



Office of Hon Christopher Finlayson

Attorney-General
Minister for Treaty of Waitangi Negotiations
Minister for Arts, Culture and Heritage

Waata Richards
Ngāti Whātua o Kaipara Claims Komiti Chair
Ngāti Whātua o Kaipara Claims Komiti
96-98 Commercial Rd
Te Awaroa
HELENSVILLE 0840

WITHOUT PREJUDICE

Tēnā koe

Thank you and your negotiating team for meeting with me on 15 December and for the dedication and constructive approach you have taken to negotiations with the Crown over the last few months.

I have considered your feedback and would now like to make a formal offer on behalf of the Crown for consideration by Ngāti Whātua o Kaipara. This offer contains the redress that the Crown is willing to provide in settlement of all historical claims of Ngāti Whātua o Kaipara for Crown breaches of the Treaty of Waitangi and its principles. This is the Crown's best and final offer.

If Ngāti Whātua o Kaipara agrees to the offer outlined in this letter I invite you to counter-sign it. This letter, including the attachments, will then take effect as an Agreement in Principle between the Crown and Ngāti Whātua o Kaipara. Should you wish to counter-sign this letter I will be available to meet you on the afternoon of Tuesday 22 December in Auckland.

The next step will be for the parties to develop the necessary detail to give effect to the redress set out in this offer and to translate that detail into a Deed of Settlement.

Elements of Crown's Offer

The Crown's offer is made up of the following three broad elements:

- Historical Account, Crown Acknowledgement and Crown Apology;
- Cultural Redress; and

- Commercial and Financial Redress.

Historical Account, Crown Acknowledgement and Crown Apology

The Historical Account, Crown Acknowledgement and Crown Apology will outline the basis on which the Crown is settling the historical claims of Ngāti Whātua o Kaipara.

The Historical Account will outline the historical relationship between the Crown and Ngāti Whātua o Kaipara. On the basis of the Historical Account, the Crown will acknowledge that certain actions or omissions of the Crown were in breach of the Treaty of Waitangi and its principles. The Crown will then offer an apology to Ngāti Whātua o Kaipara for the acknowledged breaches of the Treaty of Waitangi and its principles.

The Crown and Ngāti Whātua o Kaipara have largely agreed upon the key themes and structure of a Historical Account (**Attachment One**). This will form the basis for developing the full Historical Account, the Acknowledgement and the Apology for inclusion in the Deed of Settlement.

Cultural Redress

In response to the strong representations made by your negotiating team over your tipuna maunga, Atuanui, I met with the Associate Minister of Conservation to discuss the proposal to transfer this maunga to Ngāti Whātua o Kaipara. The Associate Minister of Conservation supports the transfer and we have been directed by Cabinet to explore this issue further.

I am very conscious of the deep relationship between Ngāti Whātua o Kaipara and the Kaipara Harbour. However, due to the complexity of the issues and the parallel processes involving the Auckland City and foreshore and seabed reforms, it has not been possible to progress the redress and recognition in respect of the Kaipara Harbour this year. At this stage, I can offer to enter into detailed discussions with Ngāti Whātua o Kaipara starting mid-2010. I am aware that your willingness to conclude a Deed of Settlement will be conditional upon the satisfactory resolution to these Harbour discussions. I am interested in entering into Terms of Reference for our Harbour discussion in early 2010.

A summary of the cultural redress offer is attached as **Attachment Two** to this Offer Letter.

Commercial and Financial Redress

I have considered your representations on the issue of quantum and have discussed these with my Cabinet colleagues and the Minister of Finance.

A summary of the financial and commercial redress offer is attached as **Attachment Three** to this letter. As noted above, this represents the Crown's best and final offer.

Conditions of the Crown's Offer

This Offer Letter, once signed by the parties, will reflect a high-level agreement in principle between the Crown and Ngāti Whātua o Kaipara. It is not legally binding and does not create legal relations between the parties.

Upon the signing of the Offer Letter, my officials will begin working with Ngāti Whātua o Kaipara towards a Deed of Settlement. Ratification by Ngāti Whātua o Kaipara and the approval of relevant Ministers and Cabinet will be required before the signing of the Deed of Settlement.

This Offer Letter is also subject to the resolution of any overlapping claims or interests by other groups.

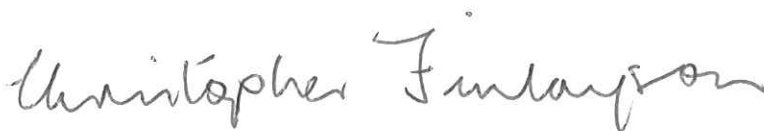
I attach as **Attachment Four** the key definitions, terms and conditions that apply to the Crown's offer.

