

AGREEMENT AS TO TERMS OF NEGOTIATION BETWEEN THE CROWN AND THE PORT NICHOLSON BLOCK CLAIMS TEAM FOR THE SETTLEMENT OF HISTORICAL CLAIMS

1. The Parties

- 1.1 The parties to this agreement are the **CROWN** and the **PORT NICHOLSON BLOCK CLAIMS TEAM** (“the PNBCT”) on behalf of the Claimants (as defined in clause 5.11).

2. Background

- 2.1 Various historic claims concerned with the Port Nicholson Block in and about Wellington were brought before the Waitangi Tribunal under the Treaty of Waitangi Act 1975. In May 2003 the Waitangi Tribunal issued its report on many of the claims: *Te Whangamui a Tara Me Ona Takiwa*.
- 2.2 Eleven persons were put forward to represent the Claimants in relation to the settlement of their Historical Claims. These eleven persons (the PNBCT) were mandated by the Claimants at 12 national hui held in August 2003. The Crown recognised the mandate of the PNBCT on 27 January 2004.
- 2.3 The PNBCT is made up of the following persons:
Kevin Hikaia Amohia of Palmerston North, Retired; **Neville McClutchie Baker** of Petone, Manager/Company Director; **Spencer Waemura Carr** of Hawera, Manager/Company Director; **June Te Raumangi Jackson** of Wellington, Retired; **Dr Catherine Maarie Amohia Love** of Lower Hutt, Academic Researcher/Director; **Dr Ralph Heberley Ngatata Love** of Petone, Professor, Chief Claimant of the Wai 145 claims; **Hinekehu Ngaki Dawn McConnell** of Picton, Retired; **Rebecca Elizabeth Mellish** of Featherston, Business Development Advisor; **Dr Ihakara Porutu Puketapu** of Wellington, Manager/Director; **Sir Paul Alfred Reeves** of

Auckland, Consultant; and **Mark Te One** of Paekakariki, Project Advisor/Director.

3. Purpose of the Agreement

- 3.1 The purpose of this agreement is to establish Terms of Negotiation between the PNBCT and the Crown so as to achieve a settlement of the Historical Claims of the Claimants, which is acceptable to the parties and ratified within two years if possible.
- 3.2 This agreement is not legally binding and does not create a legal relationship.

4. Negotiation Objectives

- 4.1 The Terms of Negotiation as agreed will support the following objectives, namely to achieve:
- 4.1.1 Hapaingia nga mana, oranga, tikanga me te rangatiratanga o Taranaki Whānui mai te Upoko o te Ika (Upholding the authority, well-being, traditions and independence of the peoples of Taranaki at Wellington); and
- 4.1.2 a settlement which will:
- (a) assist the Claimants to enhance their mana and tino rangatiratanga; and
 - (b) assist the Crown to restore its honour, and enhance its relationship with its Treaty partner; and
 - (c) bring to the people a level of peace through the settling of long standing injustices; and
- 4.1.3 a settlement which will enhance the ongoing relationship between the parties both in terms of Te Tiriti o Waitangi / The Treaty of Waitangi and otherwise; and

- 4.1.4 a settlement which recognises the nature, manner and extent of the Crown’s breaches of its obligations to the Claimants under Te Tiriti o Waitangi / The Treaty of Waitangi; and
- 4.1.5 a settlement of all the Historical Claims of the Claimants that is comprehensive, durable, fair and final; and
- 4.1.6 a settlement which provides a platform for the Claimants to establish an economic base and assists their future cultural and economic development and the well-being of their whānau; and
- 4.1.7 a settlement which will not do any one or more of the following:
 - (a) diminish any rights that the Claimants have arising from the Te Tiriti o Waitangi / The Treaty of Waitangi; or
 - (b) in any way affect any rights that the Claimants have arising from Te Tiriti o Waitangi / The Treaty of Waitangi; or
 - (c) extinguish any aboriginal or customary rights of the Claimants.

5. Definitions

For the purposes of this agreement the following definitions apply:

5.1 The “**Claimants**” are:

5.1.1 the collective group composed of individuals:

- (a) who descend from one or more of the recognised ancestors of the following iwi:
 - (i) Te Atiawa; or
 - (ii) Ngāti Tama; or
 - (iii) Taranaki; or

- (iv) Ngāti Ruanui; and
- (b) who descend from one or more of:
 - (i) the original signatories of the 27 September 1839 Port Nicholson Block purchase deed; or
 - (ii) the persons listed in the Schedule to the Declaration of the Native Land Court in Wellington dated 11 April 1888; or
 - (iii) other persons not named in clauses 5.1.1(b)(i) or 5.1.1(b)(ii) above, but who exercised customary rights based on the descent in clause 5.1.1(a) in the Port Nicholson Block, Wellington District on or after 6 February 1840; and
- 5.1.2 every whānau, hapū or group, including the Wellington Tenths Trust and the Palmerston North Māori Reserves Trust, composed of individuals to the extent that those whānau, hapū or groups of individuals are referred to in clause 5.1.1; and
- 5.1.3 every individual referred to in clause 5.1.1.
- 5.2 For the purposes of clause 5.1, a person is descended from another person if the first person is descended from the other by:
 - 5.2.1 birth; and/or
 - 5.2.2 legal adoption; and/or
 - 5.2.3 Māori customary adoption in accordance with the Claimants' tikanga.
- 5.3 The definition of 'Claimants' may be developed further over the course of the negotiations for inclusion in any Deed of Settlement that may be agreed between the parties.

5.4 **“The Crown”**:

5.4.1 means Her Majesty the Queen in right of New Zealand; and

5.4.2 includes all Ministers of the Crown and all government departments; but

5.4.3 does not include:

- (a) an Office of Parliament; or
- (b) a Crown entity; or
- (c) a State Enterprise named in the First Schedule to the State-Owned Enterprises Act 1986.

5.5 **“Deed of Agreement”** means the Deed of Agreement entered into between the PNBCT members on 16 August 2003 for the purpose of allowing the signatories to go forward to the Claimants for mandating. The Deed is annexed to this Agreement As To Terms of Negotiation as Schedule B.

5.6 **“Good faith”** means honesty and sincerity of intention and includes fostering a negotiating environment of mutual trust and confidence between the parties.

5.7 **“Historical Claims”** means:

5.7.1 all claims (whether or not the claims have been considered, researched, registered, notified or made) by any Claimant or Claimants or anyone representing a Claimant or Claimants, that:

- (a) are founded on a right arising:
 - (i) from Te Tiriti o Waitangi / The Treaty of Waitangi;
or
 - (ii) under legislation; or

- (iii) at common law (including customary law and aboriginal title); or
 - (iv) from the law of equity (including from a fiduciary duty); or
 - (v) from international conventions; or
 - (vi) otherwise; and
- (b) arise 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

5.7.2 every claim to the Waitangi Tribunal to which clause 5.7.1 applies including:

- (a) Wai 145: Port Nicholson Block; and
- (b) Wai 105: Hutt Section 19; and
- (c) Wai 183: Korokoro Urupā; and
- (d) Wai 377: Kaiwharawhara and Hutt; and
- (e) Wai 442: Waiwhetu Pā land; and
- (f) Wai 474: Kaiwharawhara and Heretaunga; and
- (g) Wai 562: Pipitea Pā and street properties; and
- (h) Wai 571: Section 1, Pipitea Street (Resumption Claim); and
- (i) Wai 660: Hutt Section 19 (part of); and
- (j) Wai 734: Whanganui-a-Tara (Ngāti Mutunga); and
- (k) Wai 735: Whanganui-a-Tara (Ngāti Tama); —

but does not include the “Excluded Claims”.

