

FILE

**TERMS OF NEGOTIATION FOR THE
TE ARAWA LAKES TREATY OF WAITANGI CLAIM (WAI 240)
AND THE LAKES ANNUITY**

PURPOSE

1. This document sets out the objective, scope, and general procedures for the negotiations between the Crown and Te Arawa Maori Trust Board for the settlement of all outstanding claims of Te Arawa iwi and hapu for breaches (up to 21 September 1992), that relate to the Rotorua lakes (as described in paragraph 8 below), including WAI 240; and for agreement on all issues arising since 21 September 1992 relating to the annuity paid by the Crown to Te Arawa in relation to the lakes.
2. This document records the stated intentions of the Crown and Te Arawa Maori Trust Board, including the intention to negotiate in good faith, but does not create a legal relationship and is not legally binding.

MANDATE TO NEGOTIATE

3. Te Arawa Maori Trust Board confirms that it has a mandate to represent Te Arawa iwi and hapu in negotiations with the Crown for the settlement of the claims referred to in paragraph 1 above.
4. The Crown recognises the mandate of Te Arawa Maori Trust Board.

BACKGROUND

5. In 1922, the Crown entered into an agreement with Te Arawa, and passed legislation that deemed the Te Arawa lakes to be vested in the Crown. Te Arawa was paid an annuity of £6,000 (increased to \$18,000 in 1977).
6. In 1987 Te Arawa Maori Trust Board lodged a claim with the Waitangi Tribunal concerning the ownership of the lakes, the annuity, and management of the lakes' waters and fisheries.
7. In December 1998, the Government approved the mandate of Te Arawa Maori Trust Board to negotiate Te Arawa's lakes claim on behalf of the people of Te Arawa.
8. The lakes in question are Rotoehu, Rotoma, Rotoiti, Rotorua, Okataina, Okareka, Rerewhakaaitu, Tarawera, Rotomahana, Tikitapu, Ngahewa, Tutaeinanga, Opouri, Ngakaro or Okaro ("the Rotorua lakes").

OBJECTIVES OF THE NEGOTIATIONS

9. The Crown and Te Arawa Maori Trust Board agree that the objectives of the negotiations will be to:
- a negotiate a fair, comprehensive, final and durable settlement of all the claims of Te Arawa iwi and hapu for breaches up to 21 September 1992 that relate to the Rotorua lakes, including WAI 240; and Te Arawa's claims in relation to customary freshwater fishing to the extent that the claims have not been settled by sections 9 and 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; and all issues arising since 21 September 1992 relating to the annuity paid by the Crown to Te Arawa in relation to the lakes;
 - b achieve a settlement that restores and enhances the mana and tino rangatiratanga of Te Arawa, and will restore and enhance the honour of the Crown; and
 - c achieve a settlement that provides a platform for a new and ongoing relationship between Te Arawa and the Crown based on the principles of the Treaty of Waitangi.

SCOPE OF NEGOTIATIONS

10. Te Arawa Maori Trust Board and the Crown agree that the general scope of negotiations will include, but not necessarily be limited to:
- a the form of any Crown apology;
 - b the fiscal quantum for any redress;
 - c the nature of any other redress, such as redress relating to natural resources;
 - d implementation issues and other administrative actions that may be required to implement any settlement, including the drafting of settlement legislation;
- and in doing so the settlement will enable:
- e settlement of all Te Arawa iwi and hapu Treaty, common law and aboriginal title claims against the Crown up until 21 September 1992 that relate to the Rotorua lakes, and all issues arising since 21 September 1992 relating to the annuity paid by the Crown to Te Arawa in relation to the lakes; and
 - f the removal of the jurisdiction of the Waitangi Tribunal or the courts to re-open issues settled by the settlement.

WAIVE OTHER AVENUES OF REDRESS

11. Te Arawa Maori Trust Board and the Crown agree that during these negotiations neither party will pursue or initiate, before any court or tribunal, any proceedings covering all or part of the same subject matter as these negotiations.