Next Steps

As noted above, I invite you to counter-sign this letter, which will then take effect as an Agreement in Principle between the Crown and Ngāti Whātua o Kaipara. The next step will be for the parties to work towards a Deed of Settlement.

If Ngāti Whātua o Kaipara accepts this offer, I am confident that we will continue to work together in good faith. I will prioritise this settlement in the work programme for the Office of Treaty Settlements, and instruct officials to draft a Deed of Settlement and settlement Bill concurrently with a view to settlement legislation being introduced in 2011.

Nāku noa, nā



Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations



Signed on behalf of Ngāti Whātua o Kaipara by:



Takutai Wikiriwhi



Waata Richards



Haahi Walker



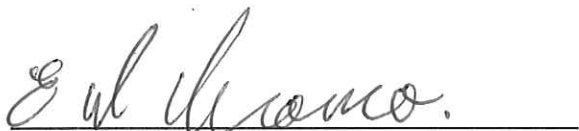
Gloria Timoti



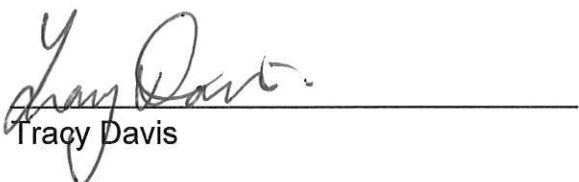
Richard Nahi



Te Kahui-iti Morehu



Eriapa Uruamo



Tracy Davis

Emmanuel Povey

Margaret Kawharu

Margaret Kawharu

leftian and moana
kawharu.

~~Paul~~

Pikite Ora-Maiti

Annie Morehu

Miss Walker

Waimarie Nicholls

~~Robert~~

Jane Sherard

Karadvice

Awa Hill-Hudson

Cherie O Pree

Olive Rutherford

Penelope Wray

Mei Hill

Suzumiko Richards

Katerama Kathy. Nahi

Jane

Katerama Machel

Richard

zen te hikoi kawharu

~~David~~ and ~~David~~

Peta Welch

* Pielme

Anahau

John Bell

SAICHOOLS

Andrew Kingi

Shewen
Molyneux

~~Paul~~

Amairana

Debra

~~Samson~~

~~Samson~~

John

Ely Byerholt FOR RENA

Melanie Mayall - Nahi

R. M. M.

Te Hina Mayall - Mahi

Alan J. Rehi

ATTACHMENT ONE
HISTORICAL ACCOUNT STRUCTURE AND THEMES

1. Ngāti Whātua o Kaipara
2. The relationship between the Crown and Ngāti Whātua 1840-1865
3. Old Land Claims and Pre-emption Waiver Claims
4. Crown Purchases 1848-1867
5. Native Land Court and Land Alienation 1864-1900
6. Marginalisation and Protest in the Nineteenth Century – ‘Orakei Parliaments’
7. Land Laws, Administration and Alienations in the Twentieth Century
8. Specific Grievances
 - a. Te Awaroa 10 Acre Block
 - b. Railway Land
 - c. Roothing
 - d. Otakanini Tōpū
 - e. Te Keti / Hiore Kata
9. Socio-Economic Consequences - Ngāti Whātua Today

ATTACHMENT TWO

CULTURAL REDRESS

The Deed of Settlement (and Settlement Legislation where necessary) will provide for the following cultural redress.

General

1. This offer includes instruments that are designed to recognise the historical, traditional, spiritual and cultural associations of Ngāti Whātua o Kaipara.
2. Unless otherwise specified, the value of the Cultural Redress is not off-set against the settlement quantum.

Ten Acre Block

3. In 1864, Ngāti Whātua o Kaipara gifted to the Crown a ten acre block for public purposes. Within this area, one acre was gazetted as a native reserve for Māori use but this reserve, the only area remaining for Māori use in Helensville, was transferred to the Helensville Town Board despite protest from Māori. While most of the ten acre block was used for public purposes, and some remains so used, other areas were subsequently transferred to private parties.
4. In recognition of the Ngāti Whātua o Kaipara grievances in regards to the ten acre block the Crown offers to provide the following as redress:
 - a. the transfer of the site at 24 Commercial Road, Helensville (0.1878 ha). The value of this site is included in the revised quantum figure;
 - b. the Crown will write to the Rodney District Council and invite it to discuss the possible sale to Ngāti Whatua o Kaipara of sites within the ten acre block that are owned by the Council (0.4242 ha), subject to protection of any reserve status or existing public use and access over those sites. The value of these properties is included in the revised quantum figure;
 - c. the Crown will make a contribution of up to \$20,000 to enable an application on behalf of Ngāti Whātua o Kaipara relating to the Te Otene Kikokiko Ahu Whenua Trust. This amount is included in the revised quantum figure; and
 - d. an undertaking to explore the transfer and leaseback of the Helensville Primary School to Ngāti Whātua o Kaipara.

