

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Proactive release – Ngāti Mutunga o Wharekauri – Increase in Total Settlement Value

Date of issue: 10 March 2023

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	Ngāti Mutunga o Wharekauri – Increase in Total Settlement Value <i>Cabinet committee paper</i> Office of the Minister for Treaty of Waitangi Negotiations 9 December 2020	Some information has been withheld in accordance with the following sections of the OIA: <ul style="list-style-type: none">• section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions; and• section 9(2)(j) to enable negotiations to continue.
2	Ngāti Mutunga o Wharekauri – Increase in Total Settlement Value <i>Cabinet committee minute – MCR-21-MIN-0018</i> Cabinet Office Meeting date: 14 December 2021	Some information has been withheld in accordance with the following section of the OIA: <ul style="list-style-type: none">• section 9(2)(j) to enable negotiations to continue.
3	Report of the Cabinet Māori Crown Relations: Te Arawhiti Committee: Period Ended 17 December 2021 <i>Cabinet minute – CAB-21-MIN-0538</i> Cabinet Office Meeting date: 20 December 2021	Some information has been withheld as out of scope.

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In Confidence

Office of the Minister for Treaty of Waitangi Negotiations

Chair, Cabinet Māori Crown Relations: Te Arawhiti Committee

Ngāti Mutunga o Wharekauri – Request for an increase in total settlement value**Proposal**

- 1 I seek Cabinet approval of [REDACTED] in new funding to enable the Crown to finalise negotiations towards an agreement in principle (AIP) with Ngāti Mutunga o Wharekauri (Ngāti Mutunga), to be charged against the between-Budget contingency established at Budget 2021. ONS
s9(2)(j)
- 2 The approval of this funding would increase the total settlement value (TSV) for Ngāti Mutunga from [REDACTED] including relativity mechanism implications. s9(2)(j)

Relation to government priorities

- 3 This proposal is directly related to the Government's priority: Making New Zealand Proud: Build closer partnerships with Māori: working to settle all historical Treaty settlements.

Background*Ngāti Mutunga o Wharekauri*

- 4 Ngāti Mutunga are an iwi of approximately 1,400 registered members and are represented in negotiations by Ngāti Mutunga o Wharekauri Iwi Trust. They are one of two groups on the Chatham Islands, with the other being Moriori.
- 5 Ngāti Mutunga first arrived on the Chatham Islands from Wellington in 1835, displaced by the Musket Wars in Taranaki. Their area of interest is fully overlapped with that of Moriori and covers the entirety of the Chatham Islands.
- 6 The Chatham Islands community is tightly knit, and many members have close ties with both groups. Due to the size and remoteness of the islands, groups work together to meet the needs of the broader community. [REDACTED] s9(2)(g)(i)

Regional negotiations approach

- 7 In 2016, the Crown began concurrent negotiations with both groups with the aim of achieving a settlement with each group and agreeing significant shared redress to be progressed through an additional deed and Bill.

A total regional settlement value was initially set, and offers were made, in 2017

- 8 In April 2017, Cabinet:
- 8.1 [REDACTED] s9(2)(j)
- 8.2 agreed to provide the Minister for Treaty of Waitangi Negotiations and the Minister of Finance delegated authority to approve individual quantum amounts for Moriori and Ngāti Mutunga within the TSV; and

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8.3 noted the Minister for Treaty of Waitangi Negotiations and the Minister of Finance intended this delegated authority will be mindful of the general relativity between the two groups [TOW 17 Min 0008 refers].

9 [REDACTED] Moriori accepted a revised offer including financial redress of \$18.000 million and signed a deed of settlement in February 2020.

s9(2)(j)
ONS

The Ngāti Mutunga o Wharekauri quantum offer was increased in 2018

10 In October 2018, Cabinet approved an increase to the Ngāti Mutunga offer to [REDACTED]

s9(2)(j)

11 [REDACTED]

s9(2)(j)

12 [REDACTED] The Crown's position is that it has two equal Treaty partners on the Chatham Islands – Moriori and Ngāti Mutunga. Quantum has been determined in line with standard Treaty settlement policy, taking into account the different circumstances of Moriori and Ngāti Mutunga.

s9(2)(j)

[REDACTED]

s9(2)(j)

Ngāti Mutunga have set out three matters to be resolved to proceed towards AIP

16 Ngāti Mutunga have outlined three matters to resolve to achieve an AIP and, ultimately, a settlement that recognises the mana of Ngāti Mutunga:

16.1 the transfer, as cultural redress, of certain sites forming part of the Chatham Island Hospital Block;

16.2 a Crown acknowledgement on the annexation of the Chatham Islands; and

16.3 [REDACTED]

s9(2)(j)

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Discussion

[Redacted]

s9(2)(j)

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[Redacted]

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2020 allocation of Hospital Block sites

21 There are six Treaty Settlement landbank (TSL) properties on Waitangi, Chatham Island, which are of significance to both Moriori and Ngāti Mutunga (Appendix 1). Of these, sites 2 – 5 (the Hospital Block sites) were part of a 1925 public works taking from Mitai Pupū (Tini) of Ngāti Mutunga for a hospital block.

