

TERMS OF NEGOTIATION

BETWEEN WAIKATO-TAINUI AND THE CROWN

Background to the Claim

1. The Waikato Raupatu Claims Settlement Act 1995 (WRCS Act) gave effect to a Deed of Settlement between the Crown and Waikato-Tainui dated 22 May 1995, of certain raupatu claims of Waikato-Tainui, as referred to in that Act. This settlement did not include certain "excluded claims" (being Wai 30 by Robert Te Kotahi Mahuta, the Tainui Maaori Trust Board and Ngaa Marae Toopu) as defined in section 8(2) of the WRCS Act.
- 2A In this Terms of Negotiation the Outstanding Claims means certain excluded claims referred to in section 8(2) (a) (b) of the WRCS Act as follows:
 - a)
 - i) The Waikato River (being the claims set out in paragraph A1-5 of the statement of claim dated the 16th day of March 1987); and
 - ii) The West Coast Harbours, as defined in the Deed of Settlement (being the claims set out in paragraphs C8-9 of the Statement of Claim dated the 16th day of March 1987); and
 - b) Any claims by Waikato to the Wairoa block or the Waiuku block.
- 2B In addition to negotiating the Outstanding Claims defined in section 2A the Crown wishes to give priority at this time to the negotiations of all claims (registered or unregistered) of the hapuu of Waikato Tainui. The Crown acknowledges that the Co-negotiators and the Te Kauhanganui o Waikato Incorporated mandate at this time is limited to negotiating all Waikato Tainui River claims (registered or unregistered).
3. The Waikato River claim (being part of Wai 30) was filed in the Waitangi Tribunal on 16th March 1987, brought by Robert Te Kotahi Mahuta on behalf of himself, on behalf of Waikato-Tainui, and on behalf of the members of the Tainui Maaori Trust Board and Ngaa Marae Toopu. In respect of the Waikato River, the claimants state that Waikato-Tainui was prejudicially affected by the following acts, policies and omissions of the Crown:
 - "1. By which the ownership and mana of the Waikato River is denied to Waikato-Tainui.
 2. By which the waters of the Waikato River is desecrated, polluted, and depleted.
 3. In failing to recognise and protect Waikato-Tainui fisheries and lands in the Waikato River.
 4. By which Waikato-Tainui fisheries in the Waikato River have been depleted by pollution, over-fishing, and spiritual desecration.

5. In providing a legislative framework for land use planning, water use planning and resource planning which fails to properly take into account Waikato-Tainui concerns for the Waikato River and which is inappropriate for the protection of Waikato-Tainui rights guaranteed by the Treaty.”
4. The Waikato River, as referred to in the Deed of Settlement 1995:
 - “24.1.4 for Waikato – Tainui the Waikato River means “the Waikato River from the Huka Falls to the mouth and includes its waters, banks and beds (and all minerals under them) and its streams, waterways, tributaries, lakes, aquatic fisheries, vegetation and floodplains as well as its metaphysical being”.
5. In the Deed of Settlement dated 22 May 1995 the Crown acknowledged that raupatu was a breach of the Treaty of Waitangi and that the claim by Waikato-Tainui in relation to the Waikato River arises as a result of raupatu.
6. The late Sir Robert Te Kotahi Mahuta initiated negotiations of the Waikato River claim after the settlement until his untimely death in 2001.
7. By resolution on 19 June 2004 Te Kauhanganui o Waikato Incorporated (Te Kauhanganui) appointed Lady Raiha Mahuta and Tukoroirangi Morgan Co-Negotiators for the Waikato River claim.
8. By resolutions of September and December 2004 Ngaa Marae Toopu appointed Lady Raiha Mahuta and Tukoroirangi Morgan Co-Negotiators for the Waikato River claim.
9. Waikato-Tainui by the Tainui Maaori Trust Board/Waikato Raupatu Lands Trust has undertaken a considerable body of research (legal, historical, environmental) and reports to support the Waikato River claim and past negotiations and has incurred costs for the work to date (see Appendix I).
10. Waikato-Tainui has notified the Crown of the past costs incurred by Waikato-Tainui to support the negotiations initiated by Sir Robert Te Kotahi Mahuta in relation to the Waikato River claim.
11. The Crown has notified Waikato-Tainui that this matter will be addressed by the Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Finance.

Object of these Terms of Negotiation

12. This document, known as the Terms of Negotiation, sets out the scope, objectives and general procedures for formal discussions between the Crown (as defined in paragraph 26) and Waikato-Tainui (as defined in paragraph 21) as represented by the Waikato Raupatu Trustee Company Limited [WRTCL] as defined in paragraph 24), together with the Co-Negotiators Lady Raiha Mahuta and Tukoroirangi Morgan duly approved to conduct the negotiations, by Te Kauhanganui o Waikato Incorporated .
13. These Terms of Negotiation record the intentions of Waikato-Tainui, as represented by the WRTCL (the mandated body), to facilitate negotiations together with Lady Raiha Mahuta and Tukoroirangi Morgan (the Co-

Negotiators) and Te Kauhanganui o Waikato Incorporated (the decision making body) and the Crown regarding the negotiations process, including the intention to negotiate in good faith, confidentiality, and without prejudice.

14. These Terms of Negotiations are not legally binding and do not create a legal relationship. However, all the parties to this document acknowledge that each expects the other to comply with the terms set out in this document during the negotiations.

Mandate Recognition

15. The Crown received the Waikato-Tainui Deed of Mandate on 18 October 2004 (see Appendix II). The Deed of Mandate was publicly notified by the Office of Treaty Settlements on 5 March 2005 and *submissions* closed on 2 April 2005 (see Appendix III). The Minister in Charge of Treaty of Waitangi Negotiations accepted the Deed of Mandate by letter dated 19 May 2005 (see Appendix IV).

Scope of the Deed of Mandate

16. By the resolutions referred to in paragraphs 7 and 8, and by the acceptance of the Deed of Mandate by the Minister in Charge of Treaty of Waitangi Negotiations Waikato-Tainui and the Crown agree to:
 - a) recommence negotiations on the Waikato River;
 - b) provide the opportunity for hapuu, marae of the Maioro and Wairoa lands to enter into negotiations with the Crown; and
 - c) provide the opportunity for coastal hapuu, marae to enter into negotiations with the Crown concerning the West Coast harbours.

Objectives of the Negotiations

17. The Crown intends to achieve a settlement that will:
 - a) not diminish or in any way affect any rights that Waikato-Tainui has arising from Te Tiriti o Waitangi/ The Treaty of Waitangi and its principles, except to the extent that the claims arising from those rights are settled;
 - b) not extinguish any aboriginal or customary rights that Waikato-Tainui may have;
 - c) achieve a settlement that recognises the nature and extent of the breaches of the Crown's obligations to Waikato-Tainui in terms of Waikato-Tainui Outstanding Claims (with priority given to the Waikato River and as defined in paragraph 4) under Te Tiriti o Waitangi/ The Treaty of Waitangi and its principles;
 - d) provide assistance to Waikato-Tainui to redevelop their relationship with the Waikato River for future generations; and
 - e) restore the honour of the Crown.

18. Waikato-Tainui intends to:

- a) achieve terms for settlement to be put by the Co-Negotiators and WRTCL to Te Kauhanganui for approval;
- b) achieve terms for settlement that will restore and sustain the relationship of Waikato-Tainui with the Waikato River; and
- c) achieve terms for settlement that will assist to improve the quality and health of the Waikato River and its catchment area for the enjoyment of future generations;
- d) achieve terms for settlement for recognition and restoration of the whakataukii, unique to Waikato:

Ko Taupiri te maunga

Taupiri is the mountain

Ko Waikato te awa

Waikato is the river

Ko Te Wherowhero te tangata

Te Wherowhero is the man

Waikato taniwharau

Waikato of a hundred chiefs

He piko he taniwha

At every bend a chief

He piko he taniwha

At every bend a chief

He piko he taniwha!

At every bend a chief!

19. Waikato-Tainui and the Crown agree that the objectives of the negotiations will be to:

- a) recommence negotiations in good faith towards the achievement of a final and durable settlement of all the Waikato-Tainui Outstanding Claims (with priority given to the Waikato River and as referred to in paragraph 15 and 16) that is fair in the circumstances;
- b) achieve a settlement that will enhance the ongoing relationship between the Crown and Waikato-Tainui; and
- c) provide the opportunity for as many hapuu/marae as may be possible to enter into negotiations for the other outstanding claims namely West Coast Harbours, Maioro (also known as Waiuku) and Wairoa land blocks.

20. The Crown's objective is to give priority at this time to the negotiation and settlement of all claims (registered or unregistered) of the hapuu of Waikato Tainui as a part of a wider framework which will see all remaining Waikato-Tainui claims settled (preferably through one Deed of Settlement and one Bill). The Crown seeks the support of the Co-negotiators and Te Kauhanganui o Waikato Incorporated to assist the Crown to achieve this objective. Parties acknowledge that these Terms may be amended to reflect decisions made by hapuu of Waikato Tainui to include additional claims (registered or unregistered) as part of these negotiations.

Definition of Waikato-Tainui

21. Waikato-Tainui means the Waikato descendants of the Tainui Waka who suffered or were affected by the confiscation of their land by the New Zealand Government under the New Zealand Settlements Act 1863, being members of the following hapuu of Waikato and as defined in the public notification of the Deed of Mandate dated 5th March 2005 (see Appendix III):

Ngaitai	Ngaati Ruru
Ngaati Tamaaoho	Ngaati Werokoko
Ngaati Koheriki	Ngaati Paretekawa
Ngaati Te Ata	Ngaati Ngutu
Te Aakitai	Ngaati Hikairo
Ngaati Paretauuaa	Ngaati Puhiaawe
Ngaati Tiipaa	Ngaati Mahuta (North and South)
Ngaati Aamaru	Ngaati Te Wehi
Ngaati Naho	Ngaati Whawhaakia
Ngaati Hine	Ngaati Kuiaarangi
Ngaati Taratikitiki	Ngaati Tai
Ngaati Pou	Ngaati Raukawa ki Panehakua
Ngaati Maahanga	Ngaati Tahinga
Ngaati Tamainupo	Tainui-a-whiro
Ngaati Wairere	Ngaati Apakura
Ngaati Makirangi	Ngaati Hauaa
Ngaati Koroki	