5.8 “**Excluded Claims**” means each of the following:

5.8.1 a claim that a Claimant may have that is founded on a right arising as a result of being descended from an ancestor to whom clause 5.1.1(b) does not apply; and

5.8.2 a claim that a Claimant may have in the “Excluded Areas” that is founded on a right arising as a result of being descended from an ancestor to whom clause 5.1.1(b) applies.

5.9 “**Excluded Areas**” means each of the following:

5.9.1 the South Island; and

5.9.2 the Chatham Islands; and

5.9.3 Taranaki; and

5.9.4 the Kapiti Coast.

5.10 Subject to the matters set out in clause 6.6, “**mandate**” means the authority given by the Claimants to the PNBCT to enter into negotiations with the Crown and “**mandating**” refers to the process by which the Claimants gave the PNBCT the authority to represent them.

5.11 “**mandated**” refers to all those persons who are signatories to the Deed of Mandate and who as a group were given the authority by the Claimants to enter into negotiations with the Crown so as to achieve a settlement of the Historical Claims of the Claimants.

5.12 “**Port Nicholson Block**” refers to all the shaded land as delineated and shown on Map 3 at page 15 of the Waitangi Tribunal Report 2003 *Te Whanganui a Tara Me Ona Takiwa* and being the “Report on the

Wellington District” a copy of which map is annexed to this Agreement as Schedule A.

- 5.13 “**Port Nicholson Block Claims Team**” (PNBCT) are the eleven persons mandated by the Claimants in 12 national hui held in August 2003, whose mandate has been recognised by the Crown and who are all signatories to this Agreement.
- 5.14 “**Te Tiriti o Waitangi / The Treaty of Waitangi**” means Te Tiriti / The Treaty as set out in the First Schedule to the Treaty of Waitangi Act 1975 and includes the principles of Te Tiriti / The Treaty.
- 5.15 “**Treaty breach**” means an act or omission by the Crown considered to be inconsistent with Te Tiriti o Waitangi / The Treaty of Waitangi.
- 5.16 “**Wai**” is the prefix to a claim filing number allocated by the Waitangi Tribunal to each claim registered with the Waitangi Tribunal.
- 5.17 “**Waitangi Tribunal Report**” means the report of the Waitangi Tribunal on the Wellington District Claims released in May 2003 and entitled *Te Whanganui a Tara Me Ona Takiwa*.

6. Matters Concerned with the Mandate

- 6.1 In the event that representation issues arise during negotiations of a kind that cannot be resolved by agreement, the Claimants will, by preference, adopt the dispute provision protocols set out in the Third Schedule of the Deed of Agreement in paragraphs 21 to 23.
- 6.2 In the event that, for any reason, the protocol is unable to be applied to a matter in issue, the PNBCT will discuss with the Crown alternative processes to resolve the issue.
- 6.3 The PNBCT agrees to provide the Office of Treaty Settlements with reports on the state of the mandate every three months.

- 6.4 The Crown agrees to promptly provide the PNBCT with any correspondence it receives about the mandate of the PNBCT and to discuss with the PNBCT any issues arising from that correspondence or enquiry before replying to it.
- 6.5 The Office of Treaty Settlements will provide the PNBCT with any relevant reports, or other documents not covered by clause 6.4, that would be accessible under the Official Information Act 1982.
- 6.6 The PNBCT agrees to reconfirm its mandate within two years from the date of the Crown's recognition of the mandate via adequately notified hui-a-iwi, and the Crown agrees to contribute to the costs of the hui.
- 6.7 The Crown and the PNBCT acknowledge that some Ngāti Tama people do not consider that they are appropriately represented by the PNBCT. The Crown and the PNBCT undertake to discuss with the representatives of those Ngāti Tama people the extent to which their Historical Claims will be covered by the negotiations. The parties acknowledge that any agreement reached might require an amendment to the definition of Historical Claims in clause 5.7.
- 6.8 Subject to the outcomes under clause 6.7, the PNBCT and the Crown agree to seek to involve the Ngāti Tama Hapū/Iwi ki te Upoko o te Ika Society Incorporated (Society Number WN/1203758), the Ngāti Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust and the Ngāti Tama Te Kaeaea Trust in negotiations with the Crown when those negotiations directly relate to those entities. The PNBCT also agrees that it will attempt to establish and maintain positive working relationships with the Ngāti Tama Hapū/Iwi ki te Upoko o te Ika Society Incorporated, the Ngāti Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust and the Ngāti Tama Te Kaeaea Trust during the course of the negotiations.

7. Subject Matter for Negotiation

7.1 Without in any way limiting the matters to be negotiated by agreement between the parties, the PNBCT and the Crown acknowledge that the following matters need to be negotiated:

7.1.1 the Crown's apology and acknowledgements; and

7.1.2 cultural redress, including redress instruments that seek to enhance the relationship between the Crown and the Claimants; and

7.1.3 financial and commercial redress.

7.2 The Crown acknowledges that the PNBCT wishes to negotiate costs on behalf of the beneficiaries of the Wellington Tenths Trust and the Palmerston North Māori Reserve Trust associated with the Waitangi Tribunal hearings, mandating, and negotiations processes.

8. Stages of Negotiation Process

8.1 The PNBCT and the Crown agree that the stages of the negotiation process will include, but will not necessarily be limited to:

Agreement in Principle

8.1.1 the signing of an Agreement in Principle which will outline, in principle, the scope and nature of the settlement redress proposed for the Deed of Settlement; and

Initialled Deed of Settlement

8.1.2 the initialling of a Deed of Settlement by the PNBCT and the Crown. The Deed of Settlement will set out the terms and conditions of the settlement of the Historical Claims of the Claimants; and

Ratification

- 8.1.3 the presentation of the initialled Deed of Settlement to the Claimants for ratification (in a manner to be agreed by the parties); and

Deed of Settlement Signed if Ratified

- 8.1.4 the signing of the Deed of Settlement by mandated signatories on behalf of the Claimants, and by a representative of the Crown. The Deed signing will only occur if the Claimants ratify the Deed of Settlement; and

Governance Entity or Entities Ratified

- 8.1.5 the approval by the Crown, and the ratification by the Claimants, of a governance entity or entities to represent the Claimants, and receive and manage settlement redress; and

Settlement Legislation Passed

- 8.1.6 the passage of the settlement legislation. The settlement of the Historical Claims of the Claimants will be effective once the settlement legislation receives the Royal Assent.

9. Historical Claims Settlement Outcomes

- 9.1 The PNBCT and the Crown agree that settlement of the Historical Claims will enable the following:
- 9.1.1 an appropriate representative of the Crown to give an oral and written apology in an agreed form, at an agreed location, on an agreed date; and
- 9.1.2 the receipt of appropriate cultural, financial and commercial redress by the governance entity or entities; and

- 9.1.3 to help facilitate the way forward for the continuing relationship between the Claimants and the Crown; and
 - 9.1.4 the final settlement of the Historical Claims of the Claimants, and the release and discharge of the Crown's obligations and liabilities in respect of those Historical Claims; and
 - 9.1.5 the removal of the jurisdiction of the courts, the Waitangi Tribunal, and any other judicial body or tribunal in respect of the Historical Claims, 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
 - 9.1.6 the discontinuance of the Office of Treaty Settlements landbank arrangement for the protection of potential settlement properties for the benefit of the Claimants except in the Excluded Areas; and
 - 9.1.7 the discontinuance of any legal proceedings before the courts or the Waitangi Tribunal in relation to the Historical Claims.
- 9.2 The settlement legislation will provide that, in respect of the Historical Claims and except in respect of the Excluded Areas, the Claimants will not be able to object to the removal of resumptive memorials from titles to land subject to the State Owned Enterprises Act 1986, the Railways Corporation Restructuring Act 1990, the Crown Forests Assets Act 1989, and the Education Act 1989.