22 In August 2019, I agreed to make final allocation decisions if Moriori and Ngāti Mutunga were unable to reach agreement prior to the finalisation of the Moriori Deed of Settlement. The two groups were unable to agree an allocation therefore, in February 2020, I offered:

22.1 site 1 and half of site 6 to Moriori as commercial redress; and

22.2 sites 2-5 and half of site 6 to Ngāti Mutunga (the allocated Hospital Block sites) with the transfer mechanism to be agreed during negotiations.

The transfer of these sites as cultural redress is necessary to achieve settlement

23 Ngāti Mutunga seek the transfer of the allocated Hospital Block sites as cultural redress and have made it clear this is essential to achieve AIP.

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24 The transfer as cultural redress reflects that the sites are primarily of cultural, importance to Ngāti Mutunga, and acknowledges their connection to a deeply felt, specific grievance of the Ngāti Mutunga community.

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s9(2)(j)
ONS

26 While previous discussions of the Hospital Block sites centred around transfer as commercial redress, I left open the possibility, while making my 2020 allocation, that the allocated sites could transfer to Ngāti Mutunga as cultural redress.

An increase in TSV is required to achieve this cultural redress transfer

s9(2)(j)

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Risks

s9(2)(j)

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ONS

Financial Implications

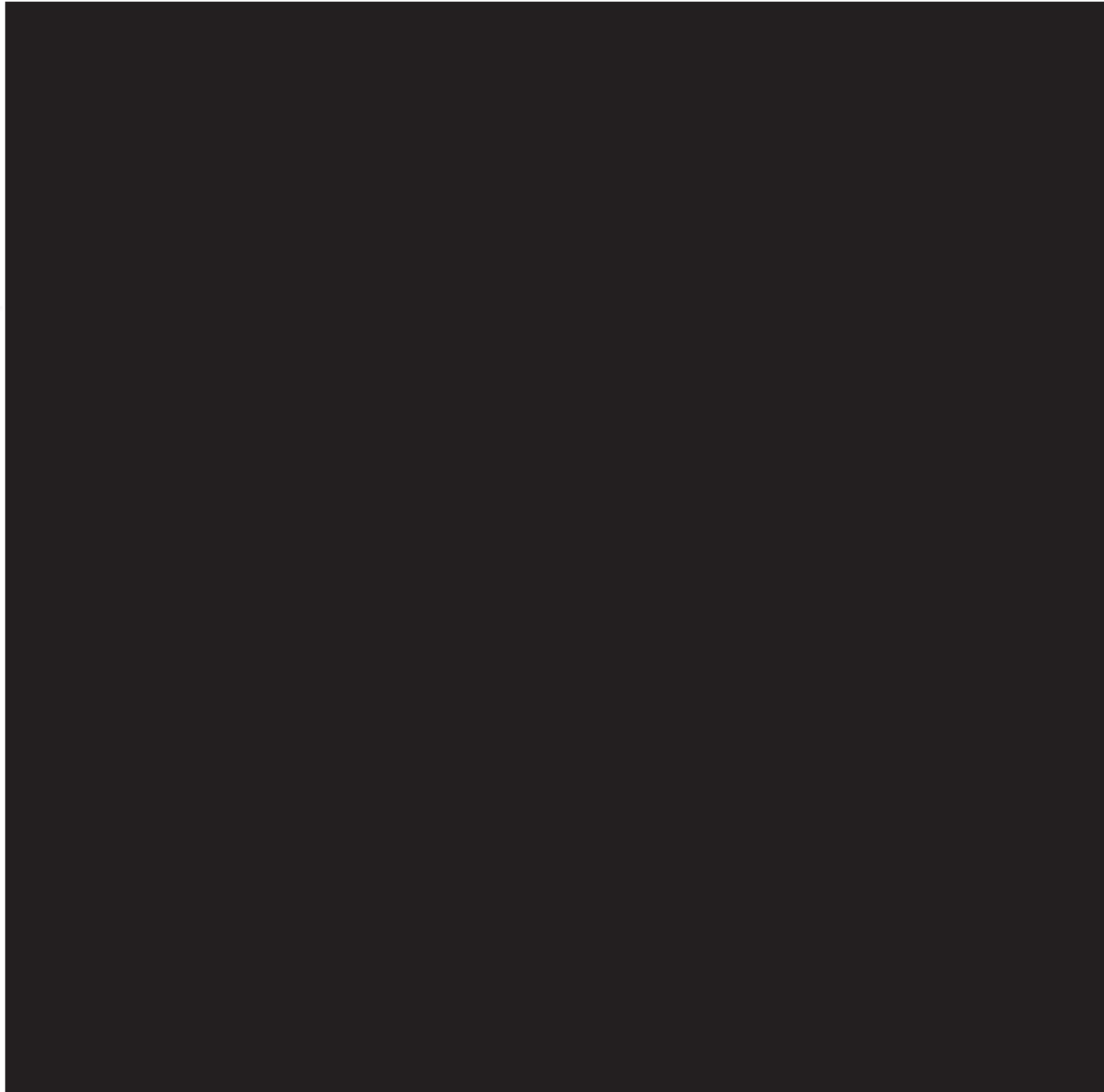
s9(2)(j)

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Legislative Implications

41 No legislative implications arise directly as a result of this paper.

Regulatory Impact Statement

42 A regulatory impact statement is not required because the proposal does not amend or affect existing regulatory arrangements.