Definition of Te Kauhanganui

22. Te Kauhanganui o Waikato Incorporated means the society established by Waikato-Tainui to achieve among other objects, as defined under clause B.3 (d) of its Rules:
- a) to protect, advance, develop, and unify the interests of Waikato;
 - b) to uphold and support the Kiingitanga (which incorporates the principles of unity, the retention of the tribal base in collective ownership and cooperation amongst peoples);
 - c) to foster amongst the members of Waikato-Tainui the principles of whakaiti, rangimaarie and kia tuupato;
 - d) to achieve a settlement of Waikato-Tainui's outstanding claims to the Waikato River, the West Coast Harbours and Wairoa and Maioro Land Blocks; and
 - e) to do or cause to be done all such other things as the members of Te Kauhanganui shall consider necessary or desirable for the attainment of all or any of the objects of Te Kauhanganui and for that purpose, inter alia, Te Kauhanganui shall own the shares of Waikato Raupatu Trustee Company Limited (trustee [inter alia] of the Waikato Raupatu Lands Trust).
23. In these negotiations, Te Kauhanganui o Waikato Incorporated is the approval and decision-making body for the achievement of any settlement.

Definition of Waikato Raupatu Trustee Company Limited

24. Waikato Raupatu Trustee Company Limited (WRTCL) means the company established, as set out at 2.1.1 (a)(b) of its constitution:

- a) to be the successor to the Tainui Maaori Trust Board pursuant to section 28 of the Waikato Raupatu Claims Settlement Act 1995; and
- b) to undertake activities and operations in its capacity as the trustee of the Waikato Raupatu Lands Trust, the Waikato Land Acquisition Trust, the trust created in respect of certain assets of the Tainui Maaori Trust Board by deed dated on or about the date of adoption of the rules of Te Kauhanganui or any other trust created from time to time by Te Kauhanganui (or with the approval of the members of Te Kauhanganui) for the benefit of Waikato (the "Trusts").

25. In these negotiations the WRTCL has the mandate to facilitate the negotiations.

Definition of the Crown

26. Since 1995 the definition of the Crown has been amended by the Public Finance Act 2004. The Crown now has the meaning given to it in section 2(1) of that Act which provides that the Crown:
- a) means the Sovereign in right of New Zealand; and
 - b) includes all Ministers of the Crown and all government departments; but
 - c) does not include:
 - i) an Office of Parliament; or
 - ii) a Crown entity; or
 - iii) a State Enterprise.

Mandate Maintenance

27. During the negotiation process, the Crown will be represented by the Minister in Charge of Treaty of Waitangi Negotiations and Waikato-Tainui will be represented by the Co-Negotiators. It is recognised that it is important to maintain consistency of leadership in the negotiations.
28. Reaffirmation of the Waikato-Tainui Mandate shall be sought at each Annual General Meeting or any other such formal meeting that may be called for:
- a) Te Kauhanganui o Waikato Incorporated
 - b) Waikato Raupatu Lands Trust
 - c) Ngaa Marae Toopu
29. Waikato-Tainui agrees to provide the Minister in Charge of Treaty of Waitangi Negotiations with reports on the state of the mandate, and the Minister agrees to ensure that the Office of Treaty Settlements will advise Waikato-Tainui of any correspondence it receives about the mandate of Waikato-Tainui.
30. Representation issues arising during negotiations will be resolved internally by the Co-Negotiators, the WRTCL and Te Kauhanganui. If representation issues arise during negotiations that cannot be resolved by agreement within Waikato-

Tainui, the Crown will discuss further with WRTCL a process to address those issues.

Subject Matter for Negotiation

31. The parties will together agree upon the subject matters to be negotiated. Any party may raise for discussion subject matters in addition to those agreed upon.

Negotiations Milestones

32. Waikato-Tainui and the Crown agreed that the general process of negotiations for the Waikato-Tainui Outstanding Claims (with priority given to the Waikato-River and as defined in paragraph 4) will include, but not necessarily be limited to:

- a) Draft Agreement in Principle

A draft Agreement in Principle will set out the scope and nature in principle of the terms for approval for settlement, which will be put by the Co-Negotiators and WRTCL through Te Kauhanganui for consultation with Waikato-Tainui.

- b) Agreement in Principle

The Agreement in Principle, which will be signed following consultation and the approval of Te Kauhanganui, will outline the scope and nature, in principle, of the settlement redress that will be recorded in the Deed of Settlement.

- c) Draft Deed of Settlement

A draft Deed of Settlement for Waikato-Tainui's Outstanding Claims (with priority given to the Waikato River and as defined in paragraph 4) will set out the terms and conditions for approval for settlement, which will be put by the Co-Negotiators and WRTCL through Te Kauhanganui for consultation with Waikato-Tainui.

