

NGĀTI TŪWHARETOA
and
HER MAJESTY THE QUEEN

In right of New Zealand

High Level Agreement

December 2013

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Introduction

- 1 This document is a High Level Agreement between Ngāti Tūwharetoa and Her Majesty the Queen (the **Crown**) (together, **the Parties**). It shall be referred to as the High Level Agreement.

Objective

Ko Tongariro te maunga

Ko Taupō te moana

Ko Ngāti Tūwharetoa te iwi

Ko Te Heuheu te tangata

- 2 This High Level Agreement records the matters to be negotiated with a view to signing an agreement in principle in September 2014 giving effect to the objectives of the historical Treaty settlement between Ngāti Tūwharetoa and the Crown (as set out in clause 5 of the terms of negotiation, dated 14 January 2013).
- 3 In negotiating a Treaty settlement, Ngāti Tūwharetoa's overarching aspiration is for their tino rangatiratanga¹ and kaitiakitanga over their taonga tuku iho to be restored and enhanced in recognition of the mana of Ngāti Tūwharetoa.
- 4 Ngāti Tūwharetoa's priorities for the historical Treaty settlement are:

Kia tū rangatira ki ōna maunga;

Kia kauria nga wai tukukiri o ōna tīpuna;

Kia ngongo anō te ia ki te waiū o Pihanga

Kia kōrerotia tōna reo ki tōna taiāo, āo i te pō, pō i te āo.²

- a to give effect to the true spirit of the tuku of Te Kāhui Maunga, recognise the mana of Ngāti Tūwharetoa and restore the tino rangatiratanga and kaitiakitanga of Ngāti Tūwharetoa in relation to Te Kāhui Maunga and Tongariro National Park. It is anticipated that collective redress will be developed in conjunction with the other iwi that have interests in Tongariro National Park;
- b to recognise the relationship of Ngāti Tūwharetoa with their lakes, rivers and geothermal taonga within their rohe and to provide for their tino rangatiratanga and kaitiakitanga in relation to those taonga in recognition of their mana;
- c to strengthen the mana, tino rangatiratanga and kaitiakitanga of Ngāti Tūwharetoa hapū by adopting a hapū-focussed process that will deliver meaningful redress for hapū issues;
- d to strengthen and support Ngāti Tūwharetoa's cultural identity;

¹ Traditionally the term 'rangatiratanga' was not recognised in the vocabulary of Ngāti Tūwharetoa, who were not signatories to the Treaty of Waitangi. Ngāti Tūwharetoa understood the meaning of mana.

² To stand noble upon their mountains; to bathe in the healing waters of their forebears; to be nourished by the life giving bosom of Pihanga; to speak the language of their natural world, day to night, and night to day.

- e to provide a platform that will assist Ngāti Tūwharetoa and their hapū to develop their economic base and to enhance their social, cultural and political development; and
- f to strengthen the Treaty partnership between Ngāti Tūwharetoa and the Crown.