Human Rights

43 The proposals outlined in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Consultation

44 This paper has been prepared in consultation with The Treasury, the Department of Conservation, Land Information New Zealand; and Te Puni Kōkiri have been briefed.

Communications

45 No specific publicity or communications plan is required in relation to this paper.

Proactive Release

46 This paper will be proactively released, with any necessary redactions, following the signing of an AIP.

Recommendations

The Minister for Treaty of Waitangi Negotiations recommends that the Committee:

Background to Ngāti Mutunga Treaty settlement negotiations

1 **note** the Crown has been in Treaty settlement negotiations with Moriori and Ngāti Mutunga o Wharekauri since 2016 and has signed Deed of Settlement with Moriori;

2 [Redacted] s9(2)(j)

3 [Redacted] s9(2)(j)

4 [Redacted] s9(2)(j)

5 **note** there are three matters to resolve to progress towards an agreement in principle – a Crown annexation acknowledgement, the transfer of Chatham Islands Hospital Block sites, [Redacted]

6 [Redacted] s9(2)(j)
s9(2)(j)

Seeking an increase in total settlement value to progress an agreement in principle

7 **note** certain Hospital Block sites were offered to Ngāti Mutunga in 2020, with the mechanism for transfer to be agreed through negotiations, and Ngāti Mutunga seeks these sites as cultural redress;

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s9(2)(j)

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s9(2)(j)

Risks and opportunities

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s9(2)(j)

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s9(2)(j)

Financial implications

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s9(2)(j)

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Authorised for lodgement

Hon Andrew Little

Minister for Treaty of Waitangi Negotiations

Appendix 1: Waitangi sites, Chatham Islands



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MCR-21-MIN-0018



Cabinet Māori Crown Relations - Te Arawhiti Committee

Minute of Decision

ONS

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Ngāti Mutunga o Wharekauri - Increase in Total Settlement Value

Portfolio Treaty of Waitangi Negotiations

On 14 December 2021, the Cabinet Māori Crown Relations - Te Arawhiti Committee:

Background to Ngāti Mutunga Treaty settlement negotiations

1 **noted** that the Crown has been in Treaty settlement negotiations with Moriori and Ngāti Mutunga o Wharekauri since 2016, and has signed Deed of Settlement with Moriori;

2 [REDACTED] s9(2)(j)

3 [REDACTED] s9(2)(j)

4 [REDACTED] s9(2)(j)

5 **noted** that there are three matters to resolve to progress towards an agreement in principle:

5.1 a Crown annexation acknowledgement;

5.2 the transfer of Chatham Islands Hospital Block sites;

5.3 [REDACTED] s9(2)(j)

6 [REDACTED] s9(2)(j)

Seeking an increase in total settlement value to progress an agreement in principle

7 **noted** that:

7.1 in 2020, certain Hospital Block sites were offered to Ngāti Mutunga, with the mechanism for transfer to be agreed through negotiations;

7.2 Ngāti Mutunga seeks these sites as cultural redress;

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[Redacted]

s9(2)(j)

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[Redacted]

s9(2)(j)

Risks and opportunities

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[Redacted]

s9(2)(j)

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[Redacted]

s9(2)(j)

Financial implications

s9(2)(j)

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[Redacted]

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Gerrard Carter
Committee Secretary

Attendees: (see over)

Present:

Hon Grant Robertson
Hon Kelvin Davis (Chair)
Hon Andrew Little
Hon Stuart Nash
Hon Peeni Henare
Hon Willie Jackson
Hon Kiri Allan
Hon Meka Whaitiri

Officials present from:

Office of the Prime Minister
Officials Committee for CMR

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CAB-21-MIN-0538



Cabinet

Minute of Decision

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Report of the Cabinet Māori Crown Relations: Te Arawhiti Committee: Period Ended 17 December 2021

On 20 December 2021, Cabinet made the following decisions on the work of the Cabinet Māori Crown Relations: Te Arawhiti Committee for the period ended 17 December 2021:

Out of scope

Out of scope

MCR-21-MIN-0018 Ngāti Mutunga o Wharekauri - Increase in
Total Settlement Value CONFIRMED
Portfolio: Treaty of Waitangi Negotiations

Out of scope

Out of scope

Michael Webster
Secretary of the Cabinet

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