- d) Initialled Deed of Settlement

Waikato-Tainui and the Crown negotiators initial the Deed of Settlement for Waikato-Tainui Outstanding Claims, which will set out the terms and conditions of the settlement of the Waikato-Tainui Outstanding Claims (with priority given to the Waikato River and as defined in paragraph 4).

- e) Ratification

An initialled Deed of Settlement will be presented by the Co-Negotiators and the WRTCL through Te Kauhanganui to Waikato-Tainui for ratification in a manner to be agreed by the parties.

- f) Deed of Settlement Signed if Ratified

If Waikato-Tainui ratifies the Deed of Settlement, in a manner agreed to by Te Kauhanganui and the Crown, the Deed of Settlement will be signed on behalf of Waikato-Tainui and by a Ministerial representative of the Crown.

Communication

33. The Co-Negotiators and the Crown will each:
- a) undertake regular and appropriate internal consultation procedures throughout the negotiations, taking into account the need to keep the claimant community informed, but also the need for confidentiality regarding third parties; and
 - b) agree to a formal communications strategy which sets out the key messages of the claim to support the progress of these negotiations.

Claims from others who are not Waikato Tainui (Cross claims)

34. Waikato-Tainui and the Crown agree that *cross* claims issues over redress assets will need to be addressed to the satisfaction of Waikato-Tainui and the Crown before a Deed of Settlement can be concluded.
35. The Co-Negotiators will discuss the interests of Waikato-Tainui with *cross* claimants at an early stage in the negotiation process and establish a process by which they can reach agreement on how such interests can be addressed.

Not Bound until Deed of Settlement

36. Waikato-Tainui and the Crown acknowledge that this document does not bind either party to reach a settlement and that any agreement reached in negotiation discussions is confidential, without prejudice and will not be binding until embodied in a Deed of Settlement.

Claimant Funding

37. The WRTCL and the Crown note that the Crown will make a contribution to the negotiation costs of Waikato-Tainui which is paid in instalments for the achievement of specified milestones in the negotiation process (as referred to in paragraph 32 above).
38. The WRTCL will provide the Crown with independently audited accounts yearly for the claimant funding that it receives from the Crown as referred to in paragraph 37 above, identifying how the funding has been spent.

Other Avenues of Redress

39. The Crown notes that it does not negotiate and litigate at the same time. In the event that WRTCL pursues or initiates, before any court or tribunal, any proceedings for redress covering all or part of the same subject matter as these negotiations and the claims that are within the scope of these negotiations, the Crown will withdraw from negotiations.

Procedural matters

40. Waikato-Tainui and the Crown agree that:
- a) negotiations will be on a “without prejudice” basis and will be conducted in good faith and in a spirit of co-operation;

- b) negotiations will be conducted in private and will remain confidential unless agreed otherwise (such as when consultation with third parties is necessary) or when the Crown is required to release information under the Official Information Act 1982;
- c) both parties will act honourably and reasonably in negotiating the settlement;
- d) either party reserves the right to withdraw from negotiations if the negotiations become untenable;
- e) the Co-negotiators will advise the Minister in Charge of Treaty of Waitangi Negotiations on the steps taken to consult with and inform Waikato-Tainui of the progress of the negotiations;
- f) media statements concerning the negotiations will only be made when mutually agreed by both parties; and
- g) the location, times, and frequency of meetings will be suitable and convenient to both parties.

Amendments

- 41. Waikato-Tainui and the Crown acknowledge that it may be necessary to amend these Terms of Negotiation from time to time and agree that all amendments must be approved by the parties to this Terms of Negotiation and recorded in writing.

SIGNED THIS 20th DAY OF DECEMBER 2006

For and on behalf of the Crown:



Hon Minister in Charge of Treaty of Waitangi Negotiations

For and on behalf of Waikato-Tainui:

Signed by the Co-Negotiators

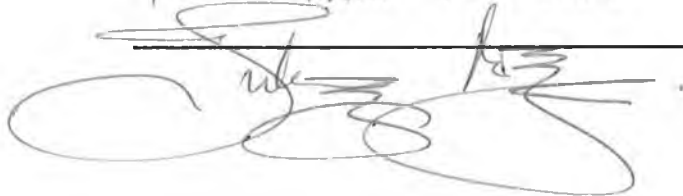
Raika Mahuta

Printed Name:

R. Mahuta

TUKOPOURANGI MORGAN

Printed Name:



Witnessed by:



Chairperson of Te Kauhanganui o Waikato Incorporated

These Terms of Negotiation were approved by Te Kauhanganui o Waikato Incorporated by resolution dated 26 November 2005 (Appendix V).

APPENDIX I

Reports Submitted to the Crown

REPORTS SUBMITTED TO CROWN

The following reports were submitted to the Crown, through the Minister for Treaty Negotiations at the time, the Rt Hon Margaret Wilson, in 2000 on the Waikato River Claim:

1. **The Waikato River Report**, Confidential Working Document. Volume 1: Historical Report, Centre for Maaori Studies and Research, University of Waikato, 1999.
2. **The Waikato River Report**, Confidential Working Document. Volume 2: Environmental Report, Centre for Maaori Studies and Research, University of Waikato, 1999.
3. **The Waikato River Report**, Confidential Working Document. Volume 3: Legal Report, Centre for Maaori Studies and Research, University of Waikato, 1999.
4. **Resolving the Waikato River Claim: A Discussion of Issues**, prepared for the Waikato Raupatu Lands Trust, by Muldoon and Scrimgeour, 2000.
5. **Tainui Maaori Trust Board Costs 1 April 1994- 31 March 1998**.

APPENDIX II

Deed of Mandate

DEED OF MANDATE



WAIKATO RAUPATU TRUSTEE COMPANY LIMITED

2004

DEED OF MANDATE

CONTENTS

1. **Executive Summary**
2. **Claimant Group**
3. **Governance Structure**
4. **The Claims**
5. **Co-Negotiators**
6. **References**

1. EXECUTIVE SUMMARY

- 1.1 The Waikato Raupatu Trustee Company Limited ('WRTCL') wishes to re-commence direct negotiations with the Crown in terms of the outstanding claims excluded from the 1995 Deed of Settlement.
- 1.2 Scoping discussions with Hon Ministers Cullen and Wilson lead WRTCL to believe that a goodwill relationship still exists within the apology of 1995 and the openness of discussions with Ministers and officials to date.
- 1.3 The passage of the Foreshore and Seabed legislation which impacts upon the harbours and river, cannot be ignored by WRTCL. A generic undertaking to be included in the text of the Bill may also have limitations.
- 1.4 WRTCL prefers a model of co-operation which could achieve Crown outcomes as well as satisfy tribal aspirations and endeavours.
- 1.5 In the summary edition of *Ka tika aa muri, ka tika aa mua*, the Office of Treaty Settlements proposes models and processes which Waikato-Tainui have already undergone. The enclosed references support this statement.
- 1.6 WRTCL submits this Deed of Mandate on the understanding that there remains a contract to conclude which is unique to Waikato-Tainui and the Crown alone and one which requires early resolution.

Dated this

15 day of October

2004



Kingi M Porima
CHAIRMAN

Te Kauhanganui o Waikato (Inc)
Waikato Raupatu Trustee Company Ltd

2. CLAIMANT GROUPS

2.1 Waikato Raupatu Trustee Company Limited ('WRTCL')

This company was established 16 March 1999 –

- (a) to be the successor to the Tainui Maaori Trust Board ('TMTB') pursuant to section 28 of the Waikato Raupatu Claims Settlement Act 1995 ('WRCSA'); and
- (b) to undertake activities and operations in its capacity as the trustee of the Waikato Raupatu Lands Trust ... for the benefit of Waikato. (1)

The WRTCL has full mandate to negotiate the outstanding claims of Waikato-Tainui provided that its representative body and sole shareholder, Te Kauhanganui o Waikato (Inc) approves the conduct and outcome of the negotiations through this electoral college system. (2).

2.2 Ngaa Marae Toopu

This organisation evolved during the late 60's in response to particular concerns of Marae in terms of maintaining unity within Kingitanga and to act as the tribal conscience for tikanga (protocol) within the movement.

Approximately 90 Marae affiliate to Ngaa Marae Toopu one third of which are outside the Raupatu boundary area that are united through Kiingitanga.

Ngaa Marae Toopu financed a number of pre-land settlement events and supported the TMTB in its quest for affidavit information and research, underwriting of major consultation hui and support for the CoalCorp Case to the Wellington High Court. In May 1995, a successful conclusion to the Raupatu Settlement was held at Turangawaewae Marae.

As an original claimant WRTCL welcomes the continued support of Ngaa Marae Toopu in these current negotiations.

The two main claimant groups are the Waikato Raupatu Trustee Company Limited and Ngaa Marae Toopu.

(1)Waikato Raupatu Trustee Company Limited; Constitution pp1

(2)Te Kauhanganui o Waikato (Inc); Rule p17

3. GOVERNANCE STRUCTURE

3.1 Te Kauhanganui o Waikato (Inc) was established amongst other objects at d) -

to achieve a settlement of Waikato's outstanding claims to the Waikato River, the West Coast Harbours and Wairoa and Maoro Land Blocks; and ... (3)

3.2 Te Kauhanganui comprises 3 members of each of the 65 Marae who authorised the signing of the land settlement. Members represent the views of youth, elders and the Marae itself. (4) (5)

3.3 Te Kauhanganui comprises 195 representatives who have been elected by the Marae. In turn, these 195 members represent an electoral college system of some 47,000 beneficiaries. (6) (7)

3.4 Te Kauhanganui Executive comprise 12 elected members (Te Kaumaarua) who also become directors of WRTCL as trustees of WRLT. (8).

