

**BEFORE THE TARANAKI REGIONAL COUNCIL AND NEW PLYMOUTH
DISTRICT COUNCIL**

MT MESSENGER BYPASS PROJECT

In the matter of the Resource Management Act 1991

and

In the matter of applications for resource consents, and a notice of requirement by the NZ Transport Agency for an alteration to the State Highway 3 designation in the New Plymouth District Plan, to carry out the Mt Messenger Bypass Project

**STATEMENT OF EVIDENCE OF MICHAEL PETER JOHN DREAVER
(ENGAGEMENT WITH TANGATA WHENUA) ON BEHALF OF NZ TRANSPORT
AGENCY**

25 May 2018

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QUALIFICATIONS AND EXPERIENCE

1. My name is Michael Peter John Dreaver.
2. I am a director of The Policy Shop Ltd, a policy and negotiations consultancy.
3. I have worked for more than two decades on Māori and Treaty related issues, as an analyst, manager and negotiator. I have negotiated more than thirty separate historical Treaty of Waitangi ("**Treaty**") settlements, working at times for the Crown, and at times for iwi.
4. Early in my career I was manager at the Office of Treaty Settlements ("**OTS**") where I was responsible for negotiations with iwi of Taranaki including Ngāti Tama and Ngāti Mutunga. This included overlapping interest engagement and negotiations with Ngāti Maniapoto representatives over aspects of the Ngāti Tama settlement.
5. More recently I was Chief Crown Negotiator for the Kaipara-Mahurangi, Tamaki Makaurau (Auckland) and Hauraki regions, negotiating around twenty-five concurrent Treaty settlement negotiations. This involved engagement with multiple iwi with a range of interests, many of them overlapping.

EXECUTIVE SUMMARY

6. Ngāti Tama worked through an extensive historical Treaty settlement process and that settlement was enacted into law through the Ngāti Tama Claims Settlement Act 2003.
7. The proposed Project route is in the Ngāti Tama rohe and passes through land returned to Ngāti Tama as part of its Treaty settlement.
8. The New Zealand Transport Agency ("**Transport Agency**") and Te Runanga o Ngāti Tama have been in intense negotiations in relation to compensation for and mitigation of impacts on Ngāti Tama's land and interests.
9. In my view the negotiation process has been respectful of Ngāti Tama's interests and has been proactive and positive. The Transport Agency team has worked hard to understand the full impact of the Project on Ngāti Tama, and to offer meaningful and innovative compensation and mitigation for the impact on Ngāti Tama interests including the potential acquisition of Ngāti Tama land.
10. There has also been appropriate offers of engagement and processes with other iwi and Māori groups with interests in the broader project area.

BACKGROUND AND ROLE

11. The Transport Agency has engaged me to advise it on its proposed Mt Messenger Bypass Project ("**Project**") to improve the section of State Highway 3 ("**SH3**") between Ahititi and Uruti, to the north of New Plymouth.
12. My role has been to advise on iwi and Māori engagement, to help ensure that the scope of that engagement was appropriate, to facilitate it where necessary and to lead negotiations on a mitigation and compensation package for Ngāti Tama interests affected by the Project.

SCOPE OF EVIDENCE

13. The purpose of my evidence is to outline the engagement carried out by the Transport Agency with Ngāti Tama, whose rohe the Project traverses and who own land that will need to be acquired if the Project is to proceed. I also discuss engagement with other iwi and Māori groups that have or have expressed an interest in the Project.
14. My evidence addresses:
 - (a) an overview of the iwi who claim an interest in the general vicinity of the Project;
 - (b) the 2001 Treaty Settlement entered into between the Crown and Ngāti Tama to settle Ngāti Tama's historical Treaty claims;
 - (c) the Transport Agency's engagement with Ngāti Tama in developing the Project;
 - (d) the Transport Agency's engagement with other iwi and Māori groups in respect of the Project; and
 - (e) responses to submissions and the Section 42A Reports.
15. My evidence contains primarily factual information. To the extent that I provide expert evidence, I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2014. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.¹

¹ I note that I am related through my wife and daughter to Ngāti Mutunga. I have disclosed this relationship to all iwi and Māori groups I have interacted with in the course of my work on this Project, and confirm that this does not affect the evidence that I am providing.

THE IWI IN THE AREA OF THE PROJECT

16. There are eight generally recognised iwi of Taranaki (see Tribunal report paragraph 23 and **Figure 1** below). These are Ngāti Tama, Ngāti Maru, Ngāti Mutunga, Te Atiawa, Ngaruahine, Taranaki Iwi, Ngāti Ruanui and Nga Rauru. Those Iwi with a particular interest in the Project area are Ngāti Tama and Ngāti Mutunga.
17. In addition, Ngāti Maniapoto claim interests in northern Taranaki. Ngāti Maniapoto was an overlapping claimant during the settlement of the Ngāti Tama historical Treaty claim.

NGĀTI TAMA TREATY OF WAITANGI SETTLEMENT

Introduction

18. I first encountered Ngāti Tama in 1997 when I was a manager at OTS, which is responsible for negotiating on behalf of the Crown the settlement of claims based on historical breaches of the Treaty.
19. I set out below a brief summary of the general process for settling historical Treaty claims, followed by a more specific (but still brief) summary of the Ngāti Tama Treaty settlement.