Process to Date

- 5 On 28 August 1992, Ngāti Tūwharetoa entered into an agreement with the Crown whereby the title to the Taupō Waters (the bed of Lake Taupō (current recorded name Lake Taupo (Taupomoana)) and its tributaries, as set out in the schedule to the proclamation made on 7 October 1926 and amended by proclamation dated 18 February 1927) was vested in the Tūwharetoa Māori Trust Board on behalf of the iwi. The Parties acknowledge that this agreement and the successive deed, dated 10 September 2007, did not settle any of Ngāti Tūwharetoa's historical claims.
- 6 In 1996, the late Sir Hepi te Heuheu, Te Ariki o Ngāti Tūwharetoa, filed the Ngāti Tūwharetoa Comprehensive Claim, Wai 575, in the Waitangi Tribunal on behalf of ngā hapū o Ngāti Tūwharetoa. In time that claim was inherited by the current Ariki Sir Tumu te Heuheu and it was under his mana that the claim was heard. In addition, a number of hapū advanced their own hapū claims.
- 7 In March 2004, the Crown formally recognised the mandate of the Tūwharetoa Hapū Forum to negotiate the settlement of all Ngāti Tūwharetoa historical claims against the Crown.
- 8 In late 2004, Ngāti Tūwharetoa decided to progress Ngāti Tūwharetoa's claims through the Waitangi Tribunal prior to entering direct negotiations.
- 9 The Treaty claims of Ngāti Tūwharetoa have been heard by the Waitangi Tribunal in the following inquiries:
 - a The Central North Island Inquiry, which produced the He Maunga Rongo report (2008);
 - b The National Park Inquiry, which produced the Te Kāhui Maunga report (2013);
 - c The Whanganui Inquiry, for which a report is yet to be released;
 - d Te Rohe Pōtae Inquiry, which is currently in hearing; and
 - e Taihape and Porirua ki Manawatū Inquiries, which are yet to be heard.
- 10 From November 2007 to June 2008, Sir Tumu te Heuheu led the CNI Forests Iwi Collective in settlement negotiations with the Crown in relation to the historical CNI forests land claims. Ngāti Tūwharetoa participated as a member of the CNI Forests Iwi Collective to address the historical claims of Ngāti Tūwharetoa relating to CNI forests land.
- 11 Following ratification by the iwi members, on 25 June 2008 Ngāti Tūwharetoa signed the CNI Forests Land Collective deed of settlement. That deed records the agreement between the CNI Forests Iwi Collective and the Crown to settle the historical CNI forests land claims.
- 12 The CNI Forests Land Collective Deed of Settlement has been given legislative effect through the enactment of the Central North Island Forests Land Collective Settlement Act 2008. Pursuant to that act "on account" financial redress was provided to Ngāti Tūwharetoa

as part of their future comprehensive settlement. The CNI Forests Land Collective Deed of Settlement is presently being implemented.

- 13 In November 2011, the Crown recognised the reconfirmed mandate of the Tūwharetoa Hapū Forum to negotiate a comprehensive settlement of Ngāti Tūwharetoa's remaining historical claims.
- 14 On 14 January 2013, the Parties entered into terms of negotiation that set out the scope, objectives and general procedures for the negotiations.
- 15 Negotiations have now reached a stage where the Parties wish to enter into this High Level Agreement recording that they are willing to progress negotiations towards an agreement in principle on the basis set out in this agreement and having regard to the historical claims addressed in the CNI Forests Land Collective deed of settlement.

Overview

- 16 This High Level Agreement sets out:
 - a a process by which Ngāti Tūwharetoa and the Crown will negotiate further redress following the signing of this High Level Agreement, with specific processes outlined for significant elements of redress including Te Kāhui Maunga, natural resource redress and cultural redress; and
 - b issues that the Parties agree are beyond the scope of these negotiations and how these issues will be independently advanced, as set out in clauses 28 - 29 below.
- 17 This High Level Agreement sets out the elements of redress identified by Ngāti Tūwharetoa as priorities in the negotiations:
 - a Te Kāhui Maunga;
 - b water and geothermal resources;
 - c strengthening hapū;
 - d historical account, Crown acknowledgements and apology;
 - e other cultural redress; and
 - f quantum and financial and commercial redress.
- 18 Any redress developed will be consistent with Crown policy on historical Treaty of Waitangi settlements.

Te Kāhui Maunga

Ko Tongariro te maunga. Tongariro is synonymous with Ngāti Tūwharetoa. Our taonga tapu is a majestic reminder of our past and the deeds of our tupuna Ngātoroirangi. The current status of Ngā Pae Maunga Tapu under Crown ownership puts it beyond our ability to exercise our kaitiakitanga and symbolises the present diminished state of our iwi. Our future as Ngāti Tūwharetoa is inextricably bound to Te Kāhui Maunga.