Cultural Redress Properties

Sites to be vested in Ngāti Whātua o Kaipara

5. Table 1 below sets out the Cultural Redress Properties that the Crown offers to vest in fee simple estate in Ngāti Whātua o Kaipara. These vestings will be subject to the conditions and encumbrances noted in third column of this table.

Table 1: Sites to be vested in fee simple

Site	Details/size	Encumbrances
Land Transfer		
Moturemu Island Scenic Reserve	5 hectares	Subject to covenant
Makarau Conservation Area	5 hectares	Subject to covenant
Parakai Conservation Area	153 hectares	Subject to covenant
Mauiniu Island Local Purpose Reserve	2 hectares	Subject to covenant
Mairetaki Landing Reserve	3.7 hectares	Subject to covenant
Ti Tree Island Conservation Area	7.8 hectares	Subject to covenant

Atuanui (Mt Auckland) Scenic Reserve

6. The Crown offers to explore the transfer of Atuanui (Mt Auckland) Scenic Reserve to Ngāti Whātua o Kaipara subject to the maunga maintaining its Scenic Reserve status.

Statutory Acknowledgements

7. The Deed of Settlement and the Settlement Legislation will provide for statutory acknowledgements to be made in relation to the following areas to the extent they remain in Crown ownership:

Table 3: Statutory Acknowledgements

Site	Details/size
Statutory Acknowledgement	
Motutara Settlement Scenic Reserve	94.5 hectares
Ototoa Conservation Area and Lake Ototoa Scenic Reserve	58 hectares and 269 hectares
Papakanui Conservation Area and Papakanui Spit Wildlife Refuge	1088.5 hectares and 25 hectares
Goldie Bush Scenic Reserve	192 hectares

8. Statutory acknowledgements provide for the Crown to acknowledge in the Settlement Legislation a statement by Ngāti Whātua o Kaipara of their cultural, spiritual, historical and traditional association with a particular area. They further provide for:
 - a. relevant consent authorities, the New Zealand Historic Places Trust, and the Environment Court to have regard to the statutory acknowledgements;
 - b. relevant consent authorities to forward to the Governance Entity summaries of resource consent applications for activities within, adjacent to, or impacting directly on, the area in relation to which a statutory acknowledgement has been made; and
 - c. the Governance entity and any member of Ngāti Whātua o Kaipara to cite to consent authorities, the New Zealand Historic Places Trust and the Environment Court the statutory acknowledgement as evidence of the association of Ngāti Whātua o Kaipara with the area in relation to which the statutory acknowledgement has been made.
9. The statutory acknowledgements provided to the Governance Entity will, in substance, be provided on similar terms to those provided in recent Treaty settlements.
10. In particular, the statutory acknowledgements will not:
 - a. affect the lawful rights or interests of a person who is not a party to the Deed of Settlement; and
 - b. prevent the Crown from providing a statutory acknowledgement to persons other than Ngāti Whātua o Kaipara or the Governance Entity with respect to the same area.
11. The Crown offers to facilitate discussions involving the Crown, Ngāti Whātua o Kaipara and Rodney District starting in early 2010, to explore appropriate mechanisms to recognise the historical, spiritual and cultural association of Ngāti Whātua o Kaipara with the Parakai Domain Recreation Reserve to Ngāti Whātua o Kaipara.

Co-Governance over Public Conservation Land

12. The Crown offers to explore any aspirations that Ngāti Whātua o Kaipara has for co-governance with the Department of Conservation over those public conservation lands within the Ngāti Whātua o Kaipara area of interest which are not transferred to Ngāti Whātua o Kaipara. This matter will be the subject of further consideration and discussion between Ngāti Whātua o Kaipara and the Crown in early 2010.

Coastal Statutory Acknowledgements

13. The Crown offers to provide statutory acknowledgements over coastal areas of significance to Ngāti Whātua o Kaipara.
14. The Crown proposes that Ngāti Whātua o Kaipara nominate proposed areas for coastal statutory acknowledgements and discuss these areas with any iwi/hapū with shared interests in the areas. Coastal statutory acknowledgements may be given to more than one group.