The historical Treaty process

20. Historical Treaty claims are those that have been made by Māori against the Crown for breaches of the Treaty before 1992. Historical settlements resolve these claims, and provide some redress to claimant groups.
21. The identification of the appropriate groups for the Crown to negotiate with is an important part of the Treaty settlement process. The Crown's approach has for many years been to engage and settle only with 'large natural groups' of communities with a common ancestry. Large natural groups are generally:
 - (a) an iwi (such as Ngāti Tama);
 - (b) a group of iwi; or
 - (c) a group of hapū from the same area.
22. Once a large natural group is identified, the Treaty settlement process follows four broad stages:
 - (a) **Pre-negotiations**, where the claimant groups choose their representatives for negotiations with the Crown. The Crown insists on a rigorous process for nominating, voting on, and mandating representatives (including through the provision of a Deed of Mandate to the Crown, and formal recognition of the mandate by

the Minister for Treaty of Waitangi Negotiations and the Minister for Māori Development). This is important in ensuring that the Crown is engaging with people who properly represent the claimant group. Those representatives then generally agree terms of negotiation with the Crown.

- (b) **Negotiations**, where the Crown and representatives of the claimant group negotiate the content of the settlement. An initial Agreement in Principle document is drafted and signed, followed by a detailed Deed of Settlement. There is another critical step at the end of this phase, where adult members of the claimant group vote whether to ratify the Deed of Settlement, as well as the nature and composition of the Post Settlement Governance Entity ("**PSGE**") that will represent the claimant group after the settlement is complete, and manage the redress package on behalf of the claimant group.
 - (c) **Legislation**, where the Deed of Settlement is translated into a Bill, and ultimately a Settlement Act.
 - (d) **Implementation**, where the redress package is transferred to the PSGE. Assets (including land and cash) will be managed by the PSGE and rights transferred to it.
23. Treaty settlements usually include three broad categories of redress:
- (a) an **historical account** of the Crown's breaches of the Treaty, and an **acknowledgment of and apology** for the Crown's breaches of the Treaty and the impact those breaches have had on the claimant group. The historical account is carefully researched and prepared and is agreed between the parties.
 - (b) **cultural redress**, which recognises the significance of the claimant group's association with land, resources and particular sites within its rohe, and the claimant group's mana whenua status and kaitiaki role in respect of its rohe. Cultural redress takes a number of forms, and can include:
 - (i) changing (or correcting) official place names;
 - (ii) the transfer of Crown land to the claimant group;
 - (iii) co-governance arrangements in respect of rivers, lakes, islands, mountains and other areas; and
 - (iv) commitments on how government agencies will engage with the mandated representatives of the claimant group; and

- (c) **commercial and financial redress.** This can be cash, Crown-held property, or the ability to purchase Crown-held property at some future point in time.
24. When settling claims, the Crown does not purport to provide full compensation for its historical breaches of the Treaty. The commercial and financial redress component of a settlement is not intended to amount to full monetary compensation for the consequences of Crown's Treaty breaches.

Ngāti Tama's historical Treaty claims and settlement

25. Ngāti Tama's experience of the historical Treaty settlement process (claims, hearings and settlement negotiations) illustrates their area of interest and relationship with neighbouring tribes, and places of particular significance. The settlement also led to the establishment of a PSGE that is representative of and accountable to all Ngāti Tama members.
26. The Waitangi Tribunal heard the claims of Ngāti Tama and other iwi of Taranaki between 1990 and 1995. In 1996 the Tribunal issued its Interim Taranaki Report Kaupapa Tuatahi ("**Tribunal Report**"). That report was issued with preliminary views to expedite negotiations for a settlement of the claims. The Tribunal said the Treaty grievances in Taranaki. "*... could be the largest in the country. There may be no others where as many Treaty breaches had equivalent force and effect over a comparable time.*"
27. The Tribunal Report identified the eight generally recognised iwi of Taranaki. The iwi and their identified areas of interest are shown in **Figure 1** below, taken from the Tribunal Report.

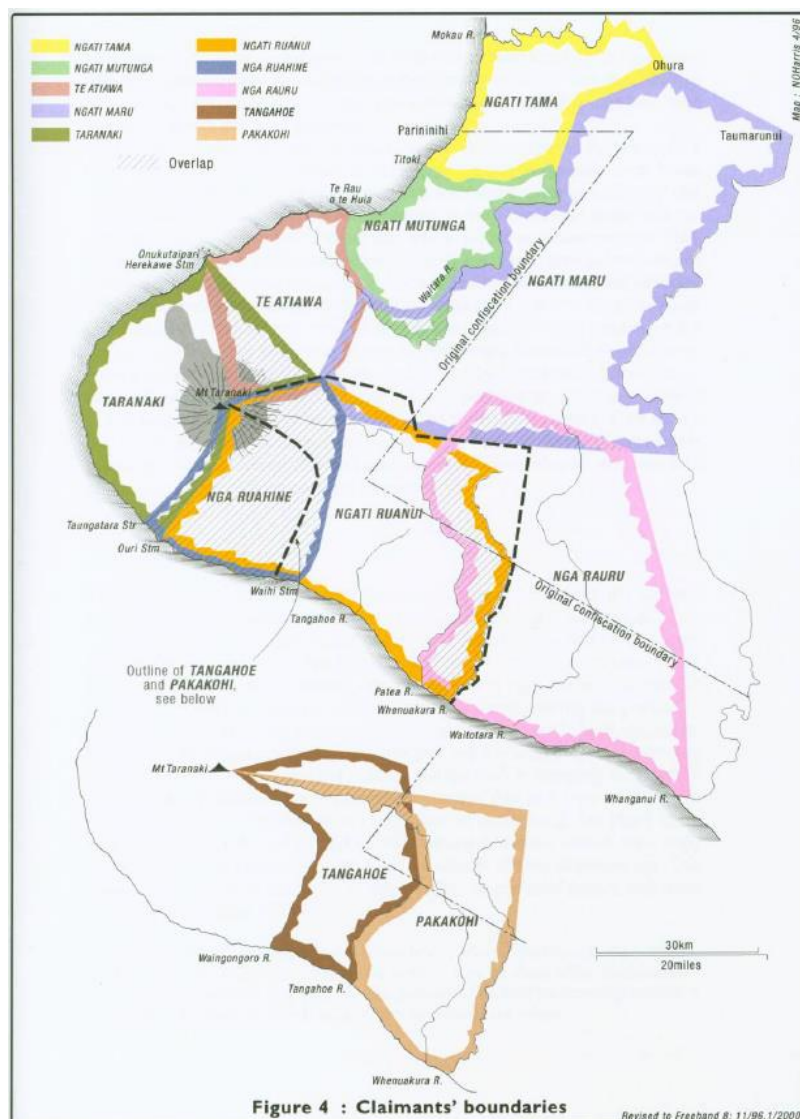


Figure 1 – Tribunal Report map Figure 4

28. Ngāti Tama, along with three other Taranaki iwi that initially formed the Taranaki Northern Alliance (Ngāti Tama, Ngāti Mutunga, Ngāti Maru and Te Atiawa) were early participants in historical Treaty settlement negotiations.² At the time of substantive negotiations commencing between the Crown and these iwi, the only two significant completed Treaty settlements were with Waikato-Tainui and Ngai Tahu.
29. I led a team of analysts at OTS through the negotiations with the Taranaki Northern Alliance iwi (and later with Ngāti Ruanui). I supported the Chief Crown Negotiator, Hekia Parata.
30. In south Taranaki, there was extensive debate over the appropriate groups to negotiate with.³ However, this was not so much the case in north Taranaki.

² Ngāti Maru subsequently withdrew from the Alliance for a variety of reasons but is now back in negotiations.

³ In particular, whether there should be separate representative status for people who identified as Pakakohi and Tangahoe.

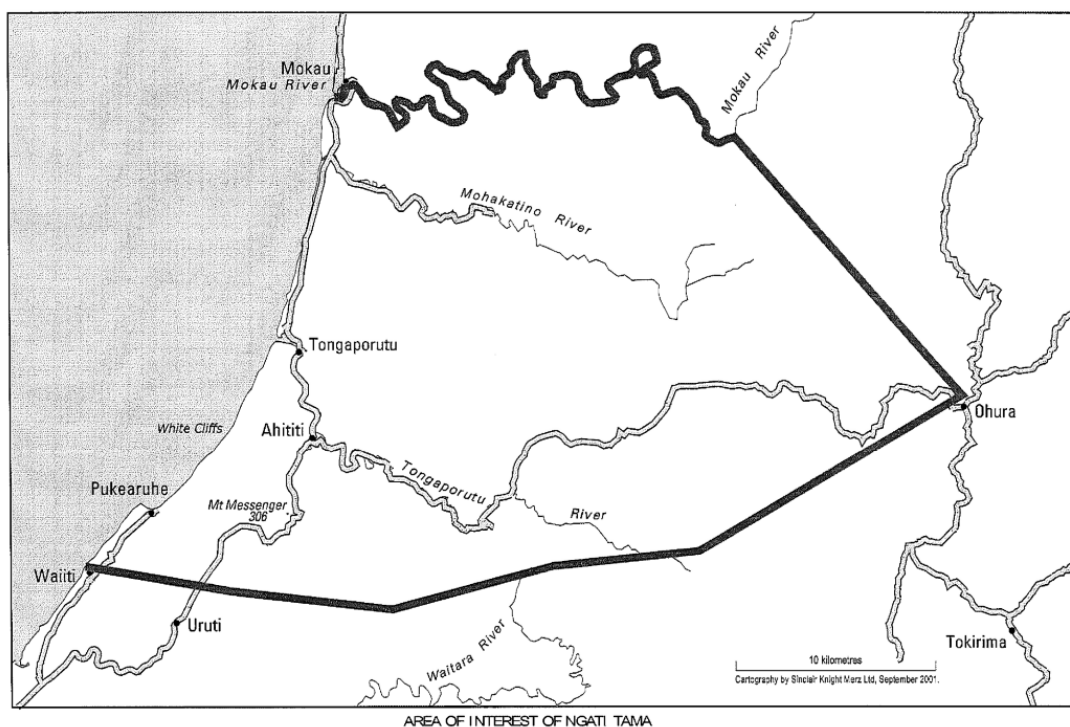


Figure 2 – Ngāti Tama's area of interest

Mandate Recognised by the Crown

31. Ngāti Tama initially went through the standard Treaty settlement mandate process. The Crown recognised the mandate for the Ngāti Tama Iwi Development Trust in 1996. Following a challenge to the mandate the Crown reassessed and reconfirmed its mandate recognition in 1997.
32. The Trustees of Ngāti Tama Iwi Development Trust appointed Mr Greg White as their Negotiator.