- 19 Ngāti Tūwharetoa aspire to secure redress that gives effect to the true spirit of the tuku of the mountain peaks by Horonuku Te Heuheu in 1887. The Waitangi Tribunal found that the tuku was not an English-style gift, but an invitation to the Queen to share in the protection of the sacred maunga ("mo te Rahui whenua ka whakatapua nei mo te Iwi ki Tongariro").³ Ngāti Tūwharetoa aspire to secure the restoration of their tino rangatiratanga and kaitiakitanga over Te Kāhui Maunga and Tongariro National Park in recognition of their mana, by seeking redress for:
- a fresh arrangements for the ownership and legal status of Tongariro National Park; and
 - b the participation of tangata whenua in governance and integrated management of Tongariro National Park, in accordance with the tikanga and values of Ngāti Tūwharetoa and other tangata whenua.
- 20 The Crown and Ngāti Tūwharetoa acknowledge that other iwi and hapū have interests in Tongariro National Park and agree that those iwi with interests must actively engage in redress discussions, with a view to negotiating a collective redress model for the benefit of the iwi with interests in Tongariro National Park.
- 21 The Crown has not yet recognised the mandate of those other claimant groups. While those groups are in the process of obtaining a Crown recognised mandate, Ngāti Tūwharetoa intends to work with them in accordance with Ngāti Tūwharetoa's traditional whanaungatanga to identify relevant tikanga, values and principles and develop joint redress options.
- 22 The Crown and Ngāti Tūwharetoa agree that as soon as practicable they will work with the mandated representatives of other iwi and hapū with interests in Tongariro National Park to agree on collective redress in relation to Te Kāhui Maunga and Tongariro National Park.

Water and geothermal resources

Ngāti Tūwharetoa Aspirations

- 23 Ngāti Tūwharetoa's aspirations in relation to the lakes, rivers and geothermal taonga within its rohe are to secure:
- a recognition of Ngāti Tūwharetoa mana and provision for Ngāti Tūwharetoa tino rangatiratanga and kaitiakitanga according to tikanga and kawa, including social, economic, cultural and spiritual relationships;
 - b a governance framework for the water and geothermal resources of the Taupō catchment that:

³ The language used by Horonuku te Heuheu in his letter of 23 September 1887, cited in Waitangi Tribunal's *Te Kāhui Maunga: The National Park District Inquiry Report* (2013), Vol 2, at p443.

- i provides for an effective governance partnership between Ngāti Tūwharetoa, the local authorities and government agencies;
 - ii provides for an integrated and holistic approach to management;
 - iii provides for Ngāti Tūwharetoa tikanga and values in statutory planning instruments; and
 - iv affords Ngāti Tūwharetoa tikanga and values priority in water and geothermal resource use decisions;
- c alleviates the degradation of and protects the health and wellbeing of the lakes, rivers and geothermal features, including Te Wai U o Tūwharetoa;
 - d alleviates the degradation of and protects the fishery, including in particular the indigenous fishery;
 - e returns geothermal features;
 - f provides fair redress for historic claims, including commercial assets or opportunities; and
 - g recognition of and provision for Ngāti Tūwharetoa's Treaty, or aboriginal title or customary rights, or any other legal or common law rights. This includes provision being made for Ngāti Tūwharetoa's interests in any future policy reform in relation to water and geothermal resources, including the introduction of economic interests such as a market-based regime for resource allocation.

Background to negotiations on natural resources

- 24 In 2012, in response to concerns raised by Ngāti Tūwharetoa, the Crown provided assurances that the sale of shares in State-Owned Enterprises would not prejudice Ngāti Tūwharetoa's rights and interests in the water and geothermal resources used by those companies and would not inhibit the Crown's ability to provide redress for Ngāti Tūwharetoa's historical or contemporary claims.
- 25 Following an engagement in good faith between the Ariki Sir Tumu te Heuheu and the Deputy Prime Minister in 2012, the Crown acknowledged that:
- a Ngāti Tūwharetoa's historical and contemporary issues relating to natural resources intersect;
 - b the Treaty settlement negotiations pathway provides considerable scope for innovative solutions and it may be possible to achieve through that pathway holistic and mutually acceptable outcomes concerning Ngāti Tūwharetoa's interests in natural resources;
 - c Ngāti Tūwharetoa is participating in the discussions between the government and the Freshwater Iwi Leaders Group on Maori rights and interests in water (**ILG discussions**) within the context of the wider work on improving the water management system as a whole and that process may assist the resolution of Ngāti Tūwharetoa's contemporary concerns; and
 - d the historical Treaty negotiations will be led by the Minister for Treaty of Waitangi Negotiations and the ILG discussions by the Minister for the Environment and the Deputy Prime Minister and Minister of Finance would

maintain some involvement in each area. All three Ministers would meet with the Ariki from time to time to take stock of progress.