Place Name Changes

15. The Crown invites Ngāti Whātua o Kaipara and the other Tāmaki Makaurau/Kaipara mandated groups to work together on a joint list for submission to the New Zealand Geographic Board / Ngā Pou Taunaha o Aotearoa, to be processed under the usual statutory provisions followed by the Board. The Crown will then submit the list of proposed changes to the New Zealand Geographic Board / Ngā Pou Taunaha o Aotearoa for its consideration.

Hobsonville

16. Ngāti Whātua o Kaipara has expressed a strong interest in the land held by the Crown at Hobsonville. This land is currently the subject of a major development by Housing New Zealand Corporation through its wholly-owned subsidiary the Hobsonville Land Company Ltd. Te Kawerau ā Maki has also expressed a strong interest in this land, particularly the Bomb Point/Onekiritia site.
17. In 2010, the Crown will write to Housing New Zealand Corporation and invite it to enter into a Memorandum of Understanding with Ngāti Whātua o Kaipara and Te Kawerau ā Maki regarding matters including:
 - a. how to recognise and respect the traditional history of the tangata whenua iwi and hapū in the area; and
 - b. co-operation on commercial matters, including the removal of existing houses to accommodate the new development.
18. The Memorandum of Understanding should also agree to a process to reconcile within twelve months Ngāti Whātua o Kaipara and Te Kawerau ā Maki's aspirations over Onekiritia.

Riverbed/Lakebed Statutory Acknowledgements

19. The Crown offers to explore creating statutory acknowledgements over riverbeds and lakebeds of historical, traditional, cultural and/or spiritual significance to Ngāti Whātua o Kaipara.
20. The riverbed and lakebed statutory acknowledgements would be non-exclusive and relate only to those Crown-owned portions of the riverbed/lakebed.
21. The riverbeds and lakebeds statutory acknowledgements provided to the Governance Entity will, in substance, be on similar terms to those provided in recent Treaty settlements. In particular, they:
 - a. will not affect the lawful rights or interests of a person who is not a party to the Deed of Settlement; and
 - b. in relation to riverbeds will not include:
 - i. a part of the bed of the waterway that is not owned by the Crown; or
 - ii. land that the waters of the waterway do not cover at its fullest flow without overlapping its banks; or

- iii. an artificial watercourse; or
- iv. a tributary flowing into the waterway (unless expressly provided for in this Offer Letter).

c. in relation to lakebeds will not include:

- v. any part of the lakebed that is not owned by the Crown; or
- vi. any part that is not within an accepted legal definition of lakebed; or
- vii. a man-made or artificial lake; or
- viii. waterways flowing into or out of the lake.

22. The Crown offering riverbed/lakebed statutory acknowledgements to the Governance Entity will not prevent the Crown from providing such redress, or providing other redress (to the extent that it is consistent with the statutory acknowledgements) to persons other than Ngāti Whātua o Kaipara or the Governance Entity with respect to the same area.

Fisheries Redress

23. The Crown offers for the Ministry of Fisheries to assist in the development of an Iwi Management Plan that includes the objectives, values and aspirations of Ngāti Whātua o Kaipara with respect to fisheries, with a view to integrating their customary, commercial, environmental and recreational interests.

24. The Iwi Management Plan will provide input and participation into the development of the relevant Fisheries Management Plan for the area and shall be given particular regard by the Minister of Fisheries in decisions applying to that Plan.

25. The Crown offers to explore the inclusion of other matters relating to the functions of the Ministry of Fisheries and the interests of Ngāti Whātua o Kaipara, consistent with the commitments that have been made in previous iwi-specific protocols.

Relationship Redress

Protocols

26. 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 the claimant group's protocol area; and
- b. consult and interact with the claimant group on a continuing basis and enable that group to have input into its decision-making processes.

27. The Crown offers for the Deed of Settlement and the Settlement Legislation to provide for the following Ministers to issue protocols to Ngāti Whātua o Kaipara:

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

28. The Crown proposes that the protocols will be, in substance, on the same terms as those provided in recent Treaty settlements. All protocols will be developed between the Offer Letter and the Deed of Settlement, and will comply with the applicable legislation.

Promotion of relationship with local authorities

29. Following the signing of the Deed of Settlement, the Crown will write to the Auckland Council encouraging it to enter into a Memorandum of Understanding with Ngāti Whātua o Kaipara in respect of matters within Ngāti Whātua o Kaipara's area of interest.