(3) Te Kauhanganui o Waikato (Inc); Rule B3 d) objects p17

(4) Annual Report 2003; p14

(5) Te Kauhanganui o Waikato (Inc); Rule Second Schedule p37

(6) Tribal Register – Marae and Hapuu Statistics, August 2004

(7) Te Kauhanganui o Waikato (Inc); Rule B6.1-B6.4-5 Membership p22-26

(8) Te Kauhanganui o Waikato (Inc); Rule B16-B23 pp29-35

4. THE CLAIM

4.1 The Claim concerns those historical claims excluded by the 1995 Deed of Settlement arising out of the loss of land and of an interest in land in the Waikato-Tainui claim area by Raupatu and including -

(i) parts of the Wai 30 claim to the Waitangi Tribunal namely:-

- Statement of Claim of 16 March (#1.1 on Waitangi Tribunal record);
- Amended Statement of Claim 16 March 1987 (#1.1(a));
- Letter of 10 August 1987 (#1.1(b)); and
- Statement of Claim 17 June 1991 (#1.1 (c)). (9)

4.2 Excluded claims means

(i) any claims by Waikato-Tainui to the rivers and harbours within the Waikato-Tainui rohe and to the Wairoa and Waiuku blocks and including those parts of the Wai 30 claim to the Waikato River and the West Coast harbours. (10)

(9) Deed of Settlement 1995; p40

(10) Deed of Settlement 1995; Excluded Claims 24.1-24.5 & 6 pp31-33 definitions p36 (i)

4.3 **Statement of Claim**

The Waikato River

1. By which the ownership and mana of the Waikato River is denied to Waikato-Tainui.
2. By which the waters of the Waikato river is desecrated, polluted and depleted.
3. In failing to recognise and protect Waikato-Tainui fisheries and lands in the Waikato river.
4. By which Waikato-Tainui fisheries in the Waikato river have been depleted by pollution, overfishing and spiritual desecration.
5. In providing a legislative framework for land use planning, water use planning and resource planning which fails properly to take into account Waikato-Tainui concerns for the Waikato river and which is inappropriate for the protection of Waikato-Tainui rights guaranteed by the Treaty.

The West Coast Harbours

By which the ownership and control of Waikato-Tainui lands and fisheries in the Kaawhia, Whaingaroa, Aotea and Manukau harbours have been denied to Waikato-Tainui or not recognised by the Crown and by which the mana of those harbours is denied to Waikato-Tainui

By which the West Coast harbours have been polluted and desecrated and by which the fisheries of Waikato-Tainui in those harbours have been depleted and denied. (11)

- 4.4 West Coast Harbours means the harbours of Kaawhia, Aotea, Whaingaroa and Manukau including their waters, their beds and their foreshores. (12)

(11) Statement of Claim, 16 March 1987, A1-5, C 8.9.

(12) Deed of Settlement 1995; definitions p40

5. THE CO-NEGOTIATORS

- 5.1 At a meeting of the WRTCL 9 February 2004, the following resolutions were passed:

THAT Lady Mahuta be appointed Negotiator
MOVED : Te Tokanganuianoho Marae
SECONDED : Purekireki Marae

THAT Tukoroirangi Morgan be appointed Negotiator
MOVED : Waahi Marae
SECONDED : Maketu Marae

- 5.2 At a Special General Meeting on 19 June 2004, Te Kauhanganui o Waikato (Inc) voted on above resolutions and the Returning Officer from the Maaori Land Court made the following statement:

Clause 10, Voting Results, p49 Te Kauhanganui o Waikato (Inc) minutes 19 June 2004 -

The voting process met all legal requirements. There were 64 forms printed and 55 Marae voted. 9 Marae were not in attendance. The result is that the two nominees passed the threshold – Lady Mahuta with 72.8% and Tukoroirangi Morgan with 57.5%.

- 5.3 The enclosed Terms of Reference refers to an information brief provided to Te Kauhanganui members and WRTCL to indicate the current thinking and Ministerial responses at the pre-negotiation or scoping phase.
- 5.4 The Terms of Reference backgrounds the claims, discusses the impact of the Foreshore and Seabed proposal, and scopes the objectives and structure of the negotiations.
- 5.5 The role of the co-negotiators is specifically set out to ensure lines of authority and management of the negotiations is professionally undertaken.
- 5.6 The role of other representatives, advisers and the claims negotiation unit support the protocols established for a positive outcome. (13)

6. REFERENCES

Deed of Settlement 22 May 1995

Deed Creating the Waikato Raupatu Lands Trust
11 November 1995

Waikato Raupatu Trustee Company Limited Constitution
6 March 1999

Te Kauhanganui o Waikato (Incorporated) Rules
• Rules – Doc Ref 312671 V8 DMA

Annual Report 2003

Tribal Register 24 August 2004

Terms of Reference 24 May 2004

Statement of Claims

APPENDIX III

Public Notification of Deed of Mandate



Waikato – Tainui

Notification of Mandate to Negotiate Historical Treaty of Waitangi Claims

In March 1987, the historical claims filed by Sir Robert Mahuta on behalf of himself, Waikato-Tainui, the Tainui Māori Trust Board and Ngāa Mārae Toopu (Wal 29, Wal 30) were claims to the Waikato River, Raupatu lands and West Coast Harbours. The two main claimant groups are the Waikato Raupatu Trustee Company Ltd (as successor to the Tainui Māori Trust Board) and Ngāa Mārae Toopu.

