

*Parties*

TE RUNANGA O NGATI AWA

*and*

HER MAJESTY THE QUEEN IN RIGHT OF NEW ZEALAND ACTING BY

THE MINISTER

IN CHARGE OF TREATY OF WAITANGI NEGOTIATIONS

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TERMS OF NEGOTIATIONS  
CONCERNING CLAIMS BY NGATI AWA  
PURSUANT TO  
THE TREATY OF WAITANGI

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**TERMS OF NEGOTIATIONS****RECITAL A**

1. This document records:
  - i. The agreement of the Crown and Te Runanga o Ngati Awa ["Ngati Awa"] to the conditions for negotiations concerning the settlement of historical grievances relating to the Treaty of Waitangi;
  - ii. The Crown's acceptance of the necessary preconditions for negotiations being met by Ngati Awa;
  - iii. Agreements between Ngati Awa and the Crown as to the terms applying to the negotiations process;
  - iv. Details of the Ngati Awa negotiating mandate; and
  - v. Details of the process being adopted for the resolution of cross claims.

**RECITAL B**

2. In 1994 and 1995 the Waitangi Tribunal heard the substantive aspects of the Ngati Awa claim. During the course of the hearings, the Crown acknowledged that the confiscation, as it occurred in the Eastern Bay of Plenty, was unjust and contrary to the principles of the Treaty. In light of this acknowledgment and at the suggestion of the Waitangi Tribunal, the parties agreed that the Tribunal would hear claimant evidence, adjourn hearings prior to Crown evidence being presented and produce an interim report, reserving the parties rights of response and rejoinder, in order to expedite direct negotiations.
3. Ngati Awa and the Crown have been in discussions since December 1995, jointly working through the processes for direct negotiation in good faith. The discussions have included a number of important considerations for both parties including the production of an interim report, Crown requirements for mandating, comprehensiveness and overlapping claims, and the Ngati Awa requirement that the Crown acknowledge the several distinct and unique characteristics of the Ngati Awa claim.

**RECITAL C*****Crown Agreement***

4. The Crown notes the nature and extent of each of the alleged breaches of the principles of the Treaty of Waitangi in the Ngati Awa claim and accepts that:
  - i. it is appropriate to proceed with negotiations on the comprehensive Ngati Awa claim;
  - ii. The claimant negotiators for Wai 46, Wai 79 and Wai 247 have been properly mandated by the claimant groups in accordance with their respective Protocols for Negotiations, attached as Schedule 1;

- iii. Ngati Awa will negotiate based on the principle of “I riro whenua atu me hoki whenua mai” (land was taken and land should be returned);
- iv. Negotiations will proceed in accordance with the above principle to the extent that such land is accepted by both parties as a component of the settlement package and to the extent that such land is available for settlement purposes but without limiting negotiations for other redress which might be available for settlement;
- v. Ngati Awa intends to enter discussions in good faith and attempt to negotiate a settlement of its grievances, and that Ngati Awa does not accept and does not consider itself bound by the Crown’s settlement policies.

#### *Ngati Awa Agreement*

5. Ngati Awa agrees to:
  - i. Note that the Crown intends to enter discussions in good faith;
  - ii. Negotiate with the intention of reaching a full and final settlement of Ngati Awa’s grievances as detailed in WAI 46, 23 and 206 (as amended and consolidated in presentation to the Waitangi Tribunal), and including the claims in respect of WAI 79 and WAI 247, but excluding the matters covered by WAI 248;
  - iii. Negotiate with the knowledge that the Crown’s objective in negotiations will be to secure a full and final settlement with Ngati Awa. A settlement package may therefore include items of redress in respect of any of the breaches of Treaty principles identified by the Crown and Ngati Awa, even though the Crown may not accept in full or in part the nature and extent of the particular breach;
  - iv. Waive all other avenues of redress that may be available to them while in negotiations; and
  - v. Negotiate redress of its Treaty claims comprehensively unless explicit exceptions are agreed with the Crown.