30. The Crown agrees that after Settlement Date, it will through the Minister for the Environment under section 24 of the Resource Management Act 1991:

- a. monitor the performance of local government in observing the requirements of section 8 of the Resource Management Act within the area of interest; and,
- b. monitor the relationship between the functions, powers, and duties of central government and local government under Part 4 of the Resource Management Act within the area of interest.

Promotion of relationship with government departments/agencies

31. Following the signing of the Deed of Settlement, the Crown offers, where relevant, to write to Ministers encouraging the establishment and/or maintenance of relationships between their departments/agencies and Ngāti Whātua o Kaipara.

Promotion of relationship with museums

32. Following the signing of the Deed of Settlement, the Crown offers to issue letters from the Minister for Treaty of Waitangi Negotiations to encourage the establishment of a relationship between Ngāti Whātua o Kaipara and domestic museums.

ATTACHMENT THREE

FINANCIAL AND COMMERCIAL REDRESS

1. The Deed of Settlement (and Settlement Legislation where necessary) will provide for the following financial and commercial redress.

Quantum

2. The quantum to be paid under the settlement is \$22.1 million.
3. The quantum to be paid on Settlement Date will be \$22.1 million, less the market value of any commercial redress properties selected for transfer on Settlement Date.

Interest

4. The Deed of Settlement will provide for the Crown to pay Ngāti Whātua o Kaipara interest on the principal amount of \$22.1 million from (and including) the date of signing this Offer Letter to Settlement Date.
5. Interest will:
 - a. be at the Official Cash Rate calculated on a daily basis;
 - b. not compound;
 - c. be paid to the Governance Entity on the Settlement Date; and
 - d. be subject to normal taxation law.

Crown Forest Licensed Land Redress

Woodhill Forest

6. Ngāti Whātua o Kaipara will have the opportunity to purchase the Crown's interest in the Woodhill Forest except the Kopironui block.
7. The Kopironui block will be removed from the Woodhill Forest and gifted to an entity on behalf of the descendants of the former owners as cultural redress.
8. This will require an adjustment to the \$15,250,000 transfer value of Woodhill Forest agreed between Ngāti Whātua o Kaipara and Land Information New Zealand.
9. Accumulated Crown forestry rentals will be passed on to Ngāti Whātua o Kaipara should they choose to purchase Woodhill Forest (except the Kopironui block).

Riverhead Forest

10. Ngāti Whātua o Kaipara will have the opportunity to purchase the Crown's interest in any part of the Riverhead Forest that is not selected for purchase by Te Kawerau ā Maki.

11. Accumulated Crown forestry rentals will be passed on to Ngāti Whātua o Kaipara should they purchase any part of the Riverhead Forest that is not purchased by Te Kawerau ā Maki.

Commercial Redress Properties

12. The Crown offers to provide Ngāti Whātua o Kaipara with the ability to purchase certain Crown properties (including landbank properties) up to a total value of 125 percent of quantum. Of this, up to 100 percent of quantum could be used to purchase Crown Forest Licensed land.

Property Lists

13. The property lists in Tables 5 and 6 are draft lists and are subject to further discussions with Ngāti Whātua o Kaipara and final confirmation from the Crown that the properties listed are available. The Crown will undertake that investigation process in good faith. In the event any property is not available, the Crown will be under no obligation to substitute that property with another property but will, in good faith, consider alternative properties that may be available.

14. All properties proposed to be made available subject to the agreement of Ministers.

15. The information in these tables and that provided to date is indicative only and subject to confirmation by the Crown.

16. In addition, the availability of the properties for transfer will be subject to the matters specified in this Crown offer.

17. All commercial redress is dependent on the resolution of shared interests in the sites listed.

Commercial Properties for Purchase

18. Ngāti Whātua o Kaipara may select on Settlement Date any of the properties held in the Office of Treaty Settlements landbank in their agreed area of interest subject to resolving any shared interests in these sites from other iwi/hapū. The Crown will work with Ngāti Whātua o Kaipara to develop a process to address this. At this stage there are 14 sites in this area in the landbank.

Table 5: Commercial Properties for Purchase

Site	Details/size	Subject to the resolution of overlapping claims
Commercial Properties for Purchase at Settlement Date		
Landbanked properties in Ngāti Whātua o Kaipara's agreed area of interest		With other iwi/hapū with shared interests
Purchase through deferred (two years) selection process		
Clark House site (Hobsonville)	5 hectares	with Te Kawerau a Maki

19. The market value of the properties selected for purchase by Ngāti Whātua o Kaipara will be deducted from the quantum to be paid to Ngāti Whātua o Kaipara on Settlement Date.
20. The valuation date to apply to all of the properties selected will be either the date of the signing of this Offer Letter by both parties or the date of the Deed of Settlement, on the condition that a Deed of Settlement is signed within two years of signing this Offer Letter.
21. If a Deed of Settlement is not signed within two years of signing this Offer Letter by both parties, the valuation date will be updated to current market value.

Commercial Properties for Purchase and Leaseback

22. Ngāti Whātua o Kaipara may purchase and leaseback to the Crown the Albany District Court (0.644 hectares) at Settlement Date. The purchase and leaseback will apply to the land only and not the improvements on the land.
23. The market value of the Albany District Court will be deducted from the quantum to be paid to Ngāti Whātua o Kaipara on Settlement Date.
24. The valuation date for the property will be the date of the signing of this Offer Letter by both parties, on the condition that a Deed of Settlement is signed within two years of that date.
25. If a Deed of Settlement is not signed within two years of the signing of this Offer Letter by both parties, the valuation date will be updated to current market value.
26. The terms and conditions applying to the leaseback to the Crown will be appropriate and negotiated and agreed between the relevant Crown agency and Ngāti Whātua o Kaipara as part of the preparation of the Deed of Settlement to preserve the existing property rights and all operations of the Crown agency.

Right of First Refusal

27. Ngāti Whātua o Kaipara will have a right of first refusal over all land held by core Crown agencies in their agreed area of interest for a period of 169 years from Settlement Date.
28. The terms of this right of first refusal will be agreed between the parties as part of the preparation of the Deed of Settlement.

Commitment to Explore Purchase and Leaseback

29. The Crown will explore the ability to provide Ngāti Whātua o Kaipara with the ability to purchase and leaseback specific sites within Ngāti Whātua o Kaipara's area of interest. The Crown has commenced discussions with the Ministry of Education regarding these properties, and a number of complex and difficult issues have been identified. These issues will have to be resolved if these properties are to become available for purchase and leaseback.
30. The Crown will also explore the ability to purchase and leaseback the Auckland (Paremoremo) Prison (land only) and the adjoining housing block at the Auckland (Paremoremo) Prison (land and improvements). These are strategic assets for the Crown and present some challenges, but it is committed to exploring providing them as redress if possible.

Table 6: Commitment to Explore Sites for Purchase and Leaseback

Site	Details/size	Subject to the resolution of overlapping claims
Commitment to explore Purchase and Leaseback		
Up to six Ministry of Education properties		With any groups with shared interests in those sites
Auckland Prison (Paremoremo) (land only)	82 hectares	With Te Kawerau a Maki
Adjoining housing block at Auckland (Paremoremo) Prison (land and improvements)	32 hectares	With Te Kawerau a Maki

Agreement Process for Commercial Redress Properties

31. Following the signing of this Offer Letter by both parties, the Crown and Ngāti Whātua o Kaipara will work with Te Kawerau ā Maki to agree on a process for the selection of any of the commercial redress properties offered to each of the two groups.
32. For the avoidance of doubt, the Crown will require evidence that there has been agreement between the Ngāti Whātua o Kaipara and Te Kawerau ā Maki on the selection process and allocation of properties before any commercial redress property may be selected (whether for transfer on Settlement Date, for purchase and leaseback, under deferred selection or under the right of first refusal).

ATTACHMENT FOUR

DEFINITIONS, TERMS AND CONDITIONS OF CROWN OFFER

Definitions

Key terms used in this document are defined as follows:

Commercial Redress Properties means those properties referred in Attachment Three.

Crown means:

- a. the Sovereign in right of New Zealand; and
- b. includes all Ministers of the Crown and all Departments; but
- c. does not include:
 - i. an Office of Parliament; or
 - ii. a Crown Entity; or
 - iii. a State Enterprise named in the First Schedule to the State-Owned Enterprises Act 1986.

Cultural Redress means the redress provided within this Offer Letter intended to meet the cultural rather than economic interests of a claimant group in the settlement of their Historical Claims.

Cultural Redress Properties means those properties referred in Attachment Two.

Deed of Settlement means the Deed of Settlement that would be entered into between the Crown and Ngāti Whātua o Kaipara setting out the full detail of the final settlement of the Historical Claims.

Governance Entity means the governance entity to be established and ratified by Ngāti Whātua o Kaipara to receive and manage the settlement assets on behalf of the groups of Ngāti Whātua o Kaipara.

