, and exercise powers, under **subpart 1 of Part 5**

responsible Ministry, in subpart 1 of Part 5, means any of the following departments of State:

- (a) the Department of Conservation:
- (b) the Ministry of Fisheries:
- (c) the Ministry of Economic Development: 5
- (d) the Ministry for Culture and Heritage:
- (e) Land Information New Zealand:
- (f) any other department of State authorised by the Prime Minister to perform functions and duties, and exercise powers, under **subpart 1 of Part 5** 10

RFR area means the area of land within the boundary on SO 14863 Taranaki Land District and shown for the purposes of identification only in the map included in Schedule 3 of the RFR deed

RFR deed means the deed entered into by the Crown and the governance entity under Part 8 of the deed of settlement, the form of which is set out in Schedule 1 of the deed of settlement 15

Struck out (unanimous)

RFR property—

- (a) means every parcel of land that is in the RFR area, and on the effective date is— 20
 - (i) vested in the Crown or held by the Crown under any Act; or
 - (ii) vested in another person under section 26 or section 26A of the Reserves Act 1977; but 25
- (b) does not include—
 - (i) land or roads vested in the Crown by section 44 of the Transit New Zealand Act 1989; or
 - (ii) railways assets of the Crown as defined in paragraph (c) of the definition of railway assets in section 2(1) of the New Zealand Railways Corporation Restructuring Act 1990; and 30
- (c) includes every parcel of land that is transferred to the Crown as consideration, or part of the consideration, for a disposal under clause 6.1.12(a), (b), or (e) of the RFR deed; and 35

Struck out (unanimous)

- (d) includes the Tongaporutu RFR site, as defined in **section 19(4)**, if it becomes an RFR property under clause 1.4.1 of the RFR deed

river, in relation to a statutory acknowledgement, means a continuously or intermittently flowing body of fresh water, including a stream or modified watercourse and the bed of the river 5

settlement date means the date that is 20 business days after the date on which this Act comes into force

statutory acknowledgement means an acknowledgement made by the Crown under **section 52** in respect of a statutory area, on the terms set out in **subpart 4 of Part 5** 10

statutory area means the areas listed in **Parts 1 and 2 of Schedule 2**, the general locations of which are indicated on the SO plans referred to in that schedule (but which are not intended to establish the precise boundaries of the statutory areas) 15

Taranaki means the area of land that is within the outer boundaries, as set out in figure 4 of the interim report on the collective Taranaki Maori claims (Wai 143), *The Taranaki Report: Kaupapa Tuatahi*(1996) 20

waterway—

- (a) means a lake, being a body of fresh water that is entirely or nearly surrounded by land, or a river, being a continuously or intermittently flowing body of fresh water, and includes a stream and modified water course; and 25
- (b) includes coastal waters, including harbours; but
- (c) does not include an artificial water course such as an irrigation canal, water supply race, canal for the supply of water for electricity power generation, or farm drainage canal. 30

10 Meaning of Ngati Tama

- (1) In this Act, **Ngati Tama**—
 - (a) means the iwi, or collective group, composed of individuals referred to in **paragraph (b)**; and
 - (b) means every individual who is— 35
 - (i) descended from 1 or more Ngati Tama ancestors:

- (ii) recognised as Ngati Tama by customary adoption in accordance with Ngati Tama tikanga; and
 - (c) includes a family, whanau, or group of individuals composed of individuals referred to in **paragraph (b)**.
 - (2) In this section and **section 11, Ngati Tama ancestor** means an individual who, at any time after 1 January 1800 (a date after which Ngati Tama began to migrate from the Ngati Tama area of interest in significant numbers), exercised customary rights within the Ngati Tama area of interest by virtue of being descended from Whata, Rakaeiora, or Tamaariki (who were on board the Tokomaru waka that arrived in Aotearoa). 5 10
 - (3) In **subsection (2), customary rights** means rights according to Maori customary law, including—
 - (a) rights to occupy land; and
 - (b) rights in relation to the use of— 15
 - (i) land;
 - (ii) other natural or physical resources.
- 11 Meaning of Ngati Tama historical claims**
- (1) In this Act, **Ngati Tama historical claims**—
 - (a) means every claim (whether or not the claim has arisen or been considered, researched, registered, or notified on or before the settlement date) that Ngati Tama (or a representative entity) had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that— 20 25
 - (i) is founded on a right arising—
 - (A) from the Treaty of Waitangi or the principles of the Treaty of Waitangi; or
 - (B) under legislation or at common law (including aboriginal title or customary law); or 30
 - (C) from fiduciary duty, or
 - (D) otherwise; and
 - (ii) arises from, or relates to, acts or omissions before 21 September 1992— 35
 - (A) by, or on behalf of, the Crown; or
 - (B) by or under legislation; and
 - (b) includes all claims to the Waitangi Tribunal to which **paragraph (a)** applies and that relate exclusively to Ngati Tama (or a representative entity), including Wai 135 40

- (the Ngati Tama land claim of Stephen Taitoko White);
and
- (c) includes all other claims to the Waitangi Tribunal to which **paragraph (a)** applies, so far as they relate to Ngati Tama (or a representative entity), including— 5
- (i) Wai 54 (Nga Iwi O Taranaki claim of Makere Rangiatea Love and another); and
- (ii) Wai 126 (Motunui Plant and Petrocorp claim of John Hanita Paki and others); and
- (iii) Wai 131 (Taranaki Maori Trust Board claim of Hamiora Raumati and others); and 10
- (iv) Wai 143 (Taranaki consolidated claims); and
- (v) Wai 529 (Mokau Mohakatino block claim of Paraone W Lake and another); and
- (vi) Wai 577 (Poutama land blocks claim of Poutama Lewis Te Rata and another); but 15
- (d) does not include—
- (i) a claim that an individual referred to in **section 10(1)(b)** may have as a result of being descended from an ancestor who is not a Ngati Tama ancestor; or 20
- (ii) any claim that a family, whanau, or group of individuals referred to in **section 10(1)(b)** may have as a result of being descended from an ancestor who is not a Ngati Tama ancestor; or 25
- (iii) a claim that Ngati Tama may have as a result of a loss of interest in land, or in the natural or physical resources, in the land area outside Taranaki; or
- (iv) a claim that a representative entity may have, to the extent that the claim is, or is based on, a claim referred to in **subparagraph (i) or subparagraph (ii)**. 30
- (2) **Subsection (1)(a)** is not limited by **subsection (1)(b) or (c)**.
- (3) In this section,—
- land area outside Taranaki** means land in New Zealand that is outside the area of land encompassed within the outermost extent of the claimants' boundaries as set out in figure 4 of the interim report by the Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi* (1996) 35
- land in New Zealand** means land within the baseline described in sections 5, 6, and 6A of the Territorial Sea, 40

Contiguous Zone, and Exclusive Economic Zone Act 1977 (being the low-water mark along the coast of New Zealand, including all islands, except as otherwise provided in section 6 or section 6A of that Act)

representative entity means—

- (a) the governance entity; and 5
- (b) a person appointed as an agent for Ngati Tama under clause 3.4 of the deed of settlement; and
- (c) a person (including a trust or trustees) acting for, or on behalf of,— 10
 - (i) the iwi or collective group or 1 or more individuals referred to in **section 10(1)(a)**;
 - (ii) 1 or more of the families, whanau, or groups of individuals, referred to in **section 10(1)(b)**.

Part 3 15

Settlement of historical claims and miscellaneous matters

Subpart 1—Settlement of historical claims

Jurisdiction of courts, etc, removed

- 12 Settlement of Ngati Tama historical claims final** 20
- (1) The settlement of Ngati Tama historical claims effected under the deed of settlement and this Act is final, and on and from the settlement date the Crown is released and discharged from all obligations and liabilities in respect of those claims.
 - (2) **Subsection (1)** does not limit the acknowledgements expressed in, or the provisions of, the deed of settlement. 25
 - (3) Despite any other enactment or rule of law, on and from the settlement date, no court, tribunal, or other judicial body has jurisdiction (including, *(with)* without limitation, the jurisdiction to inquire or further inquire into, or to make a finding or recommendation) in respect of— 30
 - (a) any or all of the Ngati Tama historical claims; or
 - (b) the deed of settlement; or
 - (c) the redress provided to the governance entity under the deed of settlement or under this Act; or 35
 - (d) this Act.

- (4) **Subsection (3)** does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of the deed of settlement or this Act.

Treaty of Waitangi Act 1975 amended

- 13 Jurisdiction of Tribunal to consider claims** 5
 Section 6 of the Treaty of Waitangi Act 1975 is amended by inserting, after subsection (20), the following subsections:
- “(21) Despite anything in this Act or in any other enactment or rule of law, on and from the settlement date (as defined in **section 9** of the Ngati Tama Claims Settlement Act **2003**), the Tribunal does not have jurisdiction (including, without limitation, the jurisdiction to inquire or further inquire into, or to make a finding or recommendation) in respect of— 10
- “(a) any or all of the Ngati Tama historical claims, as defined in **section 11** of the Ngati Tama Claims Settlement Act **2003**; or 15
- “(b) the deed of settlement, as defined in **section 9** of the Ngati Tama Claims Settlement Act **2003**; or
- “(c) the redress provided to the governance entity (as defined in **section 9** of the Ngati Tama Claims Settlement Act **2003**) under the deed of settlement or under the Ngati Tama Claims Settlement Act **2003**; or 20
- “(d) the Ngati Tama Claims Settlement Act **2003**.
- “(22) Subsection (21) does not exclude the jurisdiction of the Tribunal in respect of the interpretation or enforcement of the deed of settlement or the Ngati Tama Claims Settlement Act **2003**.” 25

Resumptive memorials no longer apply

- 14 Enactments relating to resumptive memorials do not apply**
- (1) Nothing in the enactments listed in **subsection (2)** applies— 30
- (a) to the RFR area; or
- (b) in respect of Ngati Tama or a representative entity, to land in Taranaki outside the RFR area.
- (2) The enactments are—
- (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975: 35
- (b) sections 27A to 27C of the State-Owned Enterprises Act 1986;
- (c) sections 211 to 213 of the Education Act 1989:

- (d) Part III of the Crown Forest Assets Act 1989:
- (e) Part III of the New Zealand Railways Corporation Restructuring Act 1990.