Area of Interest

33. Ngāti Tama's area of interest for the purposes of its Treaty settlement and redress package is set out in its Deed of Settlement. That area is shown above as **Figure 2** (and is closely aligned with the Tribunal Report map).
34. There was no dispute from other iwi of Taranaki over the extent of Ngāti Tama's area of interest as described in the Deed of Settlement. Disputes with Ngāti Maniapoto arose following the Heads of Agreement and led to a Waitangi Tribunal hearing (see below).

Settlement package

35. Ngāti Tama's Treaty settlement package includes the following:⁴

⁴ OTS produces summaries of the Deeds of Settlement entered into to settle historical claims. I have relied on the summary for the Ngāti Tama Deed of Settlement in preparing this summary: <https://www.govt.nz/treaty-settlement-documents/ngati-tama-taranaki/>

- (a) an agreed **historical account**. This details the breaches by the Crown of its Treaty obligations to Ngāti Tama which cumulatively left Tama virtually landless, including:
 - (i) the Crown's actions in the Taranaki Wars;
 - (ii) widespread unjust confiscation of Ngāti Tama land after the Taranaki Wars – this includes the land subject to the Mt Messenger Project;
 - (iii) the invasion of Parihaka; and
 - (iv) inadequate and unjust late 19th century and 20th century processes to investigate and compensate Ngāti Tama for land confiscations;
- (b) a Crown **acknowledgement and apology** for these actions;
- (c) **cultural redress**, recognising Ngāti Tama's associations with their area of interest. Cultural redress components include:
 - (i) statutory acknowledgements under the RMA and the (then) Historic Places Act 1993 of Ngāti Tama's special association with places in its area of interest. The areas of particular relevance to the Project include the Mt Messenger Conservation Area and the Mohakatino and Tongaporutu rivers;
 - (ii) deeds of Recognition, which require the Crown to consult with Ngāti Tama in respect of Crown management of eight specific areas. Again, the areas of particular relevance to the Project include the Mt Messenger Conservation Area and the Mohakatino and Tongaporutu rivers;
 - (iii) provision for protocols to be entered into between Ngāti Tama and a range of government agencies (notably the Department of Conservation ("**DOC**")), as well as Taranaki Regional Council and New Plymouth District Council, and other statutory entities;
 - (iv) the transfer from the Crown to Ngāti Tama of five sites of special significance to Ngāti Tama, subject (in most cases) to arrangements to provide for ongoing preservation of conservation values and public access. The five sites are:
 - (1) the Pukearuhe site;
 - (2) part of the Tongaporutu Conservation Area;
 - (3) the Uruti Conservation Area;

- (4) the Mt Messenger Scenic Reserve and part of the Mt Messenger Conservation Area; and
 - (5) part of the Whitecliffs Conservation Area;
- (v) the establishment of a Joint Advisory Committee ("**JAC**"), with three of the six members being Ngāti Tama representatives, two from DOC, and one from the Taranaki / Whanganui Conservation Board. The JAC:
- (1) provides advice to DOC on the management of the Whitecliffs Conservation Area (the part remaining in Crown ownership);
 - (2) approves conservation management plans for any marine reserve in the waters adjoining Ngāti Tama's area of interest;
 - (3) fulfils certain roles under the conservation covenant; and
 - (4) provides advice to Ngāti Tama on conservation matters in respect of the Whitecliffs, Uruti and Mt Messenger sites that were transferred to Ngāti Tama; and
- (d) **financial and commercial redress**, to recognise the economic loss suffered by Ngāti Tama as a result of Treaty breaches and allow Ngāti Tama to develop their social and economic wellbeing, including:
- (i) \$14.5 million in cash; and
 - (ii) a right of first refusal to buy (at market value) Crown land in the area of interest that becomes surplus (including the Tongaporutu Recreation Reserve, if its reserve status is ever lifted and the land is declared surplus).
36. The significant cultural redress package was a recognition of Ngāti Tama's deep traditional, historical, cultural and spiritual associations with its rohe (represented by its area of interest). It also reflects that there was little Crown land of commercial value available for the financial and commercial redress component of the settlement.⁵
37. The agreement by the Crown to transfer the Mt Messenger Scenic Reserve, and part of the Mt Messenger Conservation Area, was made at a late stage in negotiations and was at the time unprecedented in Treaty settlements. The result was that Ngāti Tama's Treaty settlement included the transfer of more conservation land than either the Waikato-Tainui

⁵ The Crown only provides Crown land as Treaty redress, as opposed to private land.

raupatu or Ngai Tahu settlement. My recollection is that this was necessary to secure Ngāti Tama support for the settlement, since the initial cultural redress offer was for a small number of small sites, and the financial redress and commercial opportunities were modest compared with Waikato-Tainui and Ngai Tahu.