#### **ACCEPTANCE OF THE NGATI AWA CLAIM FOR NEGOTIATION**

6. The Crown acknowledges that Ngati Awa has sought redress for its claims involving raupatu and other matters since 1867. The Crown hereby accepts the Ngati Awa claim for negotiation in acknowledgment of the nature and significance of the breaches of the Treaty of Waitangi in respect of the Ngati Awa claim.
7. Ngati Awa and the Crown jointly record their readiness to negotiate redress for the Ngati Awa claim.

**AGREEMENTS BETWEEN THE CROWN AND NGATI AWA AS TO THE NEGOTIATIONS PROCESS***Objectives of the Negotiations*

8. It is agreed by the Crown and Ngati Awa that the objectives of the negotiations are as follows:
  - i. To conduct the negotiations in good faith and in such a way that the negotiations and the resolution of grievances will restore and enhance the mana of Ngati Awa and restore the honour of the Crown;
  - ii. To negotiate giving due recognition to the distinctive and unique characteristics of the Ngati Awa claim and to the findings of the Waitangi Tribunal interim report to the extent that it may be available to inform negotiations;
  - iii. To negotiate a full and final settlement of all Ngati Awa historical claims as stated in clause 5(ii) above;
  - iv. To secure an agreement that will establish a continuing relationship between the Crown and Ngati Awa based on recognition of the principles of the Treaty of Waitangi in order to either prevent or rectify any future breaches of the Treaty.

*Negotiation Conditions*

9. Ngati Awa and the Crown agree that:
  - i. This document does not bind either party to reach a settlement in respect of this claim;
  - ii. The negotiations will be held in private, will remain confidential unless agreed otherwise by both parties, and are on a "without prejudice" basis. Media statements concerning the advancement of negotiations will be made when mutually agreed upon by both parties;
  - iii. It is the intention of the parties that negotiations proceed by way of an intensive, cooperative, problem solving approach to achieve resolution of this claim;
  - iv. Agreements reached between the Crown and Ngati Awa in respect of the whole or any part of Ngati Awa claims will not be binding on either the Crown or Ngati Awa until embodied in a Deed of Settlement that must be ratified by Ngati Awa and the Government;
  - v. The Crown will keep Ngati Awa informed, as far as practicable beforehand, of the interested parties the Crown may be required to consult in connection with the negotiations.

*Scope of Negotiations*

10. The Crown and Ngati Awa agree that the general scope of negotiations shall include discussion on:
  - i. The type, form and quantum of redress that is appropriate to settle Ngati Awa's grievances;

- ii. Implementation issues including policy issues, legislation or legislative amendment, Orders in Council and other administrative actions which may be required to implement any agreements made between the Crown and Ngati Awa;
- iii. Other matters as may be agreed.

*Negotiations Schedule*

- 11. Ngati Awa and the Crown agree to:
  - i. Commence substantive negotiations as soon as reasonably practicable;
  - ii. Negotiate with the aim of signing a Heads of Agreement within four months;
  - iii. Negotiate with the aim of agreeing on a Draft Deed of Settlement within six months of the commencement of negotiations;
  - iv. Meet regularly and often until a Draft Deed of Settlement is achieved;
  - v. Hold negotiations meetings at venues to be agreed; and
  - vi. Each pay their own costs in respect of travel and accommodation associated with negotiations.

*Resolution of Cross Claims*

- 12. Ngati Awa acknowledges and accepts that the Crown requires cross claims to be resolved or otherwise addressed before redress can be agreed with Ngati Awa in respect of any areas or assets subject to cross claims. The Crown will assist by taking a facilitation role in this process.

**RATIFICATION OF SETTLEMENT AND GOVERNANCE SYSTEM**

- 13. The Crown and Ngati Awa agree that:
  - i. Before the Deed of Settlement is ratified:
    - a. There will be opportunities for the settlement proposal to be discussed, refined and endorsed by Ngati Awa;
    - b. The level of support for the settlement will be verified; and
  - ii. Before settlement resources can be transferred to Ngati Awa, the Crown will need to be satisfied that the proposed Governance system for the distribution and management of settlement resources;
    - a. Has been or will be fairly and clearly presented to and endorsed by Ngati Awa;
    - b. Contains or will contain an independent appeals process to protect minority interests against an oppressive majority and majority interests against an unreasonable minority; and
    - c. Allows or will allow the rules relating to membership to be contested.