Historical Claims means every claim (whether or not the claims have been considered, researched, registered or notified) that Ngāti Whātua o Kaipara (or any representative entity of Ngāti Whātua o Kaipara) has that:

- a. is founded on rights arising from Te Tiriti o Waitangi / the Treaty of Waitangi, or its principles, whether based on legislation, common law (including customary law and aboriginal title), fiduciary duty, or otherwise;
- b. arises from or relate to acts or omissions before 21 September 1992:
 - i. by or on behalf of the Crown; or
 - ii. by or under legislation; and
- c. includes every claim to the Waitangi Tribunal to which paragraph (a) above applies, including:
 - i. Wai 312; and

- ii. such other Wai claims made by Ngāti Whātua o Kaipara claimants insofar as they relate to Historical Claims within the Ngāti Whātua o Kaipara area of interest;
- iii. but does not include claims by descendants of Haumoewaarangi where such claims have been settled by the Te Uri o Hau Claims Settlement Act 2002.

Ngāti Whātua o Kaipara means:

- a. those who descend from
 - i. Haumoewaarangi; and
 - ii. a recognised ancestor of Ngāti Whātua Tuturu, Te Taou, Ngāti Rango and/or Ngāti Rongo, Ngāti Hine and Te Uri o Hau who exercised customary rights predominantly within the Ngāti Whātua o Kaipara area of interest at any time after 6 February 1840;
- b. every individual referred to in (a) above; and
- c. any whānau, hapū or group of individuals to the extent that that whānau, hapū or group of individuals is composed of individuals referred to in (a) above;
- d. for the purpose of (a) above, a person is **descended** from another person if the first person is descended from the other by:
 - i. birth;
 - ii. legal adoption; and/or
 - iii. Māori customary adoption in accordance with Ngāti Whātua o Kaipara tikanga.
- e. for the purposes of (a) above, **customary rights** means rights held according to tikanga Māori (Māori customary law, values and practices), including through:
 - i. rights to occupy land;
 - ii. rights relating to the use and stewardship of lands or resources;
 - iii. rights of burial; and/or
 - iv. rights to affiliate to the Ngāti Whātua o Kaipara marae at Haranui, Reweti, Araparera, Kakanui and Puatahi.
- f. for the purposes of (a) above, **area of interest** means the area identified on the map marked **Appendix A** in the Ngāti Whātua o Kaipara Terms of Negotiation;
- g. the detail of the definition of Ngāti Whātua o Kaipara and related terms (as defined in this Offer) may be developed further over the course of the negotiations for inclusion in any Deed of Settlement that may be agreed between parties.

Offer Letter means this letter containing the redress the Crown and Ngāti Whātua o Kaipara have agreed to, in principle, for the settlement of the Historical Claims.

Trust means the Ngāti Whātua o Kaipara Claims Komiti, the mandated body recognised to represent Ngāti Whātua o Kaipara in negotiations with the Crown.

Settlement Date means the date 60 business days following the enactment of the Settlement Legislation, being the date on which the settlement redress is to be transferred to Ngāti Whātua o Kaipara.

Settlement Legislation means the Bill or Act, if the Bill is passed, to give effect to the Deed of Settlement.

Terms and Conditions

1. This Offer Letter contains only a summary of Crown's redress offer to Ngāti Whātua o Kaipara, and is subject to the terms and conditions set out in this Offer Letter, including as set out below. The details of the redress will be negotiated and developed further by the parties in preparation for the signing of a Deed of Settlement.
2. This Offer Letter, once signed by the parties, will reflect a high-level agreement in principle between the parties. This high-level agreement is subject to negotiation of outstanding matters, and is also subject to amendment following consultation, negotiation, and additional material becoming available. It will not be legally binding and does not create legal relations between the parties.
3. Unless otherwise provided for in this Offer Letter, the conditions that have applied in Agreements in Principle for recent Treaty settlements will apply to this Crown offer.
4. The Deed of Settlement will include provisions relating (but not limited) to:
 - a. the claimant definition for Ngāti Whātua o Kaipara;
 - b. the definition of the Historical Claims to be settled by the Deed of Settlement;
 - c. acknowledgements concerning the settlement and the redress to be provided;
 - d. acknowledgements concerning the settlement and its finality;
 - e. removal of statutory protections and land banking arrangements; and
 - f. taxation.
5. The offer made in this Offer Letter is made on a without prejudice basis, and:
 - a. is not to be used as evidence in any proceedings before, or presented to, the Courts, the Waitangi Tribunal and any other judicial body or tribunal; and
 - b. does not affect the Terms of Negotiations between Ngāti Whātua o Kaipara and the Crown.