- 26 The terms of negotiation records at clause 5 (b) that one objective of the negotiations is to negotiate a settlement that recognises the relationship of Ngāti Tūwharetoa with their taonga, including their lakes and rivers and geothermal resources.
- 27 The terms of negotiation also records at clause 9 the Crown's acknowledgement that, in light of the objectives identified in clause 5, the negotiations would require the involvement of the Deputy Prime Minister and Minister of Finance, Minister for the Environment and Minister of Conservation.

Agreed processes for natural resources

- 28 The Crown and Ngāti Tūwharetoa agree that:
- a Ngāti Tūwharetoa's historical claims will be addressed through the historical Treaty settlement process, as set out in clause 30; and
 - b in the ILG discussions on water reform, the Crown and ILG will discuss Māori rights and interests in water and (to the extent they relate to the RMA and water) geothermal resources. Those discussions and any subsequent reforms, are likely to occur on a longer timeframe than this Treaty settlement negotiation.
- 29 The Crown acknowledges that these processes may not fully address Ngāti Tūwharetoa's aspirations in relation to natural resources, as set out in clause 23. The Crown and Ngāti Tūwharetoa will seek to reach agreement on a process for progressing Ngāti Tūwharetoa's aspirations in a timely fashion for inclusion in the agreement in principle.
- 30 Following the signing of this High Level Agreement, the Crown and Ngāti Tūwharetoa will explore natural resources redress through:
- a historical grievances being set out in the agreed historical account;
 - b in consultation with local authorities, cultural redress arrangements that will enhance the participation of Ngāti Tūwharetoa in decision making in relation to the management of water, geothermal and land resources within their area of interest (within the parameters set by existing Cabinet guidelines for natural resource redress in Treaty settlements); and
 - c other redress, which could include, for example, redress in relation to geothermal taonga.
- 31 It is intended that the agreement in principle and deed of settlement will contain an acknowledgement by the Crown that the settlement will not affect any rights of Ngāti Tūwharetoa in relation to water and geothermal resources, including any rights iwi and hapū or other Ngāti Tūwharetoa entities may have in relation to aboriginal title or customary rights or any other legal or common law rights.

- 32 The Crown agrees that it will not:
- a establish a regime of tradeable rights or tradeable permits in water within Ngāti Tūwharetoa's area of interest;
 - b establish or confer management or use rights of a nature and/or duration that in effect create rights of property in the waters of the Waikato River or Lake Taupō or other waters within the area of interest; or
 - c finalise policy or introduce any legislation which in effect amounts to the privatisation of the waters within Ngāti Tūwharetoa's area of interest;

without first engaging with Ngāti Tūwharetoa in good faith.

Strengthening Hapū

- 33 One of Ngāti Tūwharetoa's primary settlement objectives is to strengthen the mana, tino rangatiratanga and kaitiakitanga of Ngāti Tūwharetoa hapū. Ngāti Tūwharetoa aspires to achieve this objective through the provision of:
- a a hapū-focussed settlement process that delivers meaningful redress for hapū or local issues and which recognises the need for equity between hapū;
 - b redress that strengthens and support Ngāti Tūwharetoa's cultural identity;
 - c redress that protects and enhances sites of special significance, flora, fauna and other taonga; and
 - d redress that improves the ability of hapū to exercise their kaitiakitanga.
- 34 The Crown and Ngāti Tūwharetoa agree that following the signing of this High Level Agreement they will work together to develop a suitable process, in consultation with hapū, for identifying and providing specific redress for in the agreement in principle specific redress to address the grievances of hapū in the agreement in principle or clusters of hapū. In so doing, the Crown and Ngāti Tūwharetoa will consider the need for equity between hapū or clusters of hapū.
- 35 Hapū grievances cover a range of issues. A range of redress mechanisms will be required to address hapū grievances and may include:
- a statutory vesting (gifting);
 - b a relationship agreement with the Department of Conservation, as set out in clause 41 below;
 - c other cultural redress, including statutory recognition instruments such as overlay classifications;
 - d statutory acknowledgments and deeds of recognition; and
 - e such other redress mechanisms that may be agreed between the Crown and Ngāti Tūwharetoa.
- 36 The terms of any redress will provide for existing third party rights and interests:

Sites of cultural significance

- 37 Tūwharetoa Hapū Forum has consulted extensively with Ngāti Tūwharetoa hapū regarding sites of cultural significance. Over 2,500 sites have been identified within the Ngāti Tūwharetoa rohe.
- 38 The Western Bay area of Lake Taupō is of special significance to all of Ngāti Tūwharetoa. A large number of pā and wāhi tapu associated with early Ngāti Tūwharetoa tūpuna are situated on land in this area administered by the Department of Conservation, including the land extending from the mouth of the Kuratau River around Western Bay to Kawakawa Bay and Whakaipo Bay.
- 39 Ngāti Tūwharetoa aspire to secure the effective protection of these wāhi tapu in perpetuity in accordance with Ngāti Tūwharetoa tikanga by securing a meaningful role as kaitiaki in relation to public conservation land in the Western Bay area of Lake Taupo.
- 40 The Department of Conservation also administers other land that is of significance to Ngāti Tūwharetoa, including Pureora Forest Park, Rangitukia Reserve, Tokaanu swamplands, Tokaanu hot springs, Maunganamu, Pihanga Scenic Reserve, Kaimanawa Forest Park, Motuocapa, Motutere Scenic Reserve, Hātepe Scenic Reserve and the Aratiatia Rapids Scenic Reserve, amongst others.
- 41 Following the signing of this High Level Agreement, the Crown and Ngāti Tūwharetoa will explore, for inclusion in the agreement in principle, the development of a relationship agreement with the Department of Conservation that will provide for Ngāti Tūwharetoa mana whakahaere and kaitiakitanga in the governance and management of sites of significance situated on the public conservation land that is located outside Tongariro National Park.

Sites of significance to be gifted

- 42 The Crown and Ngāti Tūwharetoa agree that following the signing of this High Level Agreement, the Crown and Ngāti Tūwharetoa will complete work to identify sites that are eligible for gifting redress and work together in consultation with hapū to prioritise redress to be included in the agreement in principle.

Historical Account, Crown Acknowledgements and Crown Apology

- 43 The historical account, Crown acknowledgements and apology are fundamental to the settlement between the Crown and Ngāti Tūwharetoa. The agreement in principle will contain an overview of the historical account agreed to by the Crown and Ngāti Tūwharetoa.
- 44 The Crown and Ngāti Tūwharetoa agree that a number of themes will be covered in detail in the full historical account contained in the deed of settlement including:
 - a Ngāti Tūwharetoa's decision not to sign the Treaty of Waitangi;
 - b Ngāti Tūwharetoa's early engagement with the Crown;
 - c the role of Ngāti Tūwharetoa in the Kingitanga;
 - d the impact of war and raupatu on Ngāti Tūwharetoa;
 - e the introduction and impact of the Native Land Court in the Taupō District;
 - f crown purchasing in the Taupō District;

- g the Crown and Te Rohe Pōtae;
- h the Taupōnuiātia application to the Native Land Court;
- i Horonuku Te Heuheu's tuku of the peaks of te Kāhui Maunga.
- j the establishment and operation of Tongariro National Park;
- k the establishment of Tokaanu Native Township;
- l twentieth century land issues;
- m the Crown's acquisition of Lake Taupō;
- n the Tongariro Timber Company;
- o land development issues including the Taupō Basin Reserves Scheme;
- p establishment and impact of electricity generation schemes;
- q Ngāti Tūwharetoa's geothermal taonga;
- r Ngāti Tūwharetoa's relationship with the Crown; and
- s outcomes for Ngāti Tūwharetoa.

45 On the basis of the detailed historical account in the deed of settlement the Crown will acknowledge that certain actions or omissions of the Crown were a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown will then offer an apology to Ngāti Tūwharetoa for the acknowledged Crown breaches.

Other cultural redress

Relationship redress

Post-settlement Crown-iwi relationship

46 The Crown and Ngāti Tūwharetoa acknowledge that the Te Tiriti o Waitangi/the Treaty of Waitangi is the framework for any future relationship and the future of the Crown/iwi relationship must be based on the principles of the Treaty. The Crown and Ngāti Tūwharetoa acknowledge that they are seeking to further strengthen their formal relationship as part of the comprehensive settlement of Ngāti Tūwharetoa's remaining historical claims.

Departmental protocols

- 47 A protocol is a statement issued by a Minister of the Crown setting out how a particular government agency intends to:
- a exercise its functions, powers and duties in relation to specified matters within its control in Ngāti Tūwharetoa's protocol area; and
 - b consult and interact with Ngāti Tūwharetoa on a continuing basis and enable the iwi to have input into its decision-making processes.
- 48 Following the signing of this High Level Agreement, Ngāti Tūwharetoa and the Crown will provide for individual departmental protocols with the following Ministers in the agreement in principle:

- a the Minister of Energy and Resources; and
- b the Minister for Arts, Culture and Heritage.

49 Following the signing of this High Level Agreement, the content of the protocols will be drafted and agreed between the Parties for inclusion in the agreement in principle. The protocols will be, in substance, on the same terms as protocols provided in previous Treaty settlements. All protocols will be developed to comply with applicable legislation.

Relationship agreements

50 Following the signing of this High Level Agreement, the Crown and Ngāti Tūwharetoa will explore development of a relationship agreement between Ngāti Tūwharetoa and the Ministry for the Environment for inclusion in the agreement in principle.

51 Further, following the signing of this High Level Agreement the Crown and Ngāti Tūwharetoa will discuss ways to enhance the relationship between Ngāti Tūwharetoa and government agencies whose culture and heritage activities are of special interest to the iwi. These discussions will include exploring ways in which the Crown and Ngāti Tūwharetoa can work together on the care and preservation of taonga.

Official Geographic Name Changes

52 Following the signing of this High Level Agreement the Crown and Ngāti Tūwharetoa will explore the possibility of altering or assigning an agreed list of place names of significance to Ngāti Tūwharetoa.

53 For official geographic names, any changes or assignments will be in consultation with the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa, in accordance with the requirements of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 and consistent with the orthographic conventions of Te Taura Whiri i Te Reo Māori (the Māori Language Commission).

Puna Mātauranga

Ko te whakahokitanga

Ko te whakatōnga

Ko te whakatiputanga

*Ko te puawaitanga*⁴

54 Ngāti Tūwharetoa seek meaningful redress to enable Ngāti Tūwharetoa to define and retain their cultural identity. This may include an education and/or mātauranga strategy, relationship agreements with appropriate Crown agencies.

⁴ The returning (of the seed); the sowing (of the seed); the growing; the blossoming.

Whare taonga

- 55 Ngāti Tūwharetoa aspire to:
- a establish a whare taonga to appropriately house, protect and restore taonga belonging to Ngāti Tūwharetoa hapū, whānau and people;
 - b talk to museums and institutions that may hold Ngāti Tūwharetoa taonga in order to locate taonga and where possible secure their return; and
 - c establish relationships with these museums and institutions in order provide for Ngāti Tūwharetoa kaitiakitanga.
- 56 The Parties agree to explore how Ngāti Tūwharetoa's aspirations might be met through this settlement.

Fishery

- 57 The native fish of the Taupō district were the kai rangatira (food of chiefs) of Ngāti Tūwharetoa.
- 58 In the Waitangi Tribunal National Park Inquiry the Crown acknowledged that the introduction of rainbow trout into waterways resulted in trout flourishing at the expense of native fish species.
- 59 The Department of Conservation manages the Taupō Fishery under the Conservation Act 1987 and the Māori Land Claims and Maori Land Adjustment Act 1926.
- 60 Ngāti Tūwharetoa redress aspirations for the fishery include:
- a restoration and protection of the fishery, including restocking of the indigenous fishery; and
 - b rights to fish for trout for cultural purposes.
- 61 Following the signing of this High Level Agreement the Crown and Ngāti Tūwharetoa will explore the possibility of developing greater opportunities for Ngāti Tūwharetoa with regard to the fishery, including a cultural event related harvest of trout, with the Department of Conservation and other stakeholders.