Overlapping claims

38. The northern half of the Ngāti Tama rohe and a number of cultural redress properties proposed as redress in the Ngāti Tama Heads of Agreement triggered concerns from some Ngāti Maniapoto groups who claimed interests in land north of the “Wahai line”, including Mt Messenger and Whitecliffs Conservation Areas. This was the first major overlapping claims issue faced by the Crown in the modern Treaty negotiations process (although these issues have now become commonplace).
39. After further Crown research and mediation failed to resolve the issue, the Waitangi Tribunal agreed to hold an inquiry and found in its report dated 29 March 2001 that:

“While we believe that it would not be appropriate to delay the provision of redress to Ngāti Tama, the Crown has a responsibility to exercise caution in cases of overlapping claims. In our view, the Crown has done so in this case”; and

“... the Crown would not breach the principles of the Treaty of Waitangi by concluding a settlement of Ngāti Tama’s Treaty claims on the basis of the revised settlement package...”.

Post settlement governance entity

40. Ngāti Tama Iwi Development Trust decided to establish a private trust as its PSGE to hold and manage the Treaty settlement redress package, and be the contact point in respect of the statutory acknowledgements, deeds of recognition, and protocols. The trust was called Te Runanga o Ngāti Tama. Its structure was discussed with the Crown and approved by Ministers as representative of and accountable to all Ngāti Tama members.

Ratification

41. All registered adult members of Ngāti Tama were entitled to vote on the Deed of Settlement and the PSGE.
42. The Deed of Settlement (and therefore the settlement package) was ratified by 98% of those who voted – at the time this was the highest ratification result in Treaty settlement history and it has seldom been surpassed in subsequent settlements.

43. Te Runanga o Ngāti Tama was also ratified by a large majority of registered Ngāti Tama members who voted. Te Runanga remains the PGSE for the Ngāti Tama redress.

Implementation

44. The Deed of Settlement between Ngāti Tama and the Crown was signed on 5 November 2001. The Ngāti Tama Claims Settlement Act 2003 was then passed, and enshrined the settlement in law.
45. Although the settlement was described as comprehensive, it provided that redress in relation to Mount Taranaki would be subject to an ongoing negotiation process between the Crown and the eight recognised Taranaki iwi. The Taranaki maunga negotiations have been underway for two years. Te Runanga o Ngāti Tama represents Ngāti Tama in those negotiations and Greg White is their authorised negotiator.

ENGAGEMENT STRATEGY

46. In May 2016 I was asked to advise the Transport Agency on how to engage with mana whenua and Māori more generally in relation to the Mt Messenger to Awakino Programme. I met with the Transport Agency along with other cultural advisers in June 2016. I advised that Te Runanga o Ngāti Tama should be a key point of contact for Ngāti Tama interests, in particular with respect to the Mt Messenger Bypass which sat squarely within the rohe of Ngāti Tama as recognised in the Treaty settlement. We discussed that there was some division within Ngāti Tama but that Te Runanga was still the mandated body, particularly for issues affecting land that it owned.
47. We also discussed the particular challenge posed by the fact that all of the likely options for the Mt Messenger Bypass would require the use of some Ngāti Tama cultural redress land that was originally confiscated in breach of the Treaty, and then returned to the iwi in a Treaty settlement. I stressed the unique and unprecedented nature of this situation. Even at this early stage I was confident the Transport Agency understood and accepted that compulsory acquisition of Ngāti Tama Treaty settlement land would not be appropriate or feasible in this context.
48. We also discussed the interests of other recognised iwi groups, in particular Ngāti Mutunga to the south and Ngāti Maniapoto in the northern part of the Programme area. We also discussed Poutama and noted that all Māori groups that expressed an interest in the Project must be able to participate and have their views heard.
49. We then developed an engagement and negotiations strategy that:

- (a) gave appropriate status to the position of Ngāti Tama as landowners and Te Runanga as the authorised representatives for the iwi;
- (b) stressed the importance of the Transport Agency exhibiting the utmost good faith to Ngāti Tama, noting that due to the potential impact on Treaty settlement land, the process would need to be particularly focussed; and
- (c) noted the need for inclusivity, and the importance of maintaining contact with other iwi and Māori groups who wished to have their views heard.

ENGAGEMENT WITH NGĀTI TAMA

50. The Project sits within the Ngāti Tama rohe and as a result engagement with the iwi was always going to be central to the process. However, it was also clear that the Project would likely pass through land returned to Ngāti Tama as part of its Treaty settlement. Consequently, a particularly intensive and focused programme of engagement with Ngāti Tama was both necessary and appropriate.