10. Overlapping Claims

- 10.1 The PNBCT and the Crown agree that:
 - 10.1.1 overlapping claim issues in respect of redress will need to be addressed through a transparent process to the satisfaction of the

Claimants and the Crown before a Deed of Settlement can be concluded; and

10.1.2 certain items of redress provided to the Claimants as part of the Deed of Settlement may need to reflect the importance of an area or feature to other claimant groups.

10.2 The PNBCT will discuss their interests with overlapping claimants at an early stage in the negotiation process and will endeavour to establish a process by which they can reach agreement on how such interests can be managed.

10.3 The Crown may assist the Claimants as it considers appropriate and will carry out its own consultation with overlapping groups.

11. No Agreement to Commit to a Settlement

11.1 The PNBCT and the Crown acknowledge that this document does not bind either party to reach a settlement and, in any event, the negotiated outcome will not be binding upon the parties until embodied in a Deed of Settlement following ratification.

12. Confidentiality

12.1 The PNBCT and the Crown agree that the negotiations will be conducted in private and kept confidential unless agreed otherwise or when the Crown is required to release information under the Official Information Act 1982.

13. Negotiations to be “Without Prejudice”

13.1 The negotiations are to be conducted “without prejudice” to the parties’ rights.

14. Governance Entity or Entities for Settlement Redress

- 14.1 The PNBCT and the Crown agree that an appropriate legal governance entity or entities will be established and ratified by the Claimants in a manner to be agreed by the parties.
- 14.2 The governance entity or entities must adequately represent the Claimants, have transparent decision making and dispute resolution processes, and be accountable to the Claimants.

15. Claimant Funding

- 15.1 The PNBCT and the Crown note that the Crown makes a contribution to the negotiation costs of the Claimants, which is paid in instalments for the achievement of specified milestones in the negotiation process.
- 15.2 Before each instalment of claimant funding is approved, the PNBCT will provide the Crown with invoices that demonstrate that the previous instalment of claimant funding was applied to negotiation expenses.
- 15.3 The PNBCT will provide the Crown with independently audited accounts yearly for the claimant funding that it receives from the Crown as referred to in paragraph 15.1 above, identifying how the funding has been spent.

16. Other Avenues of Redress

- 16.1 The PNBCT and the Crown agree to work together in good faith and a spirit of cooperation to reach a negotiated settlement.
- 16.2 The Crown acknowledges that the PNBCT may choose to initiate or pursue, before any court or tribunal, any proceedings for redress covering all or part of the same subject matter as the negotiations.
- 16.3 The PNBCT agrees that it will provide the Crown with 10 business days notice before initiating or pursuing any such proceedings.

- 16.4 Proceedings will be deemed to have been initiated or pursued as soon as the PNBCT appears before a court or tribunal on the proceeding in question.
- 16.5 The Crown will withdraw from negotiations once proceedings have been initiated or pursued.

17. Procedural Matters

- 17.1 The PNBCT and the Crown acknowledge and agree that:
- 17.1.1 the PNBCT will, in approaching the negotiations, be applying its “Foundation Values”, “Principles”, “Kaupapa Vision Statement” and “Dispute Resolution Processes” as set out in the Deed of Agreement annexed to these Terms of Negotiation as part of Schedule B; and
 - 17.1.2 negotiations by the parties will be conducted in good faith and in a spirit of co-operation and partnership and in accordance with Te Tiriti o Waitangi / The Treaty of Waitangi; and
 - 17.1.3 the Crown will provide the PNBCT with any correspondence it receives about the negotiations if that correspondence is of a kind that would be disclosed to the PNBCT if it were to make a request for it under the Official Information Act 1982; and
 - 17.1.4 media statements concerning the negotiations will only be made when mutually agreed by both parties; and
 - 17.1.5 the PNBCT will report regularly to the Crown on the steps taken to consult with and inform the Claimants of the progress of the negotiations; and

17.1.6 the location, times, and frequency of meetings will be suitable and convenient to both parties.

18. Amendments

18.1 The PNBCT 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 both parties and recorded in writing. Proposed amendments will be communicated to the Claimants prior to being finalised.

19. Interpretation

19.1 In the interpretation of this agreement, unless the context otherwise requires: where a word or expression is defined in this agreement, other parts of speech and grammatical forms of that word or expression have corresponding meanings.

Signed this day of 2004

For and on behalf of the Crown:

Hon Margaret Wilson, Minister in Charge of Treaty of Waitangi Negotiations

For and on behalf of the Claimants

Authorised Signatory: _____

Printed Name: Dr Ralph Heberley Ngatata Love

Authorised Signatory: _____
Printed name: Sir Paul Alfred Reeves

Authorised Signatory: _____
Printed name: Rebecca Elizabeth Mellish

Authorised Signatory: _____
Printed name: Mark Te One

Authorised Signatory: _____
Printed name: Hinekehu Ngaki Dawn McConnell

Authorised Signatory: _____
Printed name: Dr Ihakara Porutu Puketapu

Authorised Signatory: _____
Printed name: Neville McClutchie Baker

Authorised Signatory: _____
Printed name: Spencer Waemura Carr

Authorised Signatory: _____
Printed name: June Te Raumangi Jackson

Authorised Signatory: _____
Printed name: Kevin Hikaia Amohia

Authorised Signatory: _____
Printed name: Dr Catherine Maarie Amohia Love

17.1.6 the location, times, and frequency of meetings will be suitable and convenient to both parties.

18. Amendments

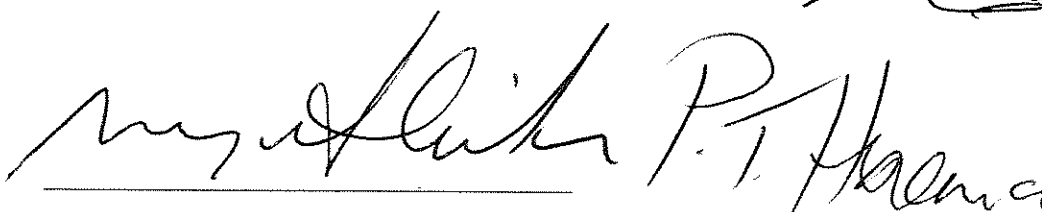
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Signed this 27 day of July 2004

For and on behalf of the Crown:



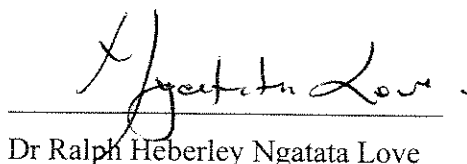
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Hon Margaret Wilson, Minister in Charge of Treaty of Waitangi Negotiations

For and on behalf of the Claimants

Authorised Signatory:

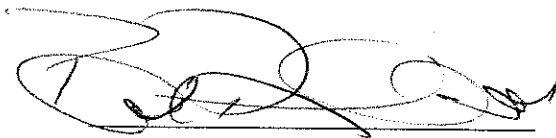
Printed Name:



A handwritten signature in black ink, appearing to read 'Ralph Heberley Ngatata Love', written over a horizontal line.

Dr Ralph Heberley Ngatata Love

Authorised Signatory:



Printed name:

Sir Paul Alfred Reeves

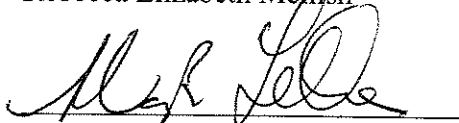
Authorised Signatory:



Printed name:

Rebecca Elizabeth Mellish

Authorised Signatory:



Printed name:

Mark Te One

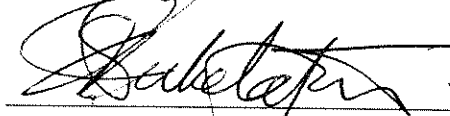
Authorised Signatory:



Printed name:

Hinekehu Ngaki Dawn McConnell

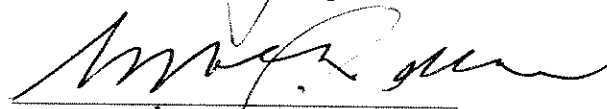
Authorised Signatory:



Printed name:

Dr Ihakara Porutu Puketapu

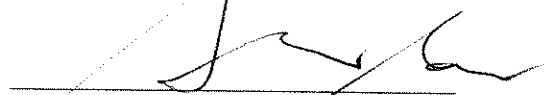
Authorised Signatory:



Printed name:

Neville McClutchie Baker

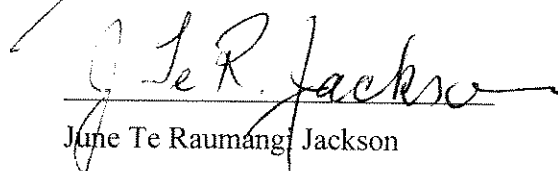
Authorised Signatory:



Printed name:

Spencer Waemura Carr

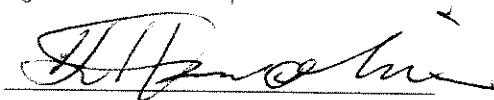
Authorised Signatory:



Printed name:

June Te Raumang Jackson

Authorised Signatory:



Printed name:

Kevin Hikaia Amohia

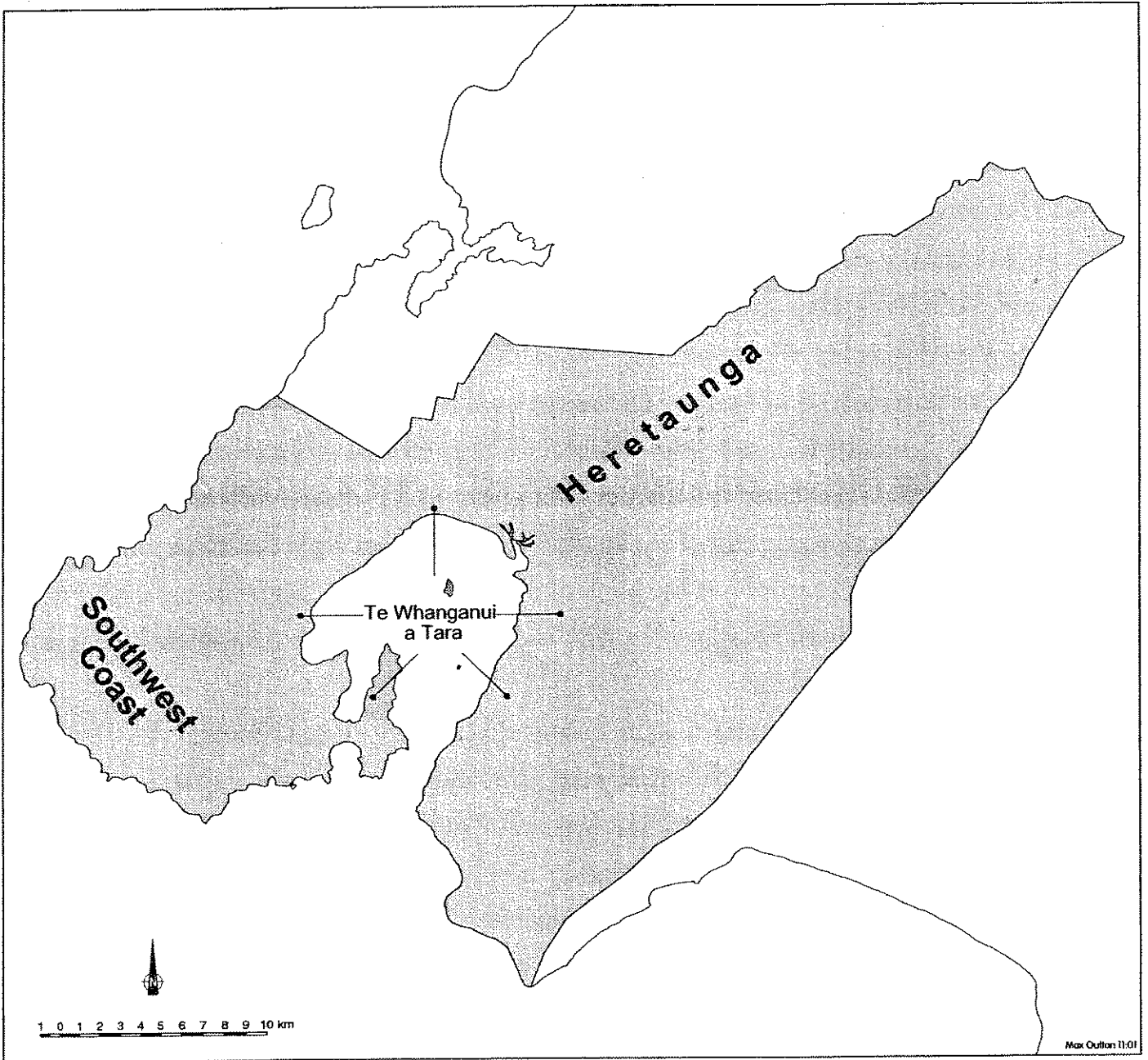
Authorised Signatory:



Printed name:

Dr Catherine Maarie Amohia Love

SCHEDULE A



Map 3: Areas within the Port Nicholson block

SCHEDULE B

DEED OF AGREEMENT

AGREEMENT MADE BETWEEN THE UNDERSIGNED PROPOSED PERSONS FOR MANDATING AND RALPH HEBERLEY NGATATA LOVE, CHIEF CLAIMANT WAI 145 AND MADE ON THE DATE AS SET OUT IN THIS DEED

THE PARTIES

The parties to this Deed of Agreement are the undersigned named persons to this Agreement and being persons proposed for mandating by the Port Nicholson block claimants and Ralph Heberley Ngatata Love, Chief Claimant of the Wai 145 claims and also being a person proposed for mandating.

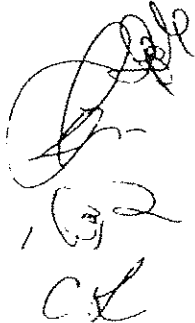
DEFINITIONS

For the purposes of this Agreement the following definitions shall apply:

“**claimant beneficiary**” is a person who comes within the definition as set out in Schedule I to this Deed of Agreement and “**claimant beneficiaries**” has a corresponding meaning;

“**consultants**” shall be those persons offering professional expertise to the operations team and employed with the approval of the operations team. Consultants do not include salaried staff;

“**mandate**” and “**mandated**” refers to the requirement of the Crown that the claimant body whose claims are defined in the Second Schedule herein determine those persons who shall have ultimate responsibility for negotiating the Port Nicholson Block Treaty breach redress with the Crown and “**mandating**” shall have a corresponding meaning;



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“meetings” includes attendance by teleconference as well as meeting by actual attendance at an agreed venue;

“negotiators” shall be those persons referred to in the Third Schedule herein and approved by the mandated committee and appointed by the operations team under the direction of the mandated committee who have responsibility for the direct negotiation of any Port Nicholson Block Treaty breach claim with the Crown;

“operations team” is the body of persons appointed by the mandated committee with day to day responsibility for the management of the negotiating process. The operations team and its functions are further described in the Third Schedule. The composition of the operations team may change to take account of particular claims being negotiated;

“Port Nicholson Block Claims” means the Port Nicholson Block Claims or any one of them as set out in Schedule 2 below and includes seeking redress for matters not subject to specific claim but ancillary or related to any existing claim and matters not claimed but concerning breaches or alleged breaches of the Treaty within the Port Nicholson Block claim rohe;

“the mandated committee” being the body of persons mandated by the registered claimants to the Port Nicholson Block claims to have governance responsibility for the negotiation of the Port Nicholson Block claims;

“related claims” refers to a claim or claims in respect of Treaty breaches which while not necessarily referred to in any pleadings or evidence concerned with the Port Nicholson Block Claims is/are nonetheless considered by the mandated committee and/or the operations team to be of sufficient relevance to the Port Nicholson Block claims that the claim or claims ought to be brought forward for negotiation with the Crown.

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“the Port Nicholson Block” refers to all the shaded land as delineated and shown on Map 3 at page 15 of the Waitangi Tribunal Report 2003 “Te Whanganui a Tara Me Ona Takiwa” and being the “Report on the Wellington District” a copy of which is annexed to this Deed of Agreement as Schedule 4.

“the interim working party” being the body of persons who assisted to determine who should be proposed for mandating to negotiate the Port Nicholson Block claim and who determined the principles, processes and protocols by which the mandated persons ought to be bound in exercising their authority and carrying out the business of the mandated committee;

“Treaty” means the Treaty of Waitangi;

“Treaty breach” includes any and all Treaty breaches proved or otherwise and identified by any claimant to the Port Nicholson Block claims as a matter to be raised for negotiation in pursuant of redress from the Crown and in respect of the Treaty breach or breaches.

“Wai” is the prefix to a unique claim filing number allocated by the Waitangi Tribunal to each claim for Treaty breach or breaches filed with the Waitangi Tribunal.

BACKGROUND

1. The Port Nicholson Block was a large tract of land in and around Whanganui A Tara which was purportedly sold by resident Chiefs to Edward Gibbon Wakefield of the New Zealand Company in 1839. That tract of land came to be extended by the Crown to include part of the south west coast in 1844 and in its entirety is the Port Nicholson Block.

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2. From 6 February 1840 onward the Crown committed a series of Treaty breaches relating to the Port Nicholson Block lands.
3. A number of claimants brought claims to the Waitangi Tribunal alleging Treaty breaches by the Crown and concerned with the Port Nicholson Block lands. The individual claimants with their Waitangi Tribunal claim reference detail are set out in Schedule 1 annexed to this Deed of Agreement.
4. The Waitangi Tribunal has sat and heard evidence relating to the claims in Schedule 1 and its Report of 2003 entitled *Te Whanganui A Tara Me Ona Takiwa – Report on the Wellington District* was released to Port Nicholson Block claimants at Pipitea Marae on 17 May 2003.
5. The Crown requires that a group of persons be identified to it as persons entrusted by the Port Nicholson Block claimant beneficiaries with the responsibility for the negotiation of the settlement of the Waitangi Treaty claims generally identified in Schedule 2 to this Deed and the related claims and these persons collectively being referred to as the mandated committee.
6. To that end certain persons are being put forward to be mandated persons together comprising the mandated committee. This committee will have an oversight governance responsibility for claim settlement negotiation of the Port Nicholson Block claims and related claims appearing in Schedule 2.
7. Over a series of 12 hui and workshops held between 30 May 2003 and 17 July 2003 members of the Interim Working Party and supported by others worked to establish who should be put forward to the claimant beneficiary community for mandating and the Interim Working Party developed a series of principles.

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C.L.

processes and protocols by which the claimant negotiation objectives ought to be pursued.

8. It is believed that those being put forward for mandating, as a requirement of being put forward to the claimants for claimants to vote upon, should first sign to this Deed as evidence of the principles and values they will apply and adhere to in pursuit of claims settlement.
9. The fact of signature and commitment to the provisions in this Deed by each signatory is to be publicly stated at all mandating hui and the undersigned acknowledges this and consents to this Deed being made publicly available to claimant beneficiaries who seek a copy of it.

THIS DEED therefore records the following matters of agreement between the undersigned proposed persons for mandating and Ralph Heberley Ngatata Love, Chief Claimant for the Wai 145 claim as follows:

1. The proposed persons for mandating named in this Deed agree by signing to this Deed to let their names go forward to be voted upon for mandating by all claimants and claimant beneficiaries under the Port Nicholson Block claims and as defined in Schedule 2 annexed to this Deed of Agreement.
2. In entering into this Deed of Agreement the undersigned proposed persons for mandating agree jointly and severally that if mandated, they will represent both their specific claimant beneficiary interests and the broad claimant beneficiary interests in the Port Nicholson Block claims and in so doing further agree to be bound by the principles, processes and procedures for management of the Port

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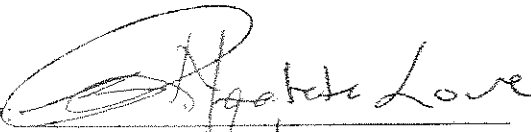
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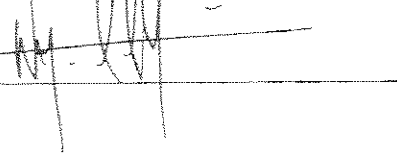


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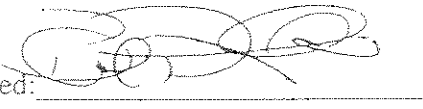
Nicholson Block claim treaty breach negotiations as set out in Schedule 3 annexed to this Deed of Agreement and as adopted by each and every signatory to this Deed.

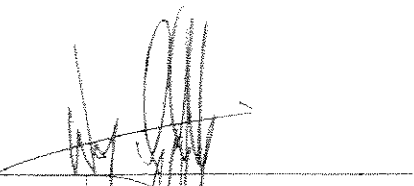
Dated at Wellington this 16th day of August 2003.

Signed by: 
Ralph Heberley Ngatata Love
Chief Claimant for the WAI 1145 Claim

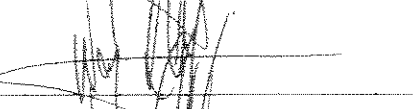
Witnessed by: 

Proposed persons for mandating:

Signed: 

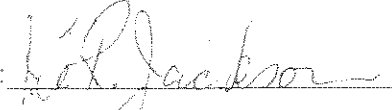
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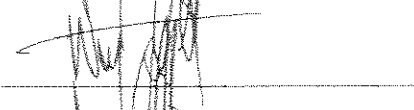
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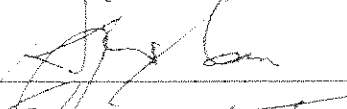
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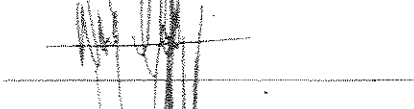
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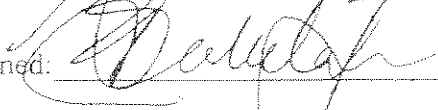
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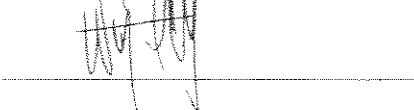
Signed: 

Witnessed by: 

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V.B.

Signed: H. O. [Signature] Witnessed by: [Signature]

Signed: Mark [Signature] Witnessed by: [Signature]

Signed: [Signature] Witnessed by: [Signature]

Signed: _____ Witnessed by: _____

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FIRST SCHEDULE

Beneficiary Group

The claimant beneficiary group entitlement is founded on those who can whakapapa (genealogy) by direct line of descent to:

1. The original beneficiaries of the September 27, 1839, Port Nicholson Block purchase deed and being of;
 - Te Atiawa at Te Whanganui a Tara and parts of the south-west coast;
 - Taranaki and Ngati Ruanui at Te Aro;
 - Ngati Tama at Kaiwharawhara and environs, and parts of the south-west coast.
2. The persons listed in the Schedule to the Declaration of the native Land Court in Wellington, dated April 11, 1888; or
3. Other persons who whakapapa to Taranaki whanui of Te Atiawa at Te Whanganui a Tara and parts of the south-west coast, Taranaki and Ngati Ruanui at Te Aro, Ngati Tama at Kaiwharawhara and environs, and parts of the south-west coast not named in (1) or (2) above, but who lived within the Port Nicholson Block, Wellington District, as at February 6, 1840; or
4. Adopted persons, and their descendants (blood or whangai) where the adoptive parent(s) can whakapapa to a blood descendant of any of the original beneficiaries as set out in (1) to (3) above.

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SECOND SCHEDULE

WAITANGI TRIBUNAL CLAIM SCHEDULE RELATING TO UPHELD OR
UNDER NEGOTIATION TARANAKI WHANUI CLAIMS TO THE
PORT NICHOLSON BLOCK

| Claim Number | Name of Claim | Principal Claimant |
|--------------------------------------|--|--|
| Wai 145 Love (Filed as Wai 54) | Port Nicholson Block, WTT, PNMR | Makere Rangiatea Ralph and Ngatata Ralph Heberley Love : Wellington Tenth's Trust and Palmerston North Maori Reserves |
| Wai 105 Wai 183 Wai 377 | Hutt Section 19 Korokoro Urupa Kaiwharawhara & Hutt | Ihakara Porutu Puketapu Enuera Nia David Churton and Michelle Marino |
| Wai 442 Wai 562 Wai 571 | Waiwhetu Pa land Pipitea Pa & street properties Section 1, Pipitea Street (Resumption Claim) | Mark Te One and others Kara Puketapu Ngatata Ralph Heberley Love |
| Wai 660 Wai 735 | Hutt Section 19 (part of) Whanganui A Tara (Ngati Tama) | Anne Reweti Te Puoho Katene and Te Taku Parai |

THIRD SCHEDULE
PROTOCOLS

The Parties to this Agreement agree as follows:

Introduction

1. The mandated committee shall have responsibility for oversight of the negotiation of all claims as appearing in the First Schedule relating to the Port Nicholson Block claims.
2. The mandated committee will normally meet once a month to receive reports from the operations team on progress, and, where appropriate to give advice and direction to the operations team.
3. The mandated committee and operations team shall be chaired by the Chief Claimant of Wai 145; or in his absence by a person voted to that position to chair that meeting by the respective bodies.
4. The operations team shall comprise a group of persons appointed by the mandated committee. The operations team shall have the day to day responsibility for progressing negotiation in respect of the Port Nicholson Block claims. The operations team may include salaried staff and consultants. It will be the responsibility of the operations team to service and support the mandated committee and the negotiators. The operations team may, and having regard for a particular claim or claims being negotiated, co-opt persons with particular skills as required but shall report on such co-opting to the mandated committee. The operations team may establish a working party or working parties for the purpose of assisting to research on and prepare for the negotiation of claims or parts of claims and shall report to the mandating committee on the establishment of such working parties and the work they are or may be carrying out.

5. The operations team shall have responsibility for appointing consultants to aid or take part in the negotiation process. The operations team shall establish a limited liability company for the purpose of entering into contractual relations with the consultants. The directors of the company shall include the mandated committee Chair or his nominee, a further nominee from the mandated committee and a member of the operations team.
6. No consultant shall be paid without the consultant's account first being approved for payment by the operations team.
7. Consultants will be required to bill monthly and will be paid monthly.
8. Consultants will receive written instruction and direction from the Chair of the operations team or his nominee. Solely in his or her capacity as a director of the operations team company may that person create contractual relationships between the operations team company and the consultants. No other person is authorised to enter into contractual relations with consultants or others on behalf of the mandated group or operations team other than Chair of the limited liability operations team or his nominee.
9. The operations team company shall be required to seek and make reasonable efforts to acquire directors' professional indemnity insurance for all directors and senior management.

Negotiators

10. The mandated committee recognizes that different Waitangi Tribunal "Wai" claim negotiations as set out in Schedule 2 to this Deed ought to be led by the named claimant or claimants for that particular claim or a person delegated to that task by the claimant grouping in the named claimants stead.
11. In respect of the individual claims the lead negotiator for individual claims can expect to call on the resources of the operations team for full negotiating team support in respect of a specific negotiation, and, as determined by the lead negotiator for the specific claim. Those

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resources will be offered subject to availability and realistic assessment of budget and need by the operations team including, but not limited to, consideration of cultural significance and also cost against prospective benefits to a particular claimant grouping.

12. Where individual claimants seek or require resources or work to be done outside of the operations team membership and its supporting consultancy such additional work will be at the sole cost and responsibility of that individual claimant.

Claim Cost Refund

13. It is acknowledged that the Wellington Tenth Trust and the Palmerston North Maori Reserves Trust have together paid a sum in excess of \$2 million to finance the research, reporting and hearing of the Wai 145 and certain other related Port Nicholson Block claims. Additionally it is acknowledged that the Wellington Tenth Trust and Palmerston North Maori Reserves Trust have together been funding the premandating processes. It is further acknowledged that other Wai claimant parties will also have carried hearing and pre-mandating costs. The parties to this Deed of Agreement agree that the first call on reimbursement monies received from the Crown shall be the repayment of the claims and mandating costs borne by the Wellington Tenth Trust and the Palmerston North Maori Reserves Trust and other claimants. The parties further agree that for such payments to be received it shall be on presentation to the mandated committee of audited accounts and which accounts must be accepted by the Office of Treaty Settlements as satisfactory such as to justify Crown recompense. The mandated committee if required by the Office of Treaty Settlements, shall forthwith authorise payment by the Crown to the specified claimant or claimant body recompense for costs and disbursements.