In October 2004, the Office of Treaty Settlements received a Deed of Mandate from the Waikato Raupatu Trustee Company Ltd. The Deed states that the Waikato Raupatu Trustee Company Ltd has the mandate to recommence negotiations on the claims to the Waikato River excluded from the 1995 Deed of Settlement between Waikato-Tainui and the Crown, provided that the representative body and its sole shareholder, Te Kauhanganui o Waikato (Inc) approve the conduct and outcome of the negotiations through its electoral college system.

The Deed of Mandate also recognises Ngāa Mārae Toopu as an original claimant and Ngāa Mārae Toopu has confirmed the Deed of Mandate at their meetings of 19 September 2004 and 6 December 2004. The Deed of Mandate also states that at a meeting of the Waikato Raupatu Trustee Company Ltd on 9 February 2004, Lady Ralhe Mahuta and Mr Tukoroirangi Morgan were appointed Co-Negotiators. At a special general meeting on 19 June 2004, Te Kauhanganui o Waikato (Inc) ratified this decision.

The Waikato Raupatu Trustee Company Ltd co-negotiators have gained the authority to:

- recommence negotiations on the Waikato River;
- provide the opportunity for hapuu/marae of the Māoro and Wairoa lands to enter into negotiations with the Crown;
- advise the hapuu who have other claims that the Crown wishes to negotiate their claims and to report back to Te Kauhanganui and Waikato Raupatu Trustee Company Ltd on their responses; and
- provide the opportunity for coastal hapuu/marae to enter into negotiations with the Crown concerning the West Coast Harbours.

Waikato-Tainui means:

- I. the Waikato descendants of the Tainui waka. The 33 hapuu of Waikato named in the 1995 Deed of Settlement are those Waikato Tainui descendants who suffered from the Land confiscations (raupatu) in the 1860s and exercised customary interests within the Waikato-Tainui rohe prior to the Land confiscations;
- II. members of the following hapuu/descent groups: Ngaati, Ngaati Tamaoho, Ngaati Koheriki, Ngaati Te Aha, Te Aakihia, Ngaati Paretauua, Ngaati Tipaa, Ngaati Aamaru, Ngaati Naho, Ngaati Hine, Ngaati Taratikitiki, Ngaati Pou, Ngaati Ruru, Ngaati Werokookoo, Ngaati Paretekawaa, Ngaati Ngutu, Ngaati Hikairo, Ngaati Puhiaue, Ngaati Mahuta (North & South), Ngaati Te Wehi, Ngaati Whawhaakia, Ngaati Kulaarangi, Ngaati Tai, Ngaati Maahanga, Ngaati Tamainupo, Ngaati Wairere, Ngaati Makirangi, Ngaati Koroki, Ngaati Raukawa ki Panehakua, Ngaati Tahinga, Tainui-a-Whiro, Ngaati Apakura and Ngaati Hauaa.

The existing marae of Waikato-Tainui include: Aotearoa, Te Kaharoa (Aramiro), Aruka, Hiona, Hoe-o-Tainui, Horahora, Hukanui, Kahotea, Kai-a-te Mata, Kaitumutumu, Makaurau (Ihumatao), Maketuu, Te Tihī o Moerangi (Makomako), Mangatangī, Mangatoatoa, Maungatautari, Maurea, Mookai Kalinga, Mootakotako, Ngāa Hau e Whāa, Ngaatālerua, Ngaatira, Okapu, Okara, Omaero, Te Poho o Tanikena (Opuatia), Ooreroa, Owairaka, Te Taumata (Paaraawera), Poihaakena, Poohara, Pukerewa, Puukaki, Puurekireki, Reakaunui, Raungati (Waharoa), Reretewhioi, Rukumoana, Tahunakaito, Tongoa (Tanwha), Tauhei, Taupiri, Tauranganui, Te Aakau, Te Awamaarahi, Te Iti-a-Hauaa (Tauwhare), Te Kauri, Te Koopua, Te Kooraha, Te Kotahitanga, Te Ohaaki, Te Papatapu, Te Papaorotu, Te Puea, Te Tokanganui-a-noho, Tikirahi, Tuurangawaeae, Umupua, Waahi, Waikare, Waikaretuu, Tangirau (Waikari), Waimakariri, Waingarō, Walpapa, Waiti and Whaataapaka.

The Crown understands that the other historical claims of Waikato-Tainui that relate to the Waikato River include Wal 8, Wal 306, Wal 330, Wal 508, Wal 537, Wal 776 and Wal 1017, or parts thereof.

The objective of Waikato-Tainui and the Crown is to settle these claims, and any other historical claims of Waikato-Tainui that relate to the Waikato River, whether registered or unregistered, arising out of or relating to Crown actions or omissions before 21 September 1992, in the negotiations.

Any person who believes that he or she may be a member of Waikato-Tainui and who is not already registered with Waikato-Tainui should contact the Waikato Raupatu Trustee Company Ltd, 451 Old Taupiri Road, Private Bag 542, Ngāaruawhia. Phone (07) 842 8889 or 0800 TAINUI, fax (07) 824 5133 email: Tainui@tainui.co.nz

The Office of Treaty Settlements invite submissions, views or inquiry about the above Deed of Mandate.