15 Removal of resumptive memorials

- (1) The chief executive of Land Information New Zealand must, as soon as reasonably practicable after the settlement date, issue to the Registrar-General a certificate that identifies each certificate of title or computer register that—
 - (a) relates solely to the RFR area; and
 - (b) contains a memorial entered under an enactment referred to in **section 14(2)**. 10
- (2) Each certificate must state that it is issued under this section.
- (3) The Registrar-General must, as soon as reasonably practicable after receiving a certificate issued under **subsection (1)**,—
 - (a) register the certificate against each certificate of title or computer register identified in the certificate; and 15
 - (b) cancel each memorial that, under an enactment referred to in **section 14(2)**, is entered on a certificate of title or computer register identified in the certificate.

Subpart 2—Miscellaneous matters 20

Perpetuities

16 Rule against perpetuities does not apply

- (1) Neither the rule against perpetuities nor any relevant provisions of the Perpetuities Act 1964—
 - (a) prescribe or restrict the period during which the governance entity may— 25
 - (i) exist in law; or
 - (ii) deal with property (including income derived from property); or
 - (b) apply to a document entered into to give effect to the deed of settlement (including the deeds that grant a right of first refusal referred to in clauses 8.2 and 9.15.1 of the deed of settlement) if the application of that rule or the provisions of that Act would otherwise make the document, or a right conferred by the document, invalid or ineffective. 30
- (2) **Subsection (1)(a)** does not apply if the governance entity is, or becomes, a charitable trust. 35

*Date when actions or matters must occur***17 Timing of actions or matter**

- (1) Subject to **subsection (2)**, actions or matters occurring under this Act occur or take effect on the settlement date.
- (2) If a provision of this Act requires an action or matter to occur or take effect on a date other than the settlement date, that action or matter occurs or takes effect on that other date. 5

*Vesting of properties***18 (Vesting of properties) Action by Registrar-General**

If an action is required to be undertaken by the Registrar-General under this Act, it is without fee to the registered proprietor or to the governance entity. 10

Part 4**Commercial redress****19 Computer freehold register for Tongaporutu RFR site 15****New (unanimous)**

(1AA) The chief executive of the New Plymouth District Council must authorise and direct a person to make written application in accordance with this section within 6 months of the settlement date.

- (1) The Registrar-General must, as soon as reasonably practicable after receiving written application by a person authorised by the chief executive of the New Plymouth District Council, create 1 computer freehold register under the Land Transfer Act 1952 in the name of the New Plymouth District Council for the fee simple estate in the Tongaporutu RFR site,— 20
- (a) as a recreation reserve, subject to the Reserves Act 1977; and 25
- (b) subject to the matters identified in the written application received by the Registrar-General.
- (2) The written application referred to in **subsection (1)** must— 30
- (a) identify all registrable or notifiable encumbrances to which the land is subject or that benefit the land; and
- (b) specify that the land should be identified by a memorial on the computer freehold register, recording that,—

- (i) if any part of the Tongaporutu RFR site ceases to be classified as a reserve under the Reserves Act 1977, that part will vest in the Crown as Crown land under the Land Act 1948; and
 - (ii) the Crown's obligations under the RFR deed apply in relation to the site. 5
- (3) If the Crown transfers any part of the Tongaporutu RFR site—
 - (a) to the governance entity, the Registrar-General must cancel the memorial referred to in **subsection (2)(b)** in relation to that part: 10
 - (b) to a third party, and the obligations under the RFR deed no longer apply,—
 - (i) the Crown must apply to the Registrar-General to cancel the memorial referred to in **subsection (2)(b)** in relation to that part; and 15
 - (ii) the Registrar-General must take the Crown's application under **subparagraph (i)** as conclusive proof that the Crown's obligations under the RFR deed no longer apply, and must cancel the memorial in relation to that part. 20
- (4) In this section, **Tongaporutu RFR site** means all that land situated in the Taranaki Land District—New Plymouth District, comprising 2.6526 hectares, more or less, being Lot 9 DP 8357. All Transfer 100397. And Section 35 Block IV Mimi Survey District. All *Gazette* Notice 177072. And Section 39 Block IV Mimi Survey District. All *Gazette* Notice 229988 and All Computer Freehold Register TND2/757. 25

Part 5 Cultural redress

Subpart 1—Protocols 30

General provisions

- 20 Authority to issue, amend, or cancel protocols**
- (1) Each responsible Minister may—
 - (a) issue a protocol to the governance entity in the form set out in the Cultural Redress Schedule; and 35
 - (b) amend or cancel that protocol.
- (2) A protocol may be amended or cancelled under **subsection (1)** at the initiative of either—

- (a) the governance entity; or
- (b) the Minister who issued the protocol.
- (3) The Minister who issued the protocol may amend or cancel that protocol only after consulting with, and having particular regard to the views of, the governance entity. 5

21 Protocols subject to the Crown’s obligations

Protocols do not restrict—

- (a) the ability of the Crown to perform its functions and duties and exercise its powers in accordance with the law and government policy, which includes (without limitation) the ability to— 10
 - (i) introduce legislation and change government policy; and
 - (ii) interact or consult with a person the Crown considers appropriate, including, without limitation, iwi, hapu, marae, whanau, or other representative of tangata whenua; or 15
- (b) the responsibilities of a responsible Minister and a responsible Ministry; or
- (c) the legal rights of Ngati Tama or a representative entity. 20

22 Enforceability of protocols

- (1) The Crown must comply with a protocol issued by that Minister while it is in force.
- (2) If the Crown fails without good cause to comply with its obligations under a protocol, the governance entity may, subject to the Crown Proceedings Act 1950, enforce the protocol. 25
- (3) Despite **subsection (2)**, damages or any form of monetary compensation are not available as a remedy for failure to comply with a protocol.
- (4) To avoid doubt,— 30
 - (a) **subsections (1) and (2)** do not apply to guidelines developed by the Crown for the implementation of a protocol; and
 - (b) **subsection (3)** does not affect the ability of a court to award costs in relation to proceedings referred to in **subsection (2)**. 35

23 Limitation of rights

- (1) The DOC protocol does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, land held, managed, or administered, or flora or fauna managed or administered, under— 5
- (a) the Conservation Act 1987; or
- (b) the statutes listed in the First Schedule of that Act.
- (2) The fisheries protocol does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, assets or property rights held, managed, or administered under fisheries legislation or under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (including fish, aquatic life, and seaweed). 10
- (3) The MED protocol does not have the effect of granting, creating, or providing evidence of, an estate or interest in, or rights relating to Crown owned minerals. 15
- (4) The antiquities protocol does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, antiquities or artifacts.
- (5) The LINZ protocol does not have the effect of granting, creating, or providing evidence of property rights. 20
- (6) In this section, **antiquity** and **artifact** have the meanings they are given in section 2 of the Antiquities Act 1975.

*Noting of certain protocols***24 Noting of DOC protocol** 25

- (1) The existence of the DOC protocol must be noted in the conservation documents affecting the DOC protocol area.
- (2) The noting of the DOC protocol must include a summary of the terms under which the protocol is issued, as set out in attachment B of the DOC protocol. 30
- (3) The noting of the DOC protocol is—
- (a) for the purpose of public notice only; and
- (b) not an amendment to a conservation document for the purposes of section 171 of the Conservation Act 1987 or section 46 of the National Parks Act 1980. 35

25 Noting of fisheries protocol

- (1) The existence of the fisheries protocol must be noted in fisheries plans affecting the fisheries protocol area.

- (2) The noting of the fisheries protocol must include a summary of the terms under which the protocol is issued, as set out in attachment B of the fisheries protocol.
- (3) The noting of the fisheries protocol is—
- (a) for the purpose of public notice only; and 5
 - (b) not an amendment to a fisheries plan for the purposes of section 11A of the Fisheries Act 1996.
- (4) In this section, **fisheries plan** means a plan approved or amended under section 11A of the Fisheries Act 1996.
- 26 Noting of MED protocol** 10
- (1) The existence of the MED protocol must be noted in minerals programmes affecting the MED protocol area.
- (2) The noting of the MED protocol must include a summary of the terms under which the protocol is issued, as set out in attachment B of the MED protocol. 15
- (3) The noting of the MED protocol is—
- (a) for the purpose of public notice only; and
 - (b) not an amendment to the relevant minerals programme for the purposes of the Crown Minerals Act 1991.
- (4) In this section, **minerals programme** has the meaning given to it in section 2(1) of the Crown Minerals Act 1991. 20

Subpart 2—Cultural redress properties

Vesting of cultural redress properties

- 27 Interpretation** 25
- In this Act,—
- Additional Whitecliffs sites** means the land described by that name in **Part 1 of Schedule 1**
- Mount Messenger site** means the land described by that name in **Part 1 of Schedule 1**
- Pukearuhe site** means the land described by that name in **Part 1 of Schedule 1** 30
- Tongaporutu site** means the land described by that name in **Part 1 of Schedule 1**
- Umukaha Point recreation reserve** means the land described by that name in **Part 2 of Schedule 1** 35

- Uruti site** means the land described by that name in **Part 1 of Schedule 1**
- Whitecliffs site** means the land described by that name in **Part 1 of Schedule 1**.
- 28 Pukearuhe site** 5
- (1) The reservation is revoked of the Pukearuhe site as an historic reserve subject to section 18 of the Reserves Act 1977.
- (2) The fee simple estate in the Pukearuhe site vests in the governance entity.
- 29 Tongaporutu site** 10
- (1) The Tongaporutu site ceases to be part of a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in the Tongaporutu site vests in the governance entity.
- 30 Whitecliffs site** 15
- (1) The Whitecliffs site ceases to be part of a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in the Whitecliffs site vests in the governance entity, subject to the conservation covenant and easements required by clause 9.6.5(c)(ii) of the deed of settlement. 20
- 31 Additional Whitecliffs sites**
- (1) The Additional Whitecliffs sites cease to be parts of a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in the Additional Whitecliffs sites vests in the governance entity. 25
- 32 Uruti site**
- (1) The Uruti site ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in the Uruti site vests in the governance entity, subject to the conservation covenant required by clause 9.6.9(c) of the deed of settlement. 30

- 33 Mount Messenger site**
- (1) The reservation is revoked of the part of the Mount Messenger site described as Mount Messenger scenic reserve in **column 2 of Part 1 of Schedule 1** subject to section 19 of the Reserves Act 1977. 5
- (2) The part of the Mount Messenger site described as Part Mount Messenger conservation area in **column 2 of Part 1 of Schedule 1** ceases to be a conservation area under the Conservation Act 1987.
- (3) The fee simple *(of)* estate in the Mount Messenger site vests in the governance entity, subject to the conservation covenant and easement required by clause 9.6.10(d) of the deed of settlement. 10
- Vesting of recreation reserve*
- 34 Umukaha Point recreation reserve** 15
- (1) The Umukaha Point recreation reserve is vested in the governance entity to hold and administer as a recreation reserve under section 26 of the Reserves Act 1977, subject to section 17 of that Act.
- (2) The governance entity is an administering body, as defined in section 2(1) of the Reserves Act 1977, for the Umukaha Point recreation reserve. 20
- (3) Section 24(7B) of the Conservation Act 1987 applies to the vesting under **subsection (1)**.
- Provisions relating to vesting of cultural redress properties* 25
- 35 Vesting subject to encumbrances**
- The vesting of each cultural redress property is subject to the encumbrances (if any) listed in **column 3 of Parts 1 and 2 of Schedule 1**.
- 36 Intermediate vesting of certain land in the Crown** 30
- (1) This section applies to—
- (a) the Pukearuhe site; and
- (b) that part of the Mount Messenger site described as the Mount Messenger scenic reserve in **column 2 of Part 1 of Schedule 1**. 35

- (2) When the reserve status of the sites identified in **subsection (1)** is revoked under this subpart, the sites vest in the Crown as Crown land and are subject to section 82 of the Reserves Act 1977 before they vest in the governance entity.

37 Registration of ownership

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- (1) This section applies to the fee simple estate in a cultural redress property that vests in the governance entity by this Act.

- (2) The Registrar-General must, on written application by a person authorised by the (*chief executive*) Director-General of Conservation, comply with **subsections (3) and (4)**.

10

- (3) *(If a)* To the extent that the property comprises all the land in a certificate of title or computer freehold register, the Registrar-General must—

- (a) register the governance entity as the proprietor of the fee simple estate in the land; and
 (b) make those entries in the register and generally do all things necessary to give effect to this subpart and Part 9 of the deed of settlement.

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- (4) *(If a)* To the extent that the property does not comprise all the land in a certificate of title or computer freehold register, the Registrar-General must, in accordance with the application referred to in **subsection (2)**, create 1 or more computer freehold registers in the name of the governance entity, subject to, and together with, any encumbrances that are registrable or notifiable and that are described in the written application.

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- (5) **Subsection (4)** applies subject to completing any survey necessary to create a computer freehold register.

- (6) A computer freehold register must be created under this section as soon as reasonably practicable after the settlement date but no later than—

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- (a) 24 months after the cultural redress property vests in the governance entity; or
 (b) any later date that may be agreed in writing by the governance entity and the Crown.

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38 Application of other enactments

- (1) Sections 24 and 25 of the Reserves Act 1977 do not apply to the revocation under this subpart of the reserve status of a

- cultural redress property vested in the governance entity under this subpart.
- (2) Section 11 and Part X of the Resource Management Act 1991 do not apply to—
 - (a) the vesting in the governance entity of the fee simple estate in a cultural redress property under this subpart; or 5
 - (b) a matter incidental to, or required for the purpose of, the vesting of the fee simple estate in a cultural redress property under this subpart. 10
 - (3) The vesting of the fee simple estate in a cultural redress property under this subpart does not—
 - (a) limit section 10 or section 11 of the Crown Minerals Act 1991; or
 - (b) affect other rights to subsurface minerals. 15
 - (4) The permission of a council under section 348 of the Local Government Act 1974 is not required to lay out, form, grant, or reserve a private road, private way, or right of way required by Part 9 of the deed of settlement.
 - (5) The vesting in the governance entity of a fee simple estate in a cultural redress property under this subpart is a disposition for the purposes of Part IVA of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition. 20
- 39 Covenants under Conservation Act 1987** 25
- The conservation covenants required by **sections 30(2)(b), 32(2), and 33(3)** (to the extent that **section 33(3)** relates to the part of the Mount Messenger site described as the Mount Messenger conservation area in **column 2 of Part 1 of Schedule 1**) must be treated as conservation covenants for the purposes of section 27 of the Conservation Act 1987. 30
- 40 Covenant under Reserves Act 1977**
- The conservation covenant required by **section 33(3)** (to the extent that it relates to the part of the Mount Messenger site described as the Mount Messenger scenic reserve in **column 2 of Part 1 of Schedule 1**) must be treated as a conservation covenant for the purposes of section 77 of the Reserves Act 1977. 35

Subpart 3—Joint advisory committee for Whitecliffs conservation area and other specified sites

41 Interpretation

In this subpart, unless the context otherwise requires,—

conservation has the meaning given to it in section 2 of the Conservation Act 1987 5

joint advisory committee and **committee** mean the committee appointed under section 56 of the Conservation Act 1987 in accordance with this subpart

Minister means the Minister of Conservation 10

Mount Messenger site means the land described by that name in **Part 1 of Schedule 1**

Parininihi marine reserve means the marine area that lies to the north of Pariokariwa Point and to the west of Whitecliffs and that is the area subject to the application notified by the Director-General under section 5 of the Marine Reserves Act 1971 15

Taranaki/Wanganui conservation board and **board** mean the conservation board of that name established under section 6L of the Conservation Act 1987 20

Uruti site means the land described by that name in **Part 1 of Schedule 1**

Whitecliffs conservation area means the following land in the Taranaki Land District—New Plymouth District:

- (a) 45.7400 hectares, more or less, being Section 1 SO 313261. Part *Gazette* 1899 page 164; and 25
- (b) 122.8920 hectares, more or less, being Section 6 SO 313250. And Section 5 SO 313259. Part *Gazette* 1906 page 829; and
- (c) 75.0590 hectares, more or less, being Section 3 SO 313260. Part *Gazette* 1906 page 829 and Part *Gazette* Notice 300730.1; and 30
- (d) 264.7175 hectares, more or less, being Sections 4A and 20 Block IV Mimi Survey District. Part *Gazette* 1906 page 829 35

Whitecliffs site means the land described by that name in **Part 1 of Schedule 1**.

Membership of joint advisory committee

- 42 Appointment of members of joint advisory committee**
- (1) The Minister must appoint the members of the joint advisory committee in accordance with **section 43**.
 - (2) Every member of the committee, including the member appointed as chairperson, is appointed under section 56(1) of the Conservation Act 1987 by notice published in the *Gazette*. 5
 - (3) The notice of appointment must specify each member’s term of office.
 - (4) A member takes office from the date stated in the notice of appointment. 10
 - (5) A member may be appointed for a term of up to 5 years and may be reappointed.
- 43 Constitution of joint advisory committee**
- (1) The joint advisory committee must consist of not more than 6 members appointed under **section 42**. 15
 - (2) Nominations must be made in writing to the Director-General, not later than 6 months after the settlement date, as follows:
 - (a) 3 members nominated by the governance entity;
 - (b) 2 members nominated by the Director-General: 20
 - (c) 1 member nominated by the Taranaki/Wanganui conservation board.
 - (3) The Minister must appoint as the chairperson of the committee the member of the committee nominated for the office of chairperson by the governance entity in writing to the Minister. 25
- 44 Functions of joint advisory committee**
- The functions of the joint advisory committee are—
- (a) to advise the Minister on conservation matters affecting the Whitecliffs conservation area: 30
 - (b) to prepare management plans in relation to the Whitecliffs, Uruti, and Mount Messenger sites in accordance with clause 4 of the conservation covenants referred to in **sections 30(2), 32(2), and 33(3)**;
 - (c) to undertake other responsibilities required by the conservation covenant: 35

- (d) if **section 46** applies, to approve conservation management plans, and a review or amendment of the plans, for the Parininihi marine reserve.
- 45 Advice on Whitecliffs conservation area** 5
 The Director-General must, in relation to the Whitecliffs conservation area, consult with, and have regard to the advice of, the joint advisory committee in relation to—
- (a) the preparation of conservation management plans; and
 (b) *(the)* annual planning, including setting of annual conservation priorities. 10
- 46 Parininihi marine reserve**
 If the Parininihi marine reserve is declared under section 4 of the Marine Reserves Act 1971, the Taranaki/Wanganui conservation board must—
- (a) appoint the joint advisory committee as a committee of the board under section 6N(2)(b) of the Conservation Act 1987; and 15
 (b) delegate to the committee the power to approve conservation management plans under the Conservation Act 1987 and under the Marine Reserves Act 2002, and a review or amendment of any of those plans. 20
- 47 Consultation**
 If **section 46** applies, the Minister, the Director-General, the Conservation Authority, and the Taranaki/Wanganui conservation board must consult with the committee on conservation matters affecting the Parininihi marine reserve, and have regard to the advice of the committee on those matters. 25
- Procedures of joint advisory committee*
- 48 Meetings of committee**
 (1) Except as otherwise provided in this section, the joint advisory committee may regulate its own procedure. 30
 (2) Unless the members of the committee unanimously agree otherwise,—
 (a) the committee must meet twice a year; and
 (b) the chairperson of the committee has a casting vote. 35

- 49 Vacancy in membership of committee** 5
 No act or proceeding of the joint advisory committee is invalid merely because of a failure of the governance entity, the Director-General, or the Taranaki/Wanganui Conservation Board to nominate persons as members of the committee under **section 42**.

Funding provisions

- 50 Reimbursement of members**
- (1) Members of the joint advisory committee are entitled to be reimbursed for their costs and expenses incurred in acting as members of the committee. 10
- (2) The costs and expenses referred to in **subsection (1)** must be paid—
- (a) by the Crown to the members nominated by the Director-General; and 15
 - (b) by the governance entity to the members nominated by the governance entity; and
 - (c) by the Taranaki/Wanganui conservation board to the member nominated by that board.
- 51 Other costs and expenses of committee** 20
 The costs and expenses of the joint advisory committee in performing its functions under **section 44** (other than the costs and expenses referred to in **section 50**) must be paid as follows:
- (a) the Crown must pay 33.3%;
 - (b) the governance entity must pay 50%; 25
 - (c) the Taranaki/Wanganui conservation board must pay 16.7%.

New (unanimous)

- 51A Discretion preserved** 30
 Nothing in the deed of settlement or this Act limits the discretion—
- (a) of the Minister of Conservation under section 56(1) of the Conservation Act 1987 in relation to the joint advisory committee (including the discretion to discharge and not reappoint that committee); or

New (unanimous)

- | | |
|--|---|
| <p>(b) of the Minister of Conservation or of the Taranaki/Wanganui conservation board to—</p> <ul style="list-style-type: none"> (i) appoint any person as an adviser: (ii) take advice from any person: (iii) consult with any person. | 5 |
|--|---|

Subpart 4—Statutory acknowledgements and deeds of recognition

Statutory acknowledgements

- 52 Statutory acknowledgements by the Crown** 10
- The Crown acknowledges the statements made by Ngati Tama of the particular cultural, spiritual, historic, and traditional association of Ngati Tama with the statutory areas listed in **Parts 1 and 2 of Schedule 2**, the texts of which are set out in **Schedules 3 to 14**.
- 53 Purposes of statutory acknowledgements** 15
- (1) The only purposes of the statutory acknowledgements are—
- (a) to require (*relevant*) consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgements, as provided for in **sections 54 to 56**; and 20
 - (b) to require relevant consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section 58**; and
 - (c) to enable the governance entity and a member of Ngati Tama to cite the statutory acknowledgements as evidence of the association of Ngati Tama with the relevant statutory areas, as provided for in **section 59**; and 25
 - (d) to provide a statement by Ngati Tama, for inclusion in a deed of recognition, of the association of Ngati Tama with a statutory area. 30
- (2) This section does not limit the operation of **sections 66 to 69**.
- (3) In this subpart, **relevant consent authority** means a consent authority of the region or district that contains, or is adjacent to, a statutory area.

54 Consent authorities to have regard to statutory acknowledgements

Struck out (unanimous)

- (1) From the effective date, a consent authority must have regard to a statutory acknowledgement relating to a statutory area—
 - (a) in forming an opinion under section 93(1)(e) of the Resource Management Act 1991 as to whether the governance entity is a person who is likely to be directly affected by an application for activities within, adjacent to, or impacting directly on the statutory area: 5
 - (b) in forming an opinion under either section 94(1)(c)(ii) or section 94(3)(c) of the Resource Management Act 1991 as to whether the governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on the statutory area: 10
 - (c) in satisfying itself under section 94(2)(b) of the Resource Management Act 1991 as to whether the governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on the statutory area. 15

New (unanimous)

- (1) From the effective date, a consent authority must have regard to a statutory acknowledgement relating to a statutory area in forming an opinion in accordance with sections 93 to 94C of the Resource Management Act 1991 as to whether the governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on, the statutory area. 25
- (2) **Subsection (1)** does not limit the obligations of a consent authority under Part II of the Resource Management Act 1991. 30

- 55 Environment Court to have regard to statutory acknowledgements**
- (1) From the effective date, the Environment Court must have regard to a statutory acknowledgement in determining under section 274 of the Resource Management Act 1991 whether the governance entity is a person having an interest in the proceedings greater than the public generally in respect of an application for a resource consent for activities within, adjacent to, or impacting directly on the statutory area. 5
- (2) **Subsection (1)** does not limit the obligations of the Environment Court under Part II of the Resource Management Act 1991. 10
- 56 Historic Places Trust and Environment Court to have regard to statutory acknowledgements**
- From the effective date, the Historic Places Trust and the Environment Court must have regard to a statutory acknowledgement in forming an opinion under section 14(6)(a) or section 20(1) of the Historic Places Act 1993, as the case may be, as to whether the governance entity is a person directly affected in relation to an archaeological site within the statutory area. 15
20
- 57 Recording statutory acknowledgements on statutory plans**
- (1) From the effective date, local authorities with jurisdiction in an area which includes a statutory area must attach information recording a statutory acknowledgement to all statutory plans that wholly or partly cover the statutory area. 25
- (2) The attachment of information under **subsection (1)** to a statutory plan—
- (a) may be by reference to this subpart or by setting out the statutory acknowledgement in full; and 30
- (b) is for the purpose of public information only, and the information is not—
- (i) part of the statutory plan (unless adopted by the relevant local authority); or 35
- (ii) subject to the provisions of the First Schedule of the Resource Management Act 1991.
- (3) In this section, **statutory plan**—

- (a) means a regional policy statement, regional coastal plan, district plan, regional plan, or proposed plan as defined in section 2(1) of the Resource Management Act 1991; and
- (b) includes a proposed policy statement provided for in the First Schedule of the Resource Management Act 1991. 5

58 Distribution of resource consent applications to governance entity

- (1) A relevant consent authority must, for a period of 20 years from the effective date, forward to the governance entity a summary of resource consent applications received by that consent authority for activities within, adjacent to, or impacting directly on a statutory area. 10
- (2) The information provided under **subsection (1)** must be—
 - (a) the same as would be given under section 93 of the Resource Management Act 1991 to persons likely to be adversely affected, or as may be agreed between the governance entity and the relevant consent authority; and 15
 - (b) provided as soon as reasonably practicable after the application is received, and before a determination is made (under section 93 or section 94) in accordance with sections 93 to 94C of the Resource Management Act 1991. 20
- (3) The governance entity may, by notice in writing to a relevant consent authority,— 25
 - (a) waive its rights to be notified under this section; and
 - (b) state the scope of that waiver.

Struck out (unanimous)

- (4) This section does not affect the discretion of a consent authority as to whether— 30
 - (a) to notify an application under sections 93 and 94 of the Resource Management Act 1991;
 - (b) the governance entity is a person who is likely to be directly affected under those sections.

New (unanimous)

- | | | |
|-----|---|---|
| (4) | This section does not affect the obligation of a consent authority to— | |
| | (a) notify an application in accordance with sections 93 and 94C of the Resource Management Act 1991: | |
| | (b) form an opinion as to whether the governance entity is a person that is likely to be adversely affected under those sections. | 5 |
-
- 59 Use of statutory acknowledgement**
- | | | |
|-----|--|----------|
| (1) | The governance entity and a member of Ngati Tama may, as evidence of the association of Ngati Tama with a statutory area, cite the relevant statutory acknowledgement in submissions to, and in proceedings before, a consent authority, the Environment Court, or the Historic Places Trust concerning activities within, adjacent to, or impacting directly on the statutory area. | 10
15 |
| (2) | The content of the statement of association, as recorded in the statutory acknowledgement, is not, by virtue of the statutory acknowledgement, binding as deemed fact on— | |
| | (a) consent authorities: | |
| | (b) the Environment Court: | 20 |
| | (c) the Historic Places Trust: | |
| | (d) parties to proceedings before those bodies: | |
| | (e) any other person able to participate in those proceedings. | |
| (3) | Despite subsection (2) , the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection. | 25 |
| (4) | Neither the governance entity nor a member of Ngati Tama is precluded from stating that Ngati Tama have an association with a statutory area that is not described in the statutory acknowledgement. | 30 |
| (5) | The content and existence of the statutory acknowledgement do not limit a statement made under subsection (4) . | |

Deeds of recognition

- 60 Authorisation to enter into and amend deeds of recognition**
 A Minister of the Crown with statutory responsibility for land within a statutory area, or the Commissioner of Crown Lands, may— 5
- (a) enter into deeds of recognition with the governance entity—
 - (i) in respect of the land within the statutory areas referred to in **Part 1 of Schedule 2**; and 10
 - (ii) in the form set out for each statutory area (or part of an area) in Part 6 of the Cultural Redress Schedule:
 - (b) amend a deed of recognition by entering into a deed with the governance entity to amend that deed of recognition. 15
- 61 Purpose of deed of recognition**
- (1) The only purpose of a deed of recognition is to require that the governance entity be consulted, and regard be had to its views, as provided for in the deed of settlement and in each deed of recognition. 20
 - (2) **Subsection (1)** does not limit or affect **sections 66 to 69**.
- 62 Termination of deeds of recognition**
 A deed of recognition terminates in respect of a statutory area or part of it if— 25
- (a) the governance entity and the Minister of Conservation or the Commissioner of Crown Lands agree in writing that a deed of recognition is no longer appropriate for the area concerned; or
 - (b) the area concerned is disposed of by the Crown; or 30
 - (c) there is a change in the Minister or the department of State responsible for the management of the area concerned.
- 63 Crown management**
 The entry into a deed of recognition does not, in relation to a statutory area to which the deed of recognition applies,— 35
- (a) require the Crown to increase or resume management or administrative functions; or

- (b) preclude the Crown from undertaking only limited management or administrative functions.

Application of statutory acknowledgements and deeds of recognition in relation to rivers

- 64 Statutory acknowledgements in relation to rivers** 5
 If a statutory acknowledgement relates to a river, the statutory acknowledgement does not include—
- (a) a part of the bed of the river that is not owned by the Crown; or
 - (b) land that the waters of the river do not cover at its fullest flow without overlapping its banks; or 10
 - (c) an artificial watercourse; or
 - (d) a tributary flowing into the river.
- 65 Deeds of recognition for rivers** 15
 If a deed of recognition relates to a river, that deed of recognition relates only to the bed of the river, which does not include—
- (a) a part of the bed that is not owned and *(controlled)* managed by the Crown; or
 - (b) land that the waters of the river do not cover at its fullest flow without overlapping its banks; or 20
 - (c) the bed of an artificial waterwork; or
 - (d) the bed of a tributary flowing into the river.
- General provisions*
- 66 Crown not precluded from granting other statutory acknowledgements or deeds of recognition** 25
 Neither the provision of a statutory acknowledgement nor the entry into a deed of recognition precludes the Crown from providing a statutory acknowledgement to, or entering into a deed of recognition with, persons other than Ngati Tama or the governance entity with respect to the same area. 30
- 67 Exercise of powers, duties, and functions not affected**
 (1) Except as expressly provided in this subpart,—
- (a) neither a statutory acknowledgement nor a deed of recognition affects, or may be taken into account by, a 35

- person exercising a power or performing a function or duty under a statute, regulation, or bylaw:
- (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw may give greater or lesser weight to the association of Ngati Tama with a statutory area (as described in the relevant statutory acknowledgement) than that person would give under the relevant statute, regulation, or bylaw if no statutory acknowledgement or deed of recognition existed in respect of the statutory area.
- (2) **Subsection (1)(b)** does not affect the operation of **subsection (1)(a)**.
- 68 Rights not affected**
 Except as expressly provided in this subpart, neither a statutory acknowledgement nor a deed of recognition affects the lawful rights or interests of a person who is not a party to the deed of settlement.
- 69 Limitation of rights**
 Except as expressly provided in this subpart, neither a statutory acknowledgement nor a deed of recognition has the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, a statutory area.
- Amendment to Resource Management Act 1991*
- 70 Amendment to Resource Management Act 1991**
 Schedule 11 of the Resource Management Act 1991 is amended by adding the following item:
 “Ngati Tama Claims Settlement Act **2003**”.
- Subpart 5—Acknowledgement of Ngati Tama customary non-commercial interest in paua fishery
- 71 Interpretation**
 In this subpart, **paua fishery** means the fishery of the species of paua named *Haliotis iris* in the fisheries protocol area.
- 72 Exercise of powers, duties, and functions**
 (1) Except as expressly provided in this subpart,—
 (a) the acknowledgement given by the Crown in clause 9.13.1 of the deed of settlement as to the customary

- non-commercial interest of Ngati Tama in the paua fishery does not affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw; and 5
- (b) no person, in considering a matter or making a decision under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the paua fishery, as acknowledged in the deed of settlement, than the person would give under the statute, regulation, or bylaw if no acknowledgement of that association existed. 10
- (2) **Subsection (1)(b)** does not limit **subsection (1)(a)**.
- 73 Rights not affected** 15
 Except as expressly provided in this subpart, the acknowledgement referred to in **section 72** does not—
- (a) affect the lawful rights or interests of a person who is not party to the deed of settlement; or
- (b) prevent the Crown from providing an acknowledgement with respect to the paua fishery in the fisheries protocol area to persons other than Ngati Tama. 20
- 74 Limitation of rights**
 Except as expressly provided in this subpart, the acknowledgement referred to in **section 72** does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, the paua fishery. 25
- Subpart 6—Shellfish quota
- 75 Interpretation**
 In this subpart,—
- excess shellfish quota** means the aggregate shellfish quota that is— 30
- (a) purchased by the governance entity under the deed granting a right of first refusal over shellfish quota that is to be entered into by the Minister and the governance entity under clauses 9.15.1 and 9.15.2 of the deed of settlement; and 35
- (b) received by the governance entity from the Treaty of Waitangi Fisheries Commission; and

- (c) greater than the quota permitted by section 59 of the Fisheries Act 1996

Minister has the meaning given to it in section 2(1) of the Fisheries Act 1996

shellfish quota has the meaning given to it in the deed granting a right of first refusal over shellfish quota referred to in **paragraph (a)**. 5

76 Consent to holding excess quota

The Minister is to be treated as—

- (a) having consented under section 60(1) of the Fisheries Act 1996 to the governance entity owning excess shellfish quota; and 10
- (b) complying with the requirements of section 60 of the Fisheries Act 1996 in relation to the consent referred to in **paragraph (a)**. 15

Subpart 7—Coastal tendering

77 Interpretation

In this subpart,—

authorisation means an authorisation granted by the Minister of Conservation under section 161 of the Resource Management Act 1991 20

coastal marine area has the meaning given to it in section 2(1) of the Resource Management Act 1991

Minister means the Minister of Conservation

specified coastal area means the area between the 2 places identified as fisheries points in the map included as Schedule 2 to Part 7 of the Cultural Redress Schedule, together with the adjacent waters. 25

78 Preferential right to purchase authorisations

- (1) If the Minister offers authorisations for a part of the specified coastal area by public tender under Part VII of the Resource Management Act 1991, the governance entity has a preferential right to purchase a proportion of the authorisations that are the subject of that tender. 30

- (2) The preferential right referred to in **subsection (1)** must be exercised in accordance with the process set out in Part 8 of the Cultural Redress Schedule.

79 Limit on proportion of authorisations able to be purchased

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- (1) The authorisations that the governance entity has a preferential right to purchase under **section 78** must—
- (a) not exceed in area 10% of the authorisations granted or proposed to be granted by the Minister in the public tender for the specified coastal area; and
 - (b) be of not less than fair average quality in terms of the relevant portion of the specified coastal area, relative to the quality of those portions for all other authorisations that are granted in that public tender.
- (2) The limit specified in **subsection (1)(a)** may be exceeded if the size and shape of the part of the specified coastal area for the authorisations to which that tender round relates make it impractical to comply with the limitation.

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80 Governance entity treated as having made tender

- (1) If the governance entity has a preferential right under **section 78** to purchase authorisations, the governance entity must be treated as having lodged a valid tender for the authorisations, for \$1 consideration, in compliance with section 158 of the Resource Management Act 1991.
- (2) The tender of the governance entity under **subsection (1)** must be treated as the most preferred tender by the Minister for the relevant authorisations if, in response to an offer made by public tender under Part VII of the Resource Management Act 1991, the Minister—
- (a) receives no tenders; or
 - (b) considers that he or she would reject every tender received.

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81 Exercise of powers, duties, and functions

Except as expressly provided in this subpart, nothing in this subpart affects the powers, functions, and duties of the Minister under Part VII of the Resource Management Act 1991.

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- 82 Rights not affected**
 Except as expressly provided in this subpart, the provisions of this subpart do not affect the lawful rights or interests of a person who is not a party to the deed of settlement.
- 83 Limitation of rights** 5
 Except as expressly provided in this subpart,—
- (a) the preferential right provided to the governance entity under this subpart does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, the specified coastal area: 10
 - (b) nothing in this subpart limits or affects the rights of Ngati Tama to acquire authorisations or otherwise exercise a statutory right, power, or privilege under Part VII of the Resource Management Act 1991 in respect of the specified coastal area. 15
-

ss (28 to 35) 27 to 34

Schedule 1

Cultural redress properties

Part 1

Sites to be vested in governance entity in fee simple

Name of site	Description	Encumbrances	5
Pukearuhe site	Taranaki Land District— New Plymouth District 4.1450 hectares, more or less, being Section 1 SO 313237. All <i>Gazette</i> Notice 294836.1 and Part Proclamation 349.	Subject to: (<i>Grazing permit issued to Michael J Kuriger dated 1 July 2000:</i>) <u>Grazing Permit Concession (WA 071) dated 5 March 2001 issued under Part IIIB of the Conservation Act 1987 to Michael J Kuriger:</u> Pipeline Easement Certificate 171845.	10 15
Tongaporutu site	Taranaki Land District— New Plymouth District 6.8240 hectares, more or less, being Section 1 SO 313240. Part <i>Gazette</i> 1898 page 442.		20
Whitecliffs site	Taranaki Land District— New Plymouth District 1310.7777 hectares, more or less, being Lot 3 LT 316317, Section 2 SO 313261 and Section 12 Block VIII Mimi Survey District. Part <i>Gazette</i> 1899 page 164 and All <i>Gazette</i> Notice 257614.	Subject to: Pipeline Easement Certificate 270025; Pipeline Easement Certificate 269142; Conservation covenant, walk- way easement, and easements to protect the existing pipe- line referred to in section 30(2) .	25 30 35
Additional Whitecliffs sites	Taranaki Land District— New Plymouth District 1.3820 hectares, more or less, being Section 1 SO 313260. Part <i>Gazette</i> 1981 page 2919, Part <i>Gazette</i> Notice 300730.1 and Part <i>Gazette</i> 1906 page 829; and	Subject to: (<i>Grazing licence No 319 dated 22 December 1982 issued by NZ Forest Service to George William Hagenon and Thelma Eva Joan Hagen- son subsequently assigned to</i>) <u>Informal grazing right of N G and C H Hagenon:</u> Informal right (<i>to permit</i>) of the Ahititi School to continue to convey water.	40 45

Part 1—continued

Name of site	Description	Encumbrances	
	2.2100 hectares, more or less, being Section 2 SO 313260. Part <i>Gazette</i> 1906 page 829; and	Subject to: (<i>Grazing licence No 320 dated 22 December 1982 issued by NZ Forest Service to Ian Robert William Petersen subsequently assigned to Tony Whitehead and Raye Judith Whitehead.</i>) <u>Informal grazing right of T and R J Whitehead.</u>	5
	17.9985 hectares, more or less, being Sections 1, 2, 3, 4, and 5 SO 313250 and Sections 1, 2, 3, and 4 SO 313259. Part <i>Gazette</i> 1906 page 829; and	Subject to: Grazing Permit Concession (<i>COC 2208</i>) (WA 069) dated 30 May 2002 issued under Part IIIB of the Conservation Act 1987 to David George and (<i>Fay</i>) <u>Faye Betty Innes:</u>	15
	13.4560 hectares, more or less, being Lots 1 and 2 LT 316317. Part <i>Gazette</i> 1899 page 164.	Subject to: Grazing licence No 123 dated 1 August 1986 issued by NZ Forest Service to <u>Ralph Noel Bryant and Moreen Fay Bryant:</u>	20
		An easement to protect the existing pipeline (<i>in the form</i>) on the terms and conditions set out in Part 3 of the Cultural Redress Schedule:	30
		Pipeline Easement Certificate 165781: An easement to protect existing walkway (<i>in the form</i>) on the terms and conditions set out in Part 3 of the Cultural Redress Schedule.	35
Uruti site	Taranaki Land District— New Plymouth District 252.9285 hectares, more or less, being Section 9 Block VII and Section 16 Block XI Mimi Survey District. Part <i>Gazette</i> 1893 page 891.	Subject to: (<i>Grazing licence No 1736 issued by NZ Forest Service to S R Howells & Son Ltd, subsequently transferred to</i>) <u>Informal grazing right of J H & C A Cawley:</u> Conservation covenant referred to in section 32(3) .	40
			45

Part 1—*continued*

Name of site	Description	Encumbrances	
Mount Messenger site	Taranaki Land District— New Plymouth District <i>Mount Messenger scenic reserve</i> 13.7660 hectares, more or less, being Section 1 SO 313244. Balance <i>Gazette</i> Notice 302208.1; and 24.1800 hectares, more or less, being Section 1 SO 313245. Balance <i>Gazette</i> Notice 256256; and 29.5420 hectares, more or less, being Lot 1 DP 5188. Part <i>Gazette</i> Notice 294693.1. <i>Part Mount Messenger conservation area</i> 182.7400 hectares, more or less, being Section 1 SO 313242. Part <i>Gazette</i> Notice 342563.1; and 44.2683 hectares, more or less, being Section 1 SO 313243. Part <i>Gazette</i> 1900 page 160.	Subject to: (<i>Grazing licence dated 18 September 1985 issued by NZ Forest Service to Tony James Pascoe</i>); <u>Informal grazing right of T J Pascoe</u> ; Conservation covenant and walkway easement referred to in section 33(3) .	5 10 15 20 25 30

Part 2

Vesting of land in governance entity subject to Reserves Act 1977

Name of site	Description	Encumbrances	
Umukaha Point recreation reserve	Taranaki Land District— New Plymouth District 2.8834 hectares, more or less, being Section 25 Tongaporutu Village. All Transfer 176209.	Recreation reserve subject to Reserves Act 1977; Subject to: <u>Grazing Permit Concession ((COC 2216)) (WA 075)</u> dated 9 April 2002 issued under Part IIIB of the Conservation Act 1987 to D C and A W O'Sullivan.	40 45

Schedule 2 ss (53, 61) 52, 60
Statutory acknowledgements and deeds
of recognition

Part 1
Areas for which both statutory acknowledgement and deed **5**
of recognition provided

Taranaki Land District

Area	Location	
Part of Mimi–Pukearuhe coast marginal strip	As shown on SO 14705	10
Part of Mount Messenger conservation area in the Ngati Tama area of interest	As shown on SO 14706	
Moki conservation area	As shown on SO 14707	
Tongaporutu conservation area	As shown on SO 14708	
Mohakatino swamp conservation area	As shown on SO 14710	15
Pou Tehia historic reserve	As shown on SO 14694	
Mohakatino River	As shown on SO 14718	
Tongaporutu River	As shown on SO 14719	

Part 2
Areas for which only statutory acknowledgement provided **20**

Taranaki Land District

Area	Description	
Mohakatino River (No 1) marginal strip	As shown on SO 14713	
Mohakatino River (No 2) marginal strip	As shown on SO 14715	
Mohakatino coastal marginal strip	As shown on SO 14749	25
Coastal marine area adjoining the Ngati Tama area of interest	As shown on SO 14716	

s (53) 52

Schedule 3

Statutory acknowledgement for part of Mimi–Pukearuhe coast marginal strip

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as part of the Mimi–Pukearuhe coast marginal strip, the general location of which is indicated on SO 14705. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with part of Mimi–Pukearuhe coast marginal strip as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with part of Mimi–Pukearuhe coast marginal strip 15

This is an area of high historic importance to Ngati Tama and contains some significant pa sites, including Titoki, Whakarewa, Otumatua, and Pukearuhe.

The Papatiki stream is located in the area. It is tapu to Ngati Tama because of the way in which it was used by northern invaders after a battle in pre-Pakeha times. 20

There remain important kaitiaki links to the patiki (flounder/sole) and tamure (snapper) breeding grounds, as well as other fish resources.

A very important feature of the area is the presence of high papa rock cliffs. A unique fishing method was developed by Ngati Tama, using the ledges hewn out by nature at the bottom of these cliffs. Mako (shark), tamure, and arara (trevalli) were caught off these ledges in abundance. 25

Koura (freshwater crayfish), kutae (mussels), kina (sea eggs), paua, and other resources also contributed to a reliable and plentiful supply of fish in season from the area. Ngati Tama developed a number of different ways of preserving these supplies for later consumption, using every part of the fish. This tradition has survived and continues to be used by Ngati Tama as a form of aroha koha (reciprocal contribution) at special hui. 30 35

Where the cliffs incline to sea level, there are a number of tauranga waka (canoe berths) formerly used for fishing canoes. These have special significance to Ngati Tama in their identification with the area as physical symbols of an historical association with it.

Purposes of statutory acknowledgement 5

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to part of the Mimi–Pukearuhe coast marginal strip, as provided for in **sections (55 to 57) 54 to 56**; and 10
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and 15
- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with part of the Mimi–Pukearuhe coast marginal strip, as provided for in **section (60) 59**; and 20
- (d) to provide a statement by Ngati Tama of the association of Ngati Tama with the Mimi–Pukearuhe coast marginal strip for inclusion in a deed of recognition.

Limitations on effect of statutory acknowledgement

1 Except as expressly provided in **subpart 4 of Part 5**,— 25

- (a) this statutory acknowledgement does not—
 - (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw:
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement: 30
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, part of the Mimi–Pukearuhe coast marginal strip; and 35
- (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or

bylaw, may give greater or lesser weight to the association of Ngati Tama with the part of the Mimi–Pukearuhe coast marginal strip described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw if this statutory acknowledgement did not exist in respect of that part of the Mimi–Pukearuhe coast marginal strip.

5

2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

10

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of part of the Mimi–Pukearuhe coast marginal strip.

s (53) 52

Schedule 4
**Statutory acknowledgement for part of Mount
 Messenger conservation area in Ngati Tama area
 of interest**

5

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the part of the Mount Messenger conservation area in the Ngati Tama area of interest, the general location of which is indicated on SO 14706.

10

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the part of the Mount Messenger conservation area in the Ngati Tama area of interest, as set out below.

15

*Cultural, spiritual, historical, and traditional association of Ngati
 Tama with part of the Mount Messenger conservation area in
 Ngati Tama area of interest*

This is an important area containing Ngati Tama pa sites and mahinga kai sources of birds and fish.

20

The once great Katikatiaka Pa was located here, inhabited by the descendants of Uerata, who were among the fighting elite of Ngati Tama. It was an important vantage point, built in 2 divisions, and extending to the seaward clifftops. Tihi Manuka, a refuge pa, also situated in the area, was directly connected to an important inland track.

25

Kiwi, kahurangi, kereru, eels, inanga, and the paua slug were traditional resources found here. Papa clay types found here were used for dyeing muka. A range of temperate zone flora was also available to Ngati Tama from this area, including beech, rata, rimu, and a variety of ferns. Important mahinga kai streams include Te Horo, Ruataniwha, Waipingao, and Waikaramarama.

30

Purposes of statutory acknowledgement

Under **(54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the part of the Mount Messenger conservation area in the Ngati Tama area of interest, as provided for in **sections (55 to 57) 54 to 56**; and 5
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and
- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the part of the Mount Messenger conservation area in the Ngati Tama area of interest, as provided for in **section (60) 59**; and 10
- (d) to provide a statement by Ngati Tama of the association of Ngati Tama with the part of the Mount Messenger conservation area in the Ngati Tama area of interest for inclusion in a deed of recognition. 15

Limitations on effect of statutory acknowledgement 20

1 Except as expressly provided in **subpart 4 of Part 5**,—

- (a) this statutory acknowledgement does not—
- (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 25
- (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement:
- (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the part of the Mount Messenger conservation area in the Ngati Tama area of interest; and 30
- (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the part of the Mount Messenger conservation area in the Ngati Tama area of interest described in this statutory acknowledgement than that 35

person would give under the relevant statute, regulation, or bylaw if this statutory acknowledgement did not exist in respect of the part of the Mount Messenger conservation area in the Ngati Tama area of interest.

2 **Clause 1(b)** does not limit **clause 1(a)**. 5

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the part of the Mount Messenger conservation area in the Ngati Tama area of interest. 10

s ~~(53)~~ 52

Schedule 5 Statutory acknowledgement for Moki conservation area

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Moki conservation area, the general location of which is indicated on SO 14707. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Moki conservation area, as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with Moki conservation area

This area is important to Ngati Tama for the inland walking track that Ngati Tama used to travel overland to Wanganui and an alternative route from the coast to neighbouring iwi. This area also contains a pa site, the Tihi Manuka pa, of importance to Ngati Tama. 15

Purposes of statutory acknowledgement

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are— 20

- (a) to require consent authorities, the Environment Court, and the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Moki conservation area, as provided for in **sections (55 to 57) 54 to 56**; and 25
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and
- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the Moki conservation area, as provided for in **section (60) 59**; and 30

- (d) to provide a statement by Ngati Tama of the association of Ngati Tama with the Moki conservation area for inclusion in a deed of recognition.

Limitations on effect of statutory acknowledgement

- 1 Except as expressly provided in **subpart 4 of Part 5**,— 5
 - (a) this statutory acknowledgement does not—
 - (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 10
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement: 10
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Moki conservation area; and
 - (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Moki conservation area. described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Moki conservation area. 15 20
- 2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Moki conservation area. 25

s (53) 52

Schedule 6

Statutory acknowledgement for Tongaporutu conservation area

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Tongaporutu conservation area, the general location of which is indicated on SO 14708. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Tongaporutu conservation area, as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with Tongaporutu conservation area

Te Umukaha Pa was another important defence link in this area in the chain of Ngati Tama fighting pa along the coast. Close by, on the opposite bank, stood the mighty Pukeariki, which served as a refuge for the local people in times of war. Pukeariki was also an important beacon point in the coastal network. Beacon fires were lit at strategic points along the coast to carry prearranged messages between settlements. 15
20

Purposes of statutory acknowledgement

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Tongaporutu conservation area, as provided for in **sections (55 to 57) 54 to 56**; and 25
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and 30

- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the Tongaporutu conservation area, as provided for in **section (60) 59**; and 5
- (d) to provide a statement by Ngati Tama of the association of Ngati Tama with the Tongaporutu conservation area, for inclusion in a deed of recognition.

Limitations on effect of statutory acknowledgement

- 1 Except as expressly provided in **subpart 4 of Part 5**,— 10
 - (a) this statutory acknowledgement does not—
 - (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 15
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement: 15
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Tongaporutu conservation area; and 20
 - (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Tongaporutu conservation area described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Tongaporutu conservation area. 25
- 2 **Clause 1(b)** does not limit **clause 1(a)**. 30

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Tongaporutu conservation area. 35

s (53) 52

Schedule 7**Statutory acknowledgement for Mohakatino swamp conservation area***Statutory area*

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Mohakatino swamp conservation area, the general location of which is indicated on SO 14710. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Mohakatino swamp conservation area, as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with Mohakatino swamp conservation area

This is an area that has many significant wahi tapu. It is also valuable to Ngati Tama due to it being an historical garden area where the cultivation of taewa (potato varieties) and kumara (sweet potato) was a specialist activity. The garden kaitiaki were the local people from Pa Hukunui and Pukekarirua. The area was also used by Ngati Tama for access to mahinga kai and cultivation of other crops. 15
20

Purposes of statutory acknowledgement

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Mohakatino swamp conservation area, as provided for in **sections (55 to 57) 54 to 56**; and 25
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and 30
- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the 35

Mohakatino swamp conservation area, as provided for in **section (60) 59**; and

- (d) to provide a statement by Ngati Tama of the association of Ngati Tama with the Mohakatino swamp conservation area for inclusion in a deed of recognition. 5

Limitations on effect of statutory acknowledgement

- 1 Except as expressly provided in **subpart 4 of Part 5**,—
 - (a) this statutory acknowledgement does not—
 - (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 10
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement:
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Mohakatino swamp conservation area; and 15
 - (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Mohakatino swamp conservation area described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Mohakatino swamp conservation area. 20 25
- 2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Mohakatino swamp conservation area. 30

s (53) 52

Schedule 8

Statutory acknowledgement for Pou Tehia historic reserve

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Pou Tehia historic reserve, the general location of which is indicated on SO 14694. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Pou Tehia historic reserve, as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with Pou Tehia historic reserve

Pou Tehia Pa was one of 2 significant Ngati Tama fighting pa on the banks of the Tongaporutu. The other pa was the mighty Pukeariki Pa, which provided refuge for the occupants of the area in time of war, as well as being the lookout and beacon point in the Ngati Tama network of coastal strongholds. 15

On the northern bank of the Tongaporutu, Umukaha Pa and Omaha Pa formed part of that defence network. 20

Many urupa (burial sites) are to be found on both sides of the river. These provided the last resting places for the communities and their defenders.

Purposes of statutory acknowledgement 25

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Pou Tehia historic reserve, as provided for in **sections (55 to 57) 54 to 56**; and 30
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and 35

- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the Pou Tehia historic reserve, as provided for in **section (60) 59**; and 5
- (d) to provide a statement by Ngati Tama of the association of Ngati Tama with the Pou Tehia historic reserve for inclusion in a deed of recognition.

Limitations on effect of statutory acknowledgement

- 1 Except as expressly provided in **subpart 4 of Part 5**,— 10
 - (a) this statutory acknowledgement does not—
 - (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 15
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement: 15
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Pou Tehia historic reserve; and
 - (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Pou Tehia historic reserve described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Pou Tehia historic reserve. 20 25
- 2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Pou Tehia historic reserve. 30

s (53) 52

Schedule 9**Statutory acknowledgement for Mohakatino River***Statutory area*

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Mohakatino River, the general location of which is indicated on SO 14718.

5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Mohakatino River, as set out below.

10

Cultural, spiritual, historical, and traditional association of Ngati Tama with Mohakatino River

The Mohakatino River has great significance for Ngati Tama, being the landing place of the Tokomaru waka and the original site of Ngati Tama residence. Marae-Rotohia, for centuries the ancient house of learning of Tokomaru descendants, was established in this area by Rakeiora, one of the Tokomaru waka chiefs and tohunga (specialist in traditional knowledge), and faithfully guarded by Ngati Tama during their dominion.

15

Te Rangihiroa wrote in loving recollection of his kuia Kapuakore's stories about the area:

20

“On the edge of the sand lapped by the sea which watched over Poutama since the beginning, stands the rock Paroa where 10 Ngati Tama gaily fishing with their faces turned to the sea marked not the mustering ‘taua’ [war party] gathering on the beach behind until the rising tide waist-high upon the rock forced them to turn. I verily believe that Pakeha would have drowned themselves, but the naked and unarmed N’Tama grasping the stone sinkers of their lines unhesitatingly waded ashore and fought like war-gods so that relatives in the ‘taua’ in thrusting, let their spears go. The flying weapons were promptly caught in mid-air and lo the valiant ten were armed and slew and slew beneath the shining sun until the enemy were put to flight.”