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14. It is recognised that the Crown may specifically allocate a sum towards meeting all or part of the Wai 145 claim and mandating costs and disbursements and similarly with other claimant claim and mandating costs and disbursements. The parties acknowledge that in the event that there is any shortfall between a Crown awarded sum as contribution to Treaty claims and mandating costs that such shortfall will be paid as a first call upon the general settlement monies to the audited and Office of Treaty Settlements accepted claimant accounts referred to in paragraph 13 above.

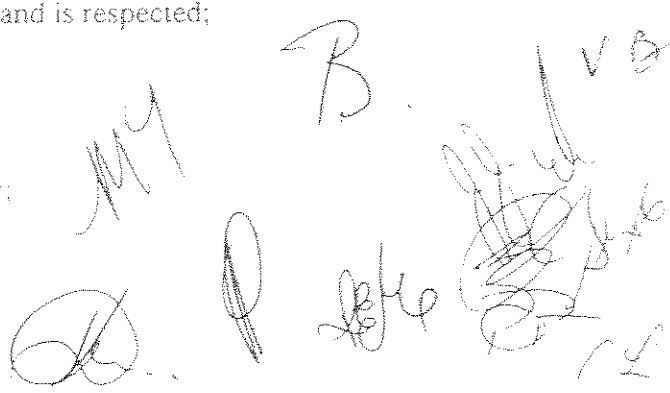
Decision Making

15. The Mandated Committee shall reach decisions by consensus, and, a consensus determination shall be required for the passing of all resolutions.

Proposed Mandated Committee Member Criteria For Being Put Forward For Mandating:

16. These criterion to be applied to each prospective mandating committee member were established in consultation with the working group. Each signatory to this Deed acknowledges the criteria as being able to apply to that person:

1. Can represent all interests of Taranaki Whanui claimant beneficiaries;
2. Has the necessary skills, competence, time and experience;
3. Demonstrates leadership;
4. Is a team player;
5. Conducts themselves in an ethical manner and is respected;
6. Has good communication skills;
7. Has a degree of standing in the community;

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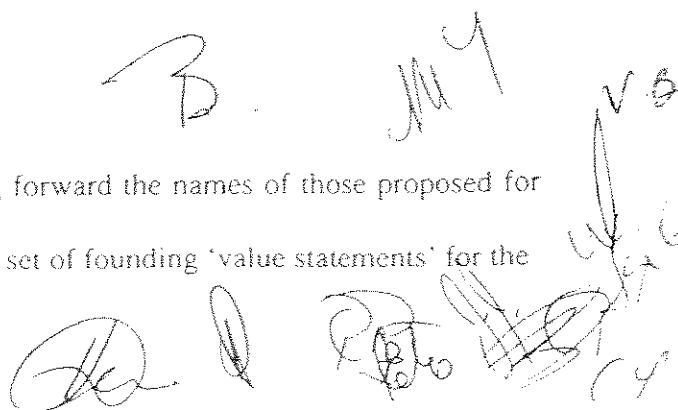
8. Can do the job and be goal focused;
9. Has no conflicts of interest in respect of claims outside of the Port Nicholson Block;
10. Is one claim focused.

Mandated Committee

17. The mandated committee objectives are:
 - To oversee negotiation of the most strategic settlement possible, and ideally within two-years.
 - To utilise in negotiation all legal measures to ensure the quantum reflects the uniqueness of Te Whanganui A Tara Me Ona Takiwa and the legitimacy of the claims.
 - To ensure negotiations cater for all claims in a fair and consistent manner.
 - To obtain a settlement that enables Taranaki Whanui to maximise opportunities in commerce, business, education, health and social services.
 - To recommend structures for the future as part of preparation for receiving settlement.
 - To prepare post settlement structures and systems that protect resources, mitigate compliance costs and enable resource growth and development.

Foundation – Values

18. The interim working party which helped to bring forward the names of those proposed for the mandating committee in so doing developed a set of founding 'value statements' for the


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collective mandated committee to adopt as a basis for moving forward. These value statements set in place the benchmark for the relationship between members of the mandated committee with each other and as a collective with other parties. In signing to this Deed each person ascribes to these four founding values.

1. Respecting the collective and respective mana of the Taranaki iwi.
2. Ensuring all claims are included, represented and supported through negotiations.
3. Recognising the wrongs were created and continue to be sustained by the Crown.
4. Honouring the work, resources and perseverance of those who lodged and fought the Crown to gain justice.

Principles

19. The prospective mandated committee members each commit to and agree to be bound by the principles and behaviours as set out below if voted to become a member of the mandated committee:

| Principle | Description | Expected Behaviour |
|--------------|--|---|
| Integrity | Ethics, honourable and stewardship | Behaviour that is moral, principled and honourable |
| Just | Pursuit of objective fairness for the parties involved | Behaviour that is considered, appropriate and fair-having regard for relevant information and the law and advice received |
| Honesty | Truthfulness and openness | Behaviour that is frank and non-deceptive |
| Manaakitanga | Generosity, contributing and caring | Behaviour that is reciprocal and gives more than demands or takes |

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| | | |
|----------------|---|--|
| Whanaungatanga | Inter-relationships and connectedness | Behaviour that acknowledges and reinforces relationships between our tupuna and iwi |
| Recognition | Thoughtfulness, understanding and acknowledgement | Behaviour that seeks to understand the history of the claim -all points of view and the ability to give credence to them |
| Respect | Courteous, considerate and empathic | Behaviour that is accepting of an individuals right to differing points of view and a willingness to work towards consensus decision making |
| Loyal | Unity and commitment | Behaviour that is supportive of each other and not undermining of individual or group decisions |
| Transparency | Open and regular communication | Behaviour (subject to confidentiality requirements) informs of relevant information on a regular basis so that persons can understand and therefore be able to question matters and issues |
| Confidentially | Non-disclosure of information | Behaviour that recognises that negotiation can be damaged by disclosure of strategy and information and therefore ensuring no verbal, written, or electronic communication other than authorised takes place |
| Whakapapa | Iwi bloodlines | Behaviour that |

| | | |
|----------|---------------------------------------|---|
| Positive | Constructive, creative and innovative | recognizes that beneficial interests must be determined by whakapapa Behaviour that is constructively critical, that looks for opportunities and solutions |
|----------|---------------------------------------|---|

Mandated Committee Functions and Responsibilities:

20. The signatories to this Deed agree to accept the following functions and responsibilities as members of the mandated committee:

- To ensure broad base representation;
- To comprehend the Wellington claims;
- To set the negotiation framework;
- To appoint and monitor negotiators for different aspects of the negotiations;
- To understand the Crown processes and engage with Officials and Ministers;
- To understand technical demands (valuations, economics, fiscal, cultural); and
- To protect the integrity of the negotiation and mitigate against risks of the negotiation being imperiled (legal and others).

Kaupapa – Vision Statement

21. The interim working party developed a Kaupapa – Vision Statement which it requires the mandated committee to hold before them during the negotiation process. The Kaupapa recognises that the negotiated outcomes are for the future as well as the present. Mandated committee members as signatories to this Deed of Agreement commit to the following:

The future is where there are no compromises to our tikanga, values and principles. That the descendants of Taranaki Whanui will be recognised as the height of excellence in:

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1. Te Reo me ona tikanga;
2. Business and commercial practice;
3. Health, education and social statistics;
4. Health, education and social service provision;
5. Leadership locally, nationally and internationally; and
6. Relationships with the Crown, local government, taurahere and businesses in Te Whanganui A Tara.