Submissions must reach the Office of Treaty Settlements no later than Saturday 2 April 2005. The Waikato Raupatu Trustee Company Ltd will be given copies of any correspondence received in relation to their Deed.

Submissions should be forwarded to The Director, Office of Treaty Settlements, PO Box 919, Wellington. Phone (04) 494 9800, fax (04) 494 9801, email: waikatotainuisubs@justice.govt.nz

APPENDIX IV

Crown Recognition of Deed of Mandate



Office of Hon Mark Burton, M.P. for Taupo
Minister in Charge of Treaty of Waitangi Negotiations
Minister of Defence
Minister of Tourism
Deputy Leader of the House

19 MAY 2005

Lady Raiha Mahuta
Waikato Raupatu Trustee Company Ltd
Private Bag 542
NGARUAWAHIA

Tēnā koe Lady Raiha

WAIKATO-TAINUI DEED OF MANDATE

Thank you for submitting your Deed of Mandate on 18 October 2004. We also acknowledge receipt of your letter dated 15 April 2005.

Officials have now completed an assessment of the Deed of Mandate. Based on this assessment, we have concluded that the Waikato Raupatu Trustee Company Ltd (WRTCL) has the support of Waikato-Tainui to commence settlement negotiations with the Crown over the Waikato River. We are therefore pleased to recognise your mandate to do so.

As you are aware, the Crown is committed to settling all the claims of Waikato-Tainui that were set aside in 1995 for future negotiations. The Crown wishes to achieve settlement of these claims in a timely fashion. We have therefore agreed to negotiate the River claims first as a part of a wider framework which will see all remaining Waikato-Tainui claims settled (preferably through one Deed of Settlement and one Bill).

During the submissions process, Nganeko Minhinnick of Ngāti Te Ata and Taotao Tauroa of Pōhara Pā made submissions in which they express some apprehension about the mandate of WRTCL but note their willingness to meet with the WRTCL and co-negotiators to discuss issues raised in their submissions and to reach agreement on the way forward. We note that other submitters seek clarification of WRTCL's role with regard to the mandating and negotiation processes for the Maoro and Wairoa blocks and the West Coast harbours.

Your letter of 15 April 2005 proposes a process by which the WRTCL and co-negotiators will meet with these submitters. We encourage you to undertake the process you have outlined to ensure that Waikato-Tainui members continue to engage in and support the negotiation process.

There are some second order issues associated with the Deed of Mandate which it would be useful for WRTCL to confirm with the Crown before the Terms of Negotiations are signed. Dean Cowie, Manager – Policy and Negotiations at the Office of Treaty Settlements will contact you shortly to discuss the next stage of the settlement process.

Finally, we wish to congratulate you and the rest of WRTCL for your hard work and the leadership you have shown to get Waikato-Tainui to this point. We look forward to working with you to implement the agreed mandating and negotiating framework to settle all of the outstanding Waikato-Tainui claims.

Nā māua noa atu

A handwritten signature in black ink, appearing to read 'Mark Burton', written in a cursive style.

Hon Mark Burton
Minister in Charge of Treaty of
Waitangi Negotiations

A handwritten signature in black ink, appearing to read 'P. T. Horomia', written in a cursive style.

Hon Parekura Horomia
Minister of Māori Affairs

APPENDIX V

Resolutions of Te Kauhanganui o Waikato Incorporated

Dated 26 November 2005

**RESOLVED AT A SPECIAL GENERAL MEETING OF
TE KAUHANGANUI O WAIKATO (INC)
SUNDAY 20 NOVEMBER 2005**

OUTSTANDING CLAIMS

THAT the Te Kauhanganui considers the Terms of Negotiation for the Outstanding Claims on the Waikato River.

MOVED : WAAHI PAA

SECONDED : PUUREKIREKI MARAE

CARRIED

**RESOLVED AT A WAIKATO RAUPATU TRUSTEE COMPANY LIMITED
BOARD MEETING HELD
FRIDAY 25 NOVEMBER 2005**

OUTSTANDING CLAIMS

THAT the Board consider a late entry resolution to the AGM should the Terms of Negotiation be approved by the Minister.

MOVED : R SCHAAFHAUSEN

SECONDED : T MAHUTA

CARRIED

**RESOLVED AT THE 2005 ANNUAL GENERAL MEETING OF TE
KAUHANGANUI O WAIKATO (INC)
SATURDAY 26 NOVEMBER 2005**

OUTSTANDING CLAIMS

THAT the Te Kauhanganui o Waikato reaffirms Lady Mahuta and Tukoroirangi Morgan as co-negotiators.

MOVED : TUURANGAWAEWAE MARAE

SECONDED : TAURANGANUI MARAE

CARRIED

THAT the Te Kauhanganui o Waikato approves the amended Terms of Negotiations.

MOVED : WAAHI PAA

SECONDED : TUURANGAWAEWAE MARAE

CARRIED