Approach to Engagement with Te Runanga

51. As noted above, from the outset, it was clear the Project likely required land that was previously confiscated from Ngāti Tama and was then returned through a Treaty settlement. Consequently, a process was required that reflected the commitment to "*enhance the ongoing relationship between Ngāti Tama and the Crown*"⁶. The Transport Agency's position from the outset was that this situation needed to be approached with utmost care and respect for Ngāti Tama's interests.
52. From the start of our engagement Te Runanga made it clear they did not want any of their land to be taken for the project. For its part, the Transport Agency was clear that the project could not proceed without Ngāti Tama's consent for the acquisition and use of some of its land – in other words the Transport Agency conveyed that it was not seeking to rely on compulsory land acquisition powers in the Public Works Act 1981.

Forms of Engagement with Ngāti Tama

53. The Transport Agency's engagement with Ngāti Tama has taken place at a number of levels and in a range of different forums:
- (a) governance-level meetings between the Transport Agency and Te Runanga;
 - (b) the Multi Criteria Analysis ("**MCA**") process;

⁶ Clause 2.14 of the Ngāti Tama Deed of Settlement.

- (c) negotiations over compensation and mitigation;
 - (d) environmental assessment meetings;
 - (e) site meetings and fieldwork;
 - (f) meetings to establish a cultural monitoring framework;
 - (g) attendance by the Transport Agency at Ngāti Tama hui a iwi; and
 - (h) detailed design meetings.
54. I have attended and therefore have personal knowledge of most of the regular governance meetings, all of the negotiations meetings, one site visit, the cultural monitoring hui and the hui with Ngāti Tama members. I have also attended several of the more technical meetings.
55. I briefly expand upon each of these forms of engagement below.

Governance Meetings

56. Governance meetings were held on a regular basis between Te Runanga and senior Project team members. These were usually held in Taranaki but also took place in Wellington and Hamilton. These were opportunities to agree the engagement process between Te Runanga and the Transport Agency, introduce and then provide regular updates on the Project, confirm a workplan, provide oversight of specific issues such as the MCA process and mitigation negotiations, be a 'clearing house' for other issues such as land access arrangements, and act as a 'circuit breaker' as necessary.

Multi Criteria Analysis (MCA)

57. Te Runanga participated in the MCA process, in which they were exposed to the views of the full Transport Agency team of technical advisers as well as providing their own 'scores' focusing on the cultural impact of the various options for the route of the bypass.
58. In the assessment of Te Runanga, all of the options had a negative impact on cultural interests and values. The route ultimately chosen was the least harmful in the view of Te Runanga (apart from the online route). Te Runanga's views were significant in the Transport Agency's determination of the preferred route.

Compensation and Negotiation Meetings

59. In late 2016, Te Runanga identified a negotiation team to meet with the Transport Agency negotiators to meet regularly to negotiate the compensation and mitigation package associated with the Project.

60. These meetings were focussed on developing a formal agreement on how the Transport Agency would work with Ngāti Tama to limit any negative impact and maximise the benefits of the Project for Ngāti Tama. This agreement is still being negotiated.

Environmental Assessment

61. Te Runanga were invited to meetings with the Transport Agency and its advisers where the ecological and biodiversity impact of the project was discussed and the wider environmental offset and mitigation proposals were developed. Following the lodgement of the consent application, the Transport Agency funded Te Runanga to engage specialist independent advice on the proposed biodiversity mitigation package. Te Runanga engaged Boffa Miskell, who have met a number of times with Te Runanga and the Transport Agency's team to assist their understanding and analysis of the mitigation proposals.
62. In addition to these direct meetings, I understand the Transport Agency has also attended meetings of the JAC for Mt Messenger and Whitecliffs, chaired by Ngāti Tama.

Site meetings and fieldwork

63. Over the course of the Project, Te Runanga accompanied Transport Agency team members on a number of visits to the Project site – to review alternative routes, count and monitor wildlife and undertake other activities.

Cultural Monitoring Framework

64. On 15 May 2018 Te Runanga attended a meeting to begin the process of setting in place a framework for cultural monitoring of the Mt Messenger Project and the wider Programme Area.

Hui a Iwi

65. Te Runanga held several hui a iwi over the course of the negotiations.
66. The Transport Agency did not attend the first two hui a iwi but we provided factual information for Te Runanga to present at those hui, and following the hui we received reports from Te Runanga on the discussions and feedback from iwi members.
67. On 28 April 2018 the Transport Agency team attended a meeting called by Te Runanga at Pukearuhe marae which was originally intended to provide the Te Korowai group (which includes three suspended Trustees of Te Runanga) with an opportunity to attend and discuss the Project and the developing mitigation proposals with the Transport Agency, and to question the Transport Agency, the Alliance and Te Runanga. In the

event, Te Korowai members did not attend the hui but around 20 Ngāti Tama members were present and engaged critically and constructively. The Transport Agency presentation was subsequently provided to Te Korowai representatives.

68. The Transport Agency has been invited to attend a further hui a iwi on 2 June 2018.

Design meetings

69. Several meetings have taken place in the last two months to establish a framework for Ngāti Tama kaitiaki input into the detailed design of the Project, and a broad framework has been agreed for this to continue on an ongoing basis.

Key Steps in Engagement with Te Runanga

70. My first formal meeting with Te Runanga o Ngāti Tama was in July 2016 in New Plymouth. We met with six of the seven trustees to introduce the Programme and Project, and began to hold meetings on a monthly basis. In September 2016 we agreed on a framework and process for ongoing engagement and confirmed resourcing from the Transport Agency to facilitate Ngāti Tama's effective participation.
71. In August 2017 we were advised by the chair of Te Runanga that three of the seven trustees had been suspended from office for reasons unrelated to the Project. The chair of Te Runanga confirmed that they would continue to ensure that the suspended trustees were briefed on progress with discussions between Te Runanga and the Transport Agency. We have been provided by Te Runanga with evidence of this which has occurred through written updates. The suspended trustees were invited to a 28 April 2018 hui at Pukearuhe Marae (which the Transport Agency attended), but gave their apologies.
72. As noted above, Te Runanga played an active part in the MCA process conducted by the Transport Agency, along with a range of experts from various disciplines. Te Runanga was invited to provide a cultural 'score' for all of the options under consideration. These options and the Runanga position were also presented by Te Runanga to members at hui a iwi in July and December 2017.
73. Te Runanga prepared a cultural values assessment in relation to the Project which was submitted in December 2017.

Negotiation process

74. Notwithstanding its position on the use of their land, Te Runanga agreed to begin without prejudice negotiations over a possible mitigation and compensation package late in 2016 as the MCA process progressed. Te

Runanga appointed Greg White to lead the negotiations on their part and engaged a lawyer, Tama Hovell, to support Greg. Paul Beverley (a lawyer experienced in Treaty settlement and other negotiations with iwi) and I led the Transport Agency team.

75. We agreed with Ngāti Tama the scope and resourcing for negotiations. Meetings were held on a regular (often weekly) basis to identify and address the issues associated with the use of Ngāti Tama land and the overall impact of the Project on Ngāti Tama interests.
76. In May 2017, the Transport Agency became aware of a 120 hectare property in Gilbert Rd owned by Shell which was on the market and might be suitable as part of a land exchange in the event the Project proceeded. The Gilbert Rd property is close to Pukearuhe marae and would provide access to the Ngāti Tama Treaty settlement land at Paraninihi. The Crown acquired the Gilbert Rd property from Shell. The negotiations have included discussion of: the potential for an exchange of the Gilbert Rd property for the land required for the Project; the legal framework for First Gas to maintain its operations over part of the property; and the leasing of the property by Ngāti Tama pending its potential transfer if the Project proceeds.
77. The negotiation teams also worked through a range of other elements of a potential mitigation package.
78. On 10 December 2017 Te Runanga held a hui a iwi at Pukearuhe marae to update members on the project and the negotiations with the Transport Agency, and to seek endorsement for ongoing engagement with the Transport Agency. Following that meeting, on 19 December 2017 the Transport Agency and Te Runanga confirmed an ongoing commitment to reaching a final agreement including:
 - (a) recognition by the Transport Agency of the cultural association of Ngāti Tama with the Project Area;
 - (b) the land exchange involving Gilbert Rd;
 - (c) a cash payment to help address the cultural impact of the Project on Ngāti Tama interests;
 - (d) an environmental mitigation package including Ngāti Tama's ability to control and manage the mitigation on their ancestral lands;
 - (e) a process to help enhance the relationship between Ngāti Tama and DOC;
 - (f) commitments to maximise training, work, and business opportunities for Ngāti Tama members arising from the Project;

- (g) cultural input by Ngāti Tama into the design and implementation of the project; and
 - (h) cultural monitoring by Ngāti Tama of works associated with the Project.
79. Since January 2018 the negotiations teams have continued working to develop a final agreement. It is proposed that this will contain detailed commitments around all of the elements outlined above, including the establishment of a Trust Fund to be held in trust for Ngāti Tama cultural purposes. There will also be commitments of Transport Agency support for a formal structure for Ngāti Tama to work with Transport Agency over the course of the Project.
80. As at the date of this evidence being submitted, the negotiations are continuing. The parties have reached in principle agreement on almost all areas of a potential package, but some further discussions continue.
81. On 23 May 2018 we met in Hamilton. The Transport Agency gave an assurance to Te Runanga that due to the Treaty settlement context, the Transport Agency will not initiate the compulsory acquisition process under the Public Works Act 1981 in relation to the Ngāti Tama land sought for the Mt Messenger project. The land will only be acquired for the project with the agreement of Ngati Tama. In my view this is an important commitment and should put to rest any lingering concerns over echoes of raupatu of the 19th century. If a Resource Management Act 1991 ("**RMA**") consent is granted, Ngāti Tama consent to the acquisition of its land will still be required for this Project to proceed. This recognises the special status of this land to Ngati Tama as Treaty settlement land.
82. On 2 June 2018 we will attend part of a Ngāti Tama hui-a-iwi where we will present on aspects of the project and the proposed mitigation, and be available to answer questions. Te Runanga will then seek guidance from the hui on the position they will take into the hearing.
83. It will be for Ngāti Tama to decide whether the proposed package is sufficient to justify the acquisition of the Ngāti Tama land for the Project. In my view the negotiation process has been highly respectful of Ngāti Tama's interests and has been a proactive and positive process. The Transport Agency team has worked hard to understand the full impact of the Project on Ngāti Tama and offer meaningful and innovative mitigation and compensation for the impact on Ngāti Tama interests including the potential acquisition of Ngāti Tama land.