Dispute Resolution

22. In the event that a difference should arise between an individual claimant or claimants or their representatives and such person or persons are signatories to this Deed and the mandated committee or should a difference arise between the mandated committee members or between the mandated committee and the operations team of a kind which cannot be resolved by consensus resolution and/or agreement and which could or does impede negotiation progress then the following steps shall apply:

1. the parties in conflict shall agree the appointment of two people to a Review Panel. The two Review Panel appointees shall agree the appointment of a third person to comprise the Review Panel. The Review Panel should meet with the parties within seven days of their appointment.
2. Within 21 days the parties and the Review Panel shall meet for the views to be put to the Review Panel for joint discussion and for the Review Panel to then consider. The Review Panel shall then provide a non-binding expression of opinion as to:
 - whether a particular view is correct, and/or
 - whether a particular course of conduct should be followed

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- such other advice as the Review Panel may consider appropriate for the purpose of resolving the dispute and to ensure that negotiation progress is not further impeded.

.3 the Review Panel may also offer possible solutions to the parties such as to resolve the dispute.

.4 the Review Panel may meet with the parties separately or together and may discuss the issues with such person or persons as they or the parties may think appropriate.

23. In the event that the Review Panel recommendation is not accepted by the parties and/or in the event that the Review Panel fails to sit to determine the dispute within 30 days of the notice of dispute having been given (whichever event is the sooner) then either party may refer the dispute to mediation in which case the following provisions will apply:

.1 The mediator must be selected from the Panel of Mediators held by the Arbitrators' and Mediators' Institute of New Zealand Inc. (the Institute);

.2 In the absence of agreement as to management of costs the costs of the mediation shall be borne equally by the parties;

.3 The mediator shall determine the kawa including the venue for the mediation and may consult with Kaumata and the parties to seek views as to the preferred kawa and venue;

.4 In the event that the parties are unable to agree a mediator the President for the time being of the Institute shall appoint a mediator from the Institute's Panel of Mediators and the parties shall accept that appointment;

.5 In the event that mediation does not achieve resolution of the dispute, within 60 days of the mediator having been appointed, the matter shall at the request of either party to the dispute be determined by arbitration pursuant to the Arbitration Act 1996.

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The arbitrator shall be chosen from the panel of arbitrators held by the Institute and in accordance with the following procedure;

.6 In the event that the parties are unable to reach prompt agreement as to the arbitrator, then within seven days of the failed mediation either party may put forward to the other party at least three names from the Institute's Panel of arbitrators, for that other party to select from those names an arbitrator for appointment. In the event that following five clear days of appointment request no appointment is made from the three names put forward then either party may apply to the President for the time being of the Institute who shall appoint an arbitrator from the Institute's Panel;

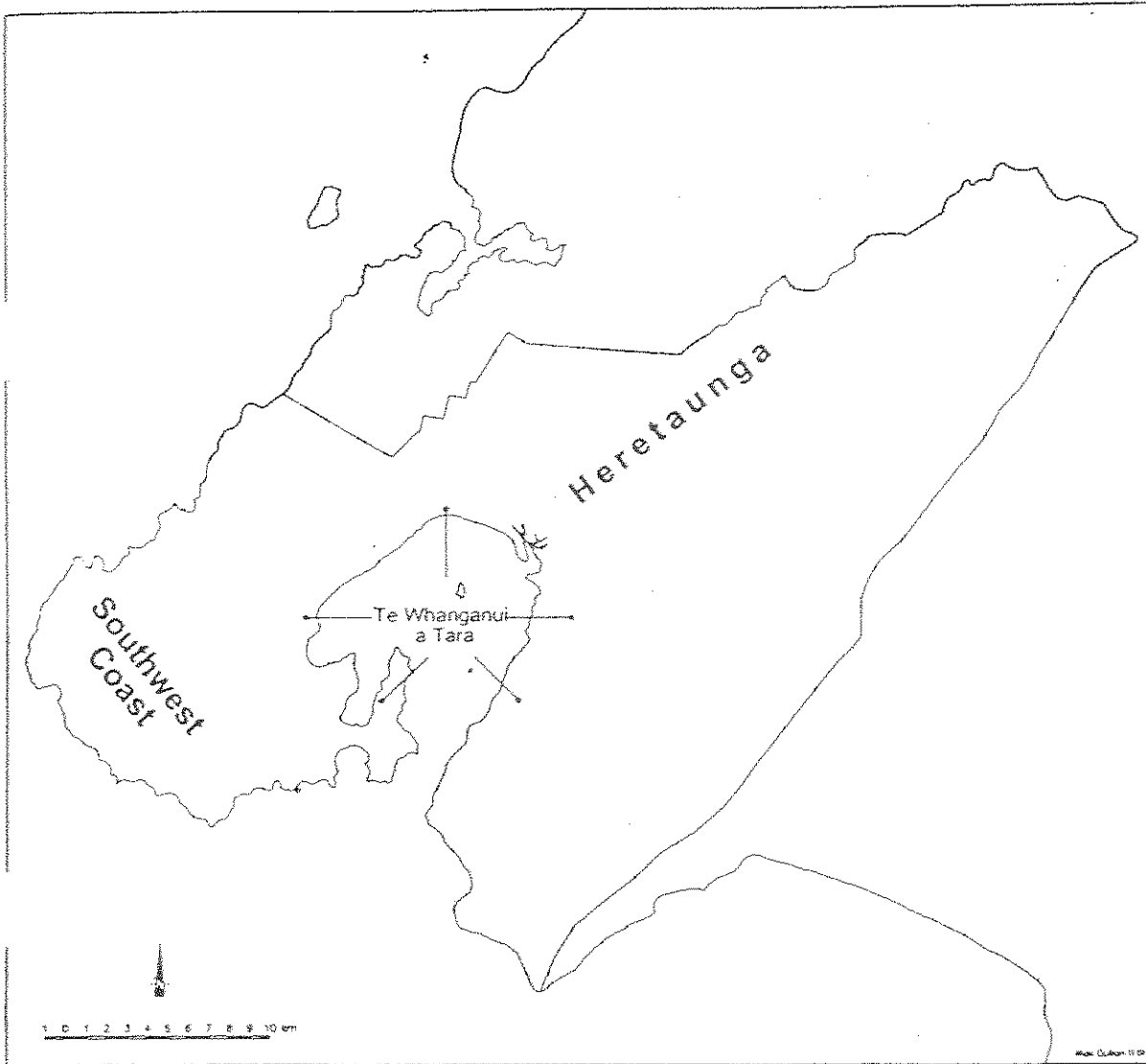
.7 The arbitrator shall determine the kawa and venue for the arbitration and may at the discretion of the arbitrator consult with Kaumata and/or the disputing parties before determining the kawa and venue for the arbitration;

.8 The arbitrator shall determine the costs of the arbitration and who shall pay them.

24. For the purpose of service of notices under the Dispute Resolution provisions notice shall be deemed to have been given if sent by registered mail to the person's last known postal address as held by the Port Nicholson Block operations team or by fax to that person's last known fax number as held by the operations team and supported by a confirming "OK" or equivalent fax transmission sheet or to that person's last known email address as held by the operations committee and supported by a confirming "received and opened email" transmission acknowledgement.

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SCHEDULE 4



Map 3: Areas within the Port Nicholson block

B M P B/C P/W VA
P/W
P/W