AGREEMENTS ON THE NATURE AND EXTENT OF THE NEGOTIATIONS

14. Ngati Awa and the Crown agree that these Terms of Negotiations are accepted as executed by the parties on:


SIGNED this 1st day of November 1997

*Signed for and on behalf of the Crown:*



Hon. Douglas Graham  
Minister in Charge of Treaty of Waitangi Negotiations

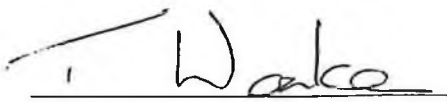
*Signed for and on behalf of Te Runanga o Ngati Awa.*



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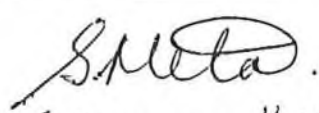


*Signed for and on behalf of the Wai 79 claimants.*



*Signed for and on behalf of the Wai 247 claimants.*

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(Sharon Heta.)

**ADDENDUM TO TERMS OF NEGOTIATIONS CONCERNING  
CLAIMS BY NGATI AWA PURSUANT TO THE TREATY OF  
WAITANGI (THE "TERMS OF NEGOTIATION").**

The parties agree as follows:

**A NEGOTIATION OF WAI 247 CLAIM**

Billy Tom Waaka and Sharon Heta (or such other persons as the WAI 247 Claimants may nominate) will negotiate the settlement of the WAI 247 claim on behalf of the WAI 247 Claimants, and during the course of such negotiations the Ngati Awa negotiators will act as observers. The parties confirm that such negotiations will be conducted in good faith and in accordance with the provisions of these Terms of Negotiation.

**B FULL AND FINAL SETTLEMENT OF ALL CLAIMS**

The parties confirm the intention to achieve a full and final settlement of all of the Ngati Awa claims, including the WAI 247 claim, as recorded in paragraph 5(ii) of these Terms of Negotiation.

**C SETTLEMENT BINDING ON PARTIES**

Notwithstanding paragraph 9(iv) of these Terms of Negotiation, such part of any Deed of Settlement which purports to settle the WAI 247 claim must also be ratified by the WAI 247 Claimants.

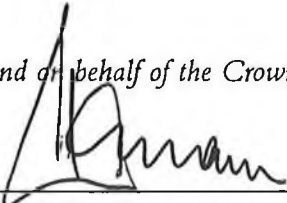
**D COUNTERPARTS**

The Terms of Negotiation, including this Addendum, may be executed in any number of counterparts. Once a party has executed a counterpart, and each of the other parties has received a copy of the signed counterpart, that counterpart shall be deemed to be as valid and binding on the party executing it as if it had been executed by all the parties.

Dated this 1st day of November 1997

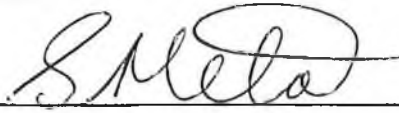
SIGNED by all of the parties on the following page:

Signed for and on behalf of the Crown:



Hon. Douglas Graham  
Minister in Charge of Treaty of  
Waitangi Negotiations

Signed for and on behalf of the Wai 247  
Claimants:



Sharon Heta

in the presence of:



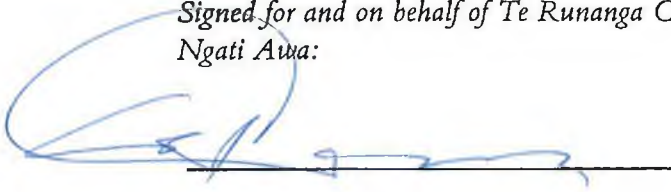
Billy Tom Waaka

Name:

Occupation:

Address:

Signed for and on behalf of Te Runanga O  
Ngati Awa:



Signed for and on behalf of the Wai 79  
Claimants:

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