

NGĀI TAI KI TĀMAKI

and

THE CROWN

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**AGREEMENT IN PRINCIPLE EQUIVALENT**

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**July 2011**

## INTRODUCTION - SETTