

**CROWN EXPECTATIONS  
AND MATTERS FOR AGREEMENT**

**BY THE CROWN  
AND  
Ngaitai Iwi Authority**

## **Crown Expectations for Treaty Settlement Negotiations**

### **Purpose of this document**


1. This document:
  - 1.1. records the Crown's expectations for negotiating the settlement of historical Treaty of Waitangi claims with Ngaitai Iwi Authority; and
  - 1.2. is not legally binding and does not create a legal relationship.

### **Objective of the Negotiations**

2. The Crown's objective of the negotiations is to negotiate in good faith a settlement of the historical claims of Ngai Tai that:
  - 2.1. is comprehensive, final, durable, and fair in the circumstances;
  - 2.2. recognises the nature, extent and injustice of breaches of the Crown's obligations to Ngai Tai under Te Tiriti o Waitangi / The Treaty of Waitangi and its principles and, where appropriate, acknowledges the effect of these breaches on the economic, social, cultural, and political well-being of Ngai Tai;
  - 2.3. provides a platform to assist Ngai Tai to develop their economic base. In addition, the Crown acknowledges that Ngai Tai may view the settlement as a means of enhancing their social, cultural, and political development;
  - 2.4. enhances the ongoing relationship between the Crown and Ngai Tai (both in terms of Te Tiriti o Waitangi / The Treaty of Waitangi and otherwise);
  - 2.5. restores the honour of the Crown; and
  - 2.6. demonstrates and records that both the Crown and Ngaitai Iwi Authority have acted honourably and reasonably in negotiating the settlement.

### **Actions Enabled by Final Settlement of All Claims**

3. The final settlement of all the historical claims of Ngai Tai will:
  - 3.1. enable the final settlement of all historical claims of Ngai Tai, and the release and discharge of all of the Crown's obligations and liabilities in respect of those claims;
  - 3.2. discontinue of the Office of Treaty Settlements landbank arrangement for the protection of potential settlement properties for the benefit of Ngai Tai;
  - 3.3. provide that the following enactments will not apply to any property transferred to Ngai Tai under the settlement or any right of first refusal (RFR) land, for the benefit of Ngai Tai:
    - 3.3.1. Part 3 of the Crown Forest Assets Act 1989;
    - 3.3.2. sections 568 to 570 of the Education and Training Act 2020;
    - 3.3.3. Part 3 of the New Zealand Railways Corporation Restructuring Act 1990;



- 3.3.4. sections 27A to 27C of the State-Owned Enterprises Act 1986;
- 3.3.5. sections 8A to 8HJ of the Treaty of Waitangi Act 1975.
- 3.4. remove any resumptive memorials entered on a record of title under any of the following enactments for any property transferred to Ngai Tai under the settlement or any right of first refusal (RFR) land:
  - 3.4.1. section 27A of the State-Owned Enterprises Act 1986;
  - 3.4.2. section 568 of the Education and Training Act 2020;
  - 3.4.3. section 38 of the New Zealand Railways Corporation Restructuring Act 1990.
- 3.5. remove the jurisdiction of the courts, the Waitangi Tribunal, and any other judicial body or tribunal in respect of the historical claims of Ngai Tai, the deed of settlement, the redress provided or settlement legislation (but not for the removal of such jurisdiction in respect of the implementation or interpretation of terms in any deed of settlement or any settlement legislation); and
- 3.6. discontinue any legal proceedings or proceedings before the Waitangi Tribunal in relation to the historical claims of Ngai Tai.



#### **Matters Unaffected by Settlement**

- 4. The settlement will not:
  - 4.1. diminish or in any way affect any rights that Ngai Tai have arising from Te Tiriti o Waitangi / The Treaty of Waitangi and its principles, except to the extent that claims arising from those rights are settled;
  - 4.2. extinguish or limit any aboriginal or customary rights that Ngai Tai may have; or
  - 4.3. have the effect of granting, creating, or providing evidence of any rights or interests under the Marine and Coastal Area (Takutai Moana) Act 2011, nor does it affect the ability of the iwi or hapū to make applications for recognition of protected customary rights or for customary marine title under the same Act, or pursue any other remedies available to them.
- 5. In addition, the settlement is not intended to affect any decision, proposal, or report of Te Ohu Kaimoana either under the Māori Fisheries Act 2004 or in respect of the "fisheries" Deed dated 23 September 1992.

#### **Definitions**

- 6. The Crown's understanding is that the deed of mandate for Ngaitai Iwi Authority sets out:
  - 6.1. that Ngaitai Iwi Authority is the representative body mandated by Ngai Tai; and
  - 6.2. who Ngai Tai is and the scope of their historical Treaty of Waitangi claims.
- 7. The definition of Ngai Tai and Ngai Tai historical claims may be further developed by the Crown and Ngaitai Iwi Authority during the negotiations for inclusion in the deed of settlement.