25

30

Purposes of statutory acknowledgement

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Mohakatino River, as provided for in **sections (55 to 57) 54 to 56**; and 5
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and 10
- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the Mohakatino River, as provided for in **section (60) 59**; and 15
- (d) to provide a statement by Ngati Tama of the association of Ngati Tama with the Mohakatino River for inclusion in a deed of recognition.

Limitations on effect of statutory acknowledgement 20

1 Except as expressly provided in **subpart 4 of Part 5**,—

- (a) this statutory acknowledgement does not—
 - (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 25
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement:
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Mohakatino River; and 30
- (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Mohakatino River described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Mohakatino River. 35

2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Mohakatino River.

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Schedule 10 s (53) 52

Statutory acknowledgement for Tongaporutu River

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Tongaporutu River, the general location of which is indicated on SO 14719. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Tongaporutu River, as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with Moki conservation area

This area can be considered part of the heart of Poutama country, to whose fighting fame some notable Ngati Tama warriors contributed. It was the battleground of many a hostile incursion from the north, located between Te Umukaha Pa and Omaha Pa. On the southern bank of the Tongaporutu stood Pou Tehia Pa. A little westward on the headland stood Pukeariki Pa and offshore was Te Kaeaea's island pa, Pa Tangata. 15

The proximity and quantity of sea and forest resources, the abundance of river and agricultural produce, the subtropical climate, and relatively protected river inlet was a paradise for the closely linked coastal population. Among the most famous of the area was Te Kaeaea, also known as Taringa Kuri, and brother of Te Puoho, their parents being Whangataki II and Hinewairoro, both of whom trace their lineage back to the Tokomaru. 20 25

Purposes of statutory acknowledgement

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Tongaporutu River, as provided for in **sections (55 to 57) 54 to 56**; and 30

- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and
- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the Tongaporutu River, as provided for in **section (60) 59**; and 5
- (d) to provide a statement by Ngati Tama of the association of Ngati Tama with the Tongaporutu River for inclusion in a deed of settlement. 10

Limitations on effect of statutory acknowledgement

- 1 Except as expressly provided in **subpart 4 of Part 5**,—
- (a) this statutory acknowledgement does not—
 - (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 15
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement:
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Tongaporutu River; and 20
 - (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Tongaporutu River described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Tongaporutu River. 25
- 2 **Clause 1(b)** does not limit **clause 1(a)**. 30

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Tongaporutu River.

s (53) 52

Schedule 11
Statutory acknowledgement for Mohakatino River
(No 1) marginal strip

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Mohakatino River (No 1) marginal strip, the general location of which is indicated on SO 14713. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Mohakatino River (No 1) marginal strip, as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with the Mohakatino River (No 1) marginal strip 15

This area is near the site of the landing of the Tokomaru waka and the original site of Ngati Tama residence. As a consequence, it holds significant value to Ngati Tama.

The area was also a valuable source of mahinga kai for Ngati Tama. Tuna (eels), inanga (whitebait), and koura (freshwater crayfish) were among the river resources found here. A diverse range of vegetation such nikau, beech, rata, rimu, and fern varieties provided food and also building and ornamental materials. Kokako, kereru, kiwi, and kaka were significant among the fauna of the area. 20

Purposes of statutory acknowledgement 25

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Mohakatino River (No 1) marginal strip, as provided for in **sections (55 to 57) 54 to 56**; and 30
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and 35

- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the Mohakatino River (No 1) marginal strip, as provided for in **section (60) 59**. 5

Limitations on effect of statutory acknowledgement

1 Except as expressly provided in **subpart 4 of Part 5**,—

- (a) this statutory acknowledgement does not—
- (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 10
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement:
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Mohakatino River (No 1) marginal strip; and 15
- (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Mohakatino River (No 1) marginal strip described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Mohakatino River (No 1) marginal strip. 20 25

2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Mohakatino River (No 1) marginal strip. 30

s (53) 52

Schedule 12
Statutory acknowledgement for Mohakatino River
(No 2) marginal strip

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Mohakatino River (No 2) marginal strip, the general location of which is indicated on SO 14715. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Mohakatino River (No 2) marginal strip, as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with Mohakatino River (No 2) marginal strip 15

This area is important to Ngati Tama as a mahinga kai reserve. Abundant river resources such as tuna, inanga, and koura were sourced from the area. Forest resources, including the medicinally important kawakawa, were abundant. Kokako, kereru, kiwi, and kaka were key fauna of the area. 20

Purposes of statutory acknowledgement

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Mohakatino River (No 2) marginal strip, as provided for in **sections (55 to 57) 54 to 56**; and 25
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provide for in **section (59) 58**; and 30
- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the

Mohakatino River (No 2) marginal strip, as provided for in **section (60) 59**.

Limitations on effect of statutory acknowledgement

- 1 Except as expressly provided in **subpart 4 of Part 5**,—
- (a) this statutory acknowledgement does not— 5
- (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw:
- (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement: 10
- (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Mohakatino River (No 2) marginal strip; and
- (b) no person, in considering a matter or making a decision 15
or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Mohakatino River (No 2) marginal strip described in this statutory acknowledgement than that person would give under the relevant 20
statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Mohakatino River (No 2) marginal strip.
- 2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

25

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Mohakatino River (No 2) marginal strip.

s (53) 52

Schedule 13
Statutory acknowledgement for Mohakatino coastal marginal strip

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the Mohakatino coastal marginal strip, the general location of which is indicated on SO 14749. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the Mohakatino coastal marginal strip, as set out below. 10

Cultural, spiritual, historical, and traditional association of Ngati Tama with Mohakatino coastal marginal strip 15

Along this beach between the Mohakatino and Mokau Rivers, Ngati Tama engaged in numerous battles with northern iwi. One of these battles was “Nga-tai-pari-rua” in 1815, which, as its name indicates, was fought during 2 high tides.

Because of such battles and the communities in the area, there are a number of urupa (burial sites) of significance to Ngati Tama in the vicinity. 20

The mataitai resources along this beach are of great value to the tribes associated with them and were often a cause for dispute.

Purposes of statutory acknowledgement 25

Under **section (54) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the Mohakatino coastal marginal strip as provided for in **sections (55 to 57) 54 to 56**; and 30
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in **section (59) 58**; and 35

- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the Mohakatino coastal marginal strip, as provided for in **section (60) 59**.

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Limitations on effect of statutory acknowledgement

1 Except as expressly provided in **subpart 4 of Part 5**,—

- (a) this statutory acknowledgement does not—
- (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 10
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement:
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the Mohakatino coastal marginal strip; and 15
- (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the Mohakatino coastal marginal strip described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw if this statutory acknowledgement did not exist in respect of the Mohakatino coastal marginal strip. 20 25

2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the Mohakatino coastal marginal strip. 30

Schedule 14 s (53) 52
**Statutory acknowledgement for coastal marine area
 adjoining the Ngati Tama area of interest**

Statutory area

The area to which this statutory acknowledgement applies is the area referred to in the deed of settlement as the coastal marine area adjoining the Ngati Tama area of interest, the general location of which is indicated on SO 14716. 5

Preamble

Under **section (53) 52**, the Crown acknowledges the statement by Ngati Tama of the cultural, spiritual, historical, and traditional association of Ngati Tama with the coastal marine area adjoining the Ngati Tama area of interest, as set out below. 10

*Cultural, spiritual, historical, and traditional association of Ngati
 Tama with coastal marine area adjoining the Ngati Tama area
 of interest* 15

Te Rangihiroa (Sir Peter Buck) wrote of Ngati Tama’s renown throughout the country for their fighting prowess. He recorded the words of an unnamed old man:

“[O]ther tribes fought for fat lands, for birds and rat preserves, an aruhe rahui [fernroot reserve] but Ngati Tama fought for the sake of fighting, with a parcel of wet land as take [cause]”. 20

Purposes of statutory acknowledgement

Under **section (55) 53**, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are— 25

- (a) to require consent authorities, the Environment Court, or the Historic Places Trust, as the case may be, to have regard to this statutory acknowledgement in relation to the coastal marine area adjoining the Ngati Tama area of interest, as provided for in **sections (55 to 57) 54 to 56**; and 30
- (b) to require consent authorities to forward summaries of resource consent applications to the governance entity as provided for in **section (59) 58**; and

- (c) to enable the governance entity and members of Ngati Tama to cite this statutory acknowledgement as evidence of the association of Ngati Tama with the coastal marine area adjoining the Ngati Tama area of interest, as provided for in **section (60) 59**. 5

Limitations on effect of statutory acknowledgement

1 Except as expressly provided in **subpart 4 of Part 5**,—

- (a) this statutory acknowledgement does not—
- (i) affect, and must not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw: 10
 - (ii) affect the lawful rights or interests of a person who is not a party to the deed of settlement:
 - (iii) have the effect of granting, creating, or giving evidence of an estate or interest in, or rights relating to, the coastal marine area adjoining the Ngati Tama area of interest; and 15
- (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association of Ngati Tama with the coastal marine area adjoining the Ngati Tama area of interest described in this statutory acknowledgement than that person would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the coastal marine area adjoining the Ngati Tama area of interest. 20 25

2 **Clause 1(b)** does not limit **clause 1(a)**.

No limitation on the Crown

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement to a person other than Ngati Tama or the governance entity in respect of the coastal marine area adjoining the Ngati Tama area of interest. 30

Ngati Tama Claims Settlement

Legislative history

15 April 2003

Introduction (Bill 44-1)

13 May 2003

First reading and referral to Maori Affairs Committee