Financial and Commercial Redress

Financial Redress / Quantum

- 62 Following the signing of this High Level Agreement the Crown and Ngāti Tūwharetoa will negotiate the financial redress to be offered to Ngāti Tūwharetoa.
- 63 The Crown aims to ensure fairness and consistency in the quantum offers made to claimant groups, by considering the same base factors for each group (eg the amount of land loss and the population size).
- 64 Following the signing of this High Level Agreement, Ngāti Tūwharetoa will present to the Crown the special factors that it wishes the Crown to consider when developing the settlement offer.
- 65 Ngāti Tūwharetoa will have an opportunity to present their special factors to the Minister of Treaty of Waitangi Negotiations prior to the Crown making its settlement offer.

66 Following this the Crown will make a settlement offer to Ngāti Tūwharetoa.

Commercial Redress Properties

67 Following the signing of this High Level Agreement the Crown and Ngāti Tūwharetoa will work together to agree a list of commercial core-Crown properties available as commercial redress for inclusion in the agreement in principle.

Commercial Geothermal Assets

68 Following the signing of this High Level Agreement, the Crown and Ngāti Tūwharetoa will explore redress options in respect of two Crown-owned geothermal wells that sit on top of the Rotokawa geothermal field RK6 and RK8.

69 Any redress will be subject to any third party rights or interests, noting in particular that RK6 and RK8 are situated on private land and that there are encumbrances over the land that are registered in favour of Mighty River Power and its subsidiaries.

Other issues for discussion

70 The Crown and Ngāti Tūwharetoa acknowledge that certain other matters that are the subject of remaining historical claims may have not yet have been discussed in the negotiations. Further, the Crown and Ngāti Tūwharetoa agree to discuss these following the signing of this High Level Agreement for possible inclusion in the agreement in principle.

Overlapping Interests

71 The Crown and Ngāti Tūwharetoa agree that overlapping claim issues over all proposed redress will be addressed to the satisfaction of the Crown, as far possible, before the agreement in principle is signed. The Crown and Ngāti Tūwharetoa agree that all overlapping claims must be fully resolved to the satisfaction of the Crown before a deed of settlement is entered into.

72 The Crown and Ngāti Tūwharetoa also agree that certain items of redress provided to Ngāti Tūwharetoa may need to reflect the importance of an area or feature to other claimant groups.

Formalities

73 The Crown and Ngāti Tūwharetoa agree that this High Level Agreement will be provided to Tūwharetoa Hapū Forum delegates.

74 The definition of Ngāti Tūwharetoa and Ngāti Tūwharetoa historical claims and the Crown shall be the same as that set out in clauses 6 to 8 of the terms of negotiation.

75 This High Level Agreement is entered into on a without prejudice basis and it:

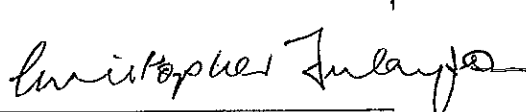
- a is non-binding and does not create legal relations; and
- b cannot be used as evidence in any proceedings before, or presented to, the courts, the Waitangi Tribunal or any other judicial body or tribunal (except as agreed between the Parties).

76 The Crown and Ngāti Tūwharetoa acknowledge that, subject to clause 75, each expects the other to comply with the terms set out in this High Level Agreement.

- 77 The Parties agree that the provision of any redress agreed in the agreement in principle or deed of settlement is subject to the ratification of the post-settlement governance entity by Ngāti Tūwharetoa claimants.

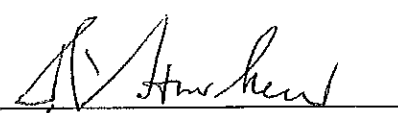
SIGNED this 28th day of December 2013

For and on behalf of the Crown:




Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

For and on behalf of Ngāti Tūwharetoa:



Sir Tumu Te Heuheu
Chairman, Tūwharetoa Hapū Forum



Colin Rangi
Deputy Chair, Tūwharetoa Hapū Forum