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8. The Public Finance Act 1989 contains a definition of the Crown.

#### **Other Matters**

9. This document, and any negotiations held, do not bind the parties to reach a settlement. All agreements reached during negotiation are not binding on either party until and unless expressly provided for in the signed deed of settlement and settlement legislation.
10. Crown guidance on the process for negotiations is set out in *Healing the Past, Building a Future: A Guide to Treaty of Waitangi Claims and Negotiations with the Crown*.

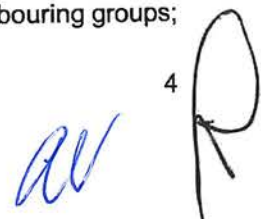
#### **Claimant Funding**

11. The parties acknowledge that the Crown will make a contribution to the negotiation costs of Ngai Tai. This contribution will be paid in instalments for the achievement of specified milestones in the negotiation process.
12. Ngaitai Iwi Authority will adhere to the Office for Māori Crown Relations – Te Arawhiti's claimant funding policy guidelines. In particular, before each instalment of claimant funding is approved, Ngaitai Iwi Authority will provide the Crown with invoices that demonstrate that the previous instalment of claimant funding was applied to negotiation expenses.
13. Ngaitai Iwi Authority will also provide the Crown with independently audited accounts for the claimant funding that it receives from the Crown, certifying that the funding has been spent on the negotiations.

#### **Matters for Agreement by Crown and Ngaitai Iwi Authority**

14. The Crown and Ngaitai Iwi Authority (**the parties**) agree:
- 14.1. negotiations will be on a "without prejudice" basis and will be conducted in good faith and a spirit of open communication;
  - 14.2. negotiations will be conducted privately and in confidence between parties unless the parties agree otherwise;
  - 14.3. any agreement reached in the course of negotiations will remain confidential to the parties unless they agree otherwise;
  - 14.4. to make media statements only when mutually agreed;
  - 14.5. the Crown may be required by law to release information about the negotiations (for example, under the Official Information Act 1982);
  - 14.6. they may agree to extend their confidential negotiations to include other interested groups:
    - 14.6.1. the extended negotiations can apply to some or all of the issues in the negotiation;
    - 14.6.2. other interested groups included in the extended negotiations will be expected to agree to the same obligations of confidence to join the negotiations;
    - 14.6.3. for example, the Crown and Ngaitai Iwi Authority may agree to include one or more neighbouring groups in negotiations to jointly address common redress sought by the groups and the overlapping interests of the neighbouring groups;


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- 14.7. to ensure regular and appropriate internal communication procedures through the negotiations;
- 14.8. Ngaitai Iwi Authority will provide the Office for Māori Crown Relations – Te Arawhiti with reports on the state of its mandate every three months and OTS will advise Ngaitai Iwi Authority of any correspondence it receives about the mandate of Ngaitai Iwi Authority;
- 14.9. during negotiations neither Ngaitai Iwi Authority nor the registered claimants of Ngaitai will pursue any legal proceedings relating to the subject matter of negotiations; and
- 14.10. if Ngaitai Iwi Authority or the registered claimants initiate legal proceedings, the Crown will consider its position and may withdraw from negotiations.


### **Overlapping Interests**

15. The overlapping interests of all groups, either settled or unsettled, must be addressed to the satisfaction of the Crown before a deed of settlement is initialled.
16. Redress negotiated as part of the deed of settlement may need to reflect the significance of an area or feature to overlapped groups. Non-exclusive redress instruments may be used.
17. The Crown will encourage Ngaitai Iwi Authority to engage with neighbouring groups from the outset of negotiations to agree how any interests in overlapped areas should be provided for.
18. The Crown will assist Ngaitai Iwi Authority by providing information on proposed redress items to groups with overlapped interests and facilitating discussions to resolve issues.
19. The Crown's preference is that groups decide between them how best to deal with overlapped interests. If this is not possible, a Ministerial decision may be necessary.
20. Where the Crown is engaged in negotiations with claimant groups whose rohe overlap, the Crown will regularly update each mandated body on the progress of each negotiation (but will preserve any necessary confidentiality of information in those negotiations).
21. Where the Crown becomes aware that the mandated representative of another claimant group has expressed an interest in potential settlement assets or redress in which Ngaitai Iwi Authority has also expressed an interest, the Crown, before finally offering the particular redress item or asset for inclusion in a settlement, will:
  - 21.1. notify Ngaitai Iwi Authority of the shared interest; and
  - 21.2. facilitate a discussion between the relevant mandated representatives in order to attempt to resolve, at an early stage, any potential conflicts between claimant groups about the potential redress.

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SIGNED THIS DAY OF

For and on behalf of the Crown:



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Hon. Andrew Little

**Minister for Treaty of Waitangi Negotiations**

For and on behalf of Ngaitai Iwi  
Authority:



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Anaru Vercoe

**Chairperson**