ENGAGEMENT WITH OTHER IWI AND MAORI GROUPS

84. **Ngāti Mutunga** is a recognised iwi of northern Taranaki whose northern boundary adjoins the southern boundary of Ngāti Tama, from Titoki ridge

to Huanui. The Mimi Stream which flows through the Project Area meets the sea within the Ngāti Mutunga rohe, and part of the Mt Messenger Conservation Area (although not any part of the Project Area) lies within the Ngāti Mutunga rohe. Consequently the Transport Agency made an effort to engage with Ngāti Mutunga at an early stage in the Project.

85. The Transport Agency attended hui with Ngāti Mutunga both on their marae at Urenui and provided regular updates on the Project. The consistent feedback from Ngāti Mutunga to the Transport Agency has been that the Transport Agency should continue its primary engagement with Te Runanga o Ngāti Tama.
86. **Ngāti Maniapoto** has previously expressed an interest in land as far south as the Wahanui line, which includes the entire Project area. Early in the Project the Transport Agency approached Ngāti Maniapoto to gauge its interest in the Project. Ngāti Maniapoto stated that although they claim interests into the area, they are willing to defer to Ngāti Tama in respect of the impacts of the Project. This position was recently affirmed in a hui in New Plymouth to discuss cultural monitoring processes.
87. **Ka Ru o Poutama** (Poutama) is another group that assert interests in the Project area although these interests and their status are disputed by recognised iwi.
88. Te Runanga o Ngāti Tama have advised that, 'Poutama' is an early name for Ngāti Tama, as reflected in the karakia that opens the Ngāti Tama deed of settlement:

Ka houpu te koonohi o Parininihi ki te moana

Ka rangona te puu o Poutama

Kaatahi ka kori nga moorehu i raro i te maunga
89. During the overlapping claims hearings in relation to the Ngāti Tama historical Treaty settlement, the Wai 577 claimants described themselves as descendants of Poutama, of Ngāti Maniapoto.
90. However, it is not necessary for the Transport Agency to take a view on the status of Poutama in order to engage with Poutama on the Project. That is not the Transport Agency's role. What matters is that Poutama is the entity that some Māori individuals with an ancestral association to the land in the Project area choose to represent them.
91. The Transport Agency therefore arranged to meet with Poutama early in the process. There have been several meetings with Poutama on several occasions at Tongaporutu and Mokau, where the Transport Agency provided information on the Project and options, and invited Poutama

feedback. Hard copies of Project information have also been couriered to Poutama on request.

92. From the first meeting, Poutama asserted a strong customary interest in the land subject to the Project, including the land owned by Te Runanga o Ngāti Tama. Poutama also expressed a wish to be part of the governance of the Project. The Transport Agency invited Poutama to prepare a cultural values assessment covering the Project area so as to provide an opportunity for information around those values to be considered. The Transport Agency was clear, however, that it would pay particular attention to the views of Ngāti Tama in respect of the land that they own as a result of their Treaty settlement.
93. In late April the Transport Agency met with a Poutama delegation to walk the northern route of the Project area, covering the Pascoes' Farm.

RESPONSE TO SUBMISSIONS AND SECTION 42A REPORT

94. I respond below to relevant issues raised in submissions on the Project and in the Section 42A Reports on the Project.

Submissions

95. Te Runanga o Ngāti Tama made a neutral submission which was consistent with the then stage in negotiations between the Transport Agency and Te Runanga.
96. There was no submission from Ngāti Maniapoto or Ngāti Mutunga – this accords with my understanding that those iwi are satisfied that Ngāti Tama plays the primary role in engaging with the Transport Agency on this Project.
97. The submission from Te Korowai mentions hapū of Ngāti Tama. I am not aware that there have been any extant and viable hapū of Ngāti Tama since before the Treaty was signed. I understand that Te Korowai will have the opportunity to express their views through the hearing process.
98. Poutama are concerned the Project does not have detail about how the cultural effects will be addressed. I understand that Poutama will have the opportunity to express their views through the hearing process.
99. Emily Tuhi Ao-Bailey expresses concerns about lack of engagement with Ngāti Mutunga and Poutama. As above, there has been Transport Agency engagement with both groups over the course of the Project.

Section 42A Reports

100. The Section 42A Reports in my view correctly categorise the nature and quality of the engagement between Te Runanga o Ngāti Tama and the Transport Agency. It is likely Te Runanga will work with the Transport

Agency over the course of the hearing to refine and agree consent conditions that recognise Ngāti Tama's relationship with their land and reflect the discussions and negotiations between Te Runanga and the Transport Agency.

101. The Section 42A Report notes the Transport Agency's intention not to invoke the compulsory acquisition powers of the Public Works Act to acquire the Ngāti Tama land. This assurance has now been provided formally to Te Runanga by the Transport Agency.
102. The mechanism for incorporating cultural aspects into the Project design has been largely agreed with Te Runanga and I expect the Agency will be able to explain that mechanism at the hearing.

Mike Dreaver

25 May 2018