Conditions

6. This Offer Letter and the Deed of Settlement (as appropriate) will be subject to the following conditions:

Kaipara Harbour

- a. no Deed of Settlement will be entered into until or unless the parties reach an agreement on redress and recognition in respect of the Kaipara Harbour;

Overlapping Interests

- b. all outstanding elements of the cultural redress offer being resolved;
- c. all other elements of the settlement redress remain subject to the Crown confirming that the overlapping interests of the Kaipara mandated groups have been addressed to the satisfaction of the Crown;
- d. the Crown confirming that overlapping interests from other claimant groups in relation to any part of the settlement redress have been addressed to the satisfaction of the Crown in respect of that item of redress;

Cabinet agreement

- e. Cabinet agreeing to the settlement and the redress to be provided to Ngāti Whātua o Kaipara;

Ratification

- f. the Ngāti Whātua o Kaipara Claims Komiti (the Trust), obtaining, before the Deed of Settlement is signed, a mandate from their constituents (through a process agreed by the Trust and the Crown) authorising them to:
 - i. enter into the Deed of Settlement on behalf of Ngāti Whātua o Kaipara; and
 - ii. in particular, settle the Historical Claims on the terms provided in the Deed of Settlement;

Governance Entity

- g. the establishment of Governance Entity prior to the introduction of Settlement Legislation that the Crown is satisfied:
 - i. are appropriate arrangements to receive the settlement redress;
 - ii. have been ratified by Ngāti Whātua o Kaipara (through a process agreed by the Trust and the Crown) as appropriate to receive that redress; and
 - iii. have a structure that provides for:
 - representation of Ngāti Whātua o Kaipara;
 - transparent decision-making and dispute resolution processes; and
 - full accountability to Ngāti Whātua o Kaipara;
- h. the Governance Entity signing a Deed of Covenant which includes, amongst other things, a commitment to be bound by the terms of the Deed of Settlement.

Settlement Legislation

- i. the passing of Settlement Legislation to give effect to parts of the settlement. The Crown will not be obliged to propose Settlement Legislation for introduction into Parliament until:
 - i. the Governance Entity has been established and has signed a Deed of Covenant, through which the Governance Entity covenant with the Crown that they are party to the Deed of Settlement and agree to be bound by it; and
 - ii. Ngāti Whātua o Kaipara supports the passage of the Settlement Legislation.

Specific Conditions for Vesting or Transfer of Properties

7. The vesting in fee simple or transfer of properties will be subject to:
 - a. further identification and survey of sites where appropriate;
 - b. the exclusion of sites (or part thereof) that are public foreshore and seabed (as defined in the Foreshore and Seabed Act 2004);
 - c. the agreement of the Minister or Chief Executive of the land holding agency (as appropriate) that the property is available for vesting or transfer;
 - d. any specific conditions and encumbrances (including those listed in the Tables in this letter of agreement), or terms of transfer applicable to any specific property;
 - e. any other express provisions relating to specific properties that are included in this Offer Letter or the Deed of Settlement;
 - f. any rights or encumbrances (such as a tenancy, lease, licence, easement, covenant or other right or interest whether registered or unregistered) in respect of the property to be vested or transferred, either existing at the date the Deed of Settlement is signed, or which are identified in the disclosure information to be provided to Ngāti Whātua o Kaipara as rights or encumbrances to be created;
 - g. the creation of marginal strips where Part 4A of the Conservation Act 1987 so requires, except as expressly provided;
 - h. the reservation of Crown-owned minerals under sections 10 and 11 of the Crown Minerals Act 1991;
 - i. any other specific provisions that are included in the Deed of Settlement; and
 - j. subject to due consideration of any third party rights and obligations that may exist, such as those under the Public Works Act 1981, in relation to the property.
8. Unless otherwise specified, the Governance Entity will be responsible following transfer for the maintenance of the Commercial and Cultural Redress Properties, including any future pest control (including flora and fauna), fencing, interpretation material, required biosecurity responses, and removal of refuse if required. The Governance entity will also become liable for the payment of any rates that become payable after transfer of the Commercial and Cultural Redress Properties to the Governance entity.
9. Following the signing of this Offer Letter, the Crown will prepare disclosure information in relation to each property to be vested or transferred, and will provide such information to Ngāti Whātua o Kaipara. If any properties are unavailable for vesting or transfer, the Crown has no obligation to substitute such properties with other properties but, in good faith, will consider alternative redress options.