PROCEDURAL MATTERS

12. Te Arawa Maori Trust Board and the Crown agree that:
- a negotiations will be on a "without prejudice" basis and will be conducted in good faith and in a spirit of co-operation;
 - b negotiations will be conducted in private and will remain confidential unless agreed otherwise (such as when consultation with third parties is necessary);
 - c a record of discussions, agreements and undertakings made during each negotiation meeting will be drafted by the Crown and finalised by both parties;
 - d media statements concerning the negotiations will only be made when mutually agreed by both parties;
 - e Te Arawa Maori Trust Board and the Crown will each ensure regular and appropriate internal consultation procedures throughout the negotiations; and
 - f Te Arawa Maori Trust Board will report regularly to the Crown on the steps taken to consult and inform Te Arawa iwi and hapu of the progress of the negotiations.
13. The claimant negotiating team will consist of Mr Arapeta Tahana (Chairman of Te Arawa Maori Trust Board), Mr Eddie Moke (Deputy Chairman of Te Arawa Maori Trust Board), Mr Willie Emery, Mr Shane Gibbons and Ms Tania Rangiheuea. Experts and/or representatives of individual iwi and hapu of Te Arawa may attend negotiation meetings where appropriate, with prior notice of attendance.
14. The Crown's negotiating team will consist of officials from the Office of Treaty Settlements, the Department of Conservation, Te Puni Kokiri, The Treasury, advised by the Crown Law Office.

GOVERNANCE STRUCTURE FOR SETTLEMENT ASSETS

15. Te Arawa Maori Trust Board and the Crown agree that one or more appropriate legal structure(s) endorsed by all Te Arawa iwi and hapu, which have transparent

decision-making and dispute resolution processes and are fully accountable to Te Arawa iwi and hapu, will need to be in place to receive settlement assets.

CLAIMANT FUNDING

16. Te Arawa Maori Trust Board and the Crown note that the Crown makes a contribution to the negotiation costs of Te Arawa Maori Trust Board, which is paid in instalments, for the achievement of specified milestones in the negotiation process.
17. Te Arawa Maori Trust Board will provide the Crown with independently audited accounts for the claimant funding that it receives from the Crown, identifying that the funding has been spent on the negotiations.

RATIFICATION

18. Te Arawa Maori Trust Board and the Crown acknowledge that this document does not bind either party to reach a settlement and that any agreement reached in negotiation discussions will not be binding until embodied in a Deed of Settlement and ratified by Te Arawa and the Crown, and settlement legislation is enacted.

AMENDMENTS

19. Te Arawa Maori Trust Board and the Crown acknowledge that it may be necessary to amend this document from time to time and agree that all amendments must be approved by both parties and recorded in writing.

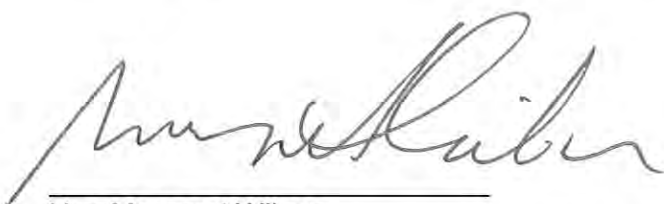
SIGNED THIS

30th

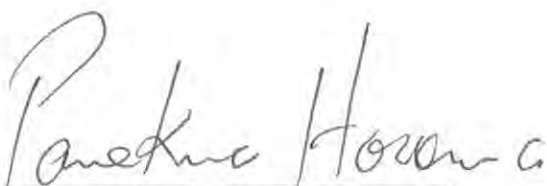
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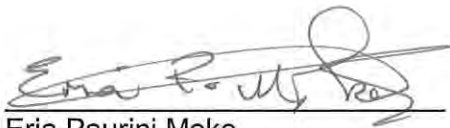
Hon Margaret Wilson
Minister in Charge of Treaty of Waitangi Negotiations



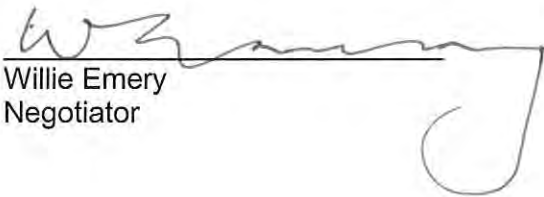
Hon Parekura Horomia
Minister of Maori Affairs



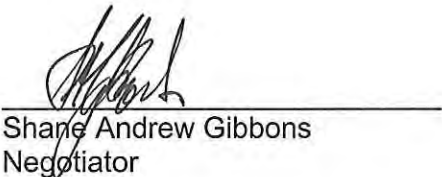
Arapeta Wiremu Tahana
Chairman, Te Arawa Maori Trust Board




Eria Paurini Moke
Deputy Chairman, Te Arawa Maori Trust Board



Willie Emery
Negotiator



Shane Andrew Gibbons
Negotiator



Tania Rangiheuea
Negotiator



David Tapsell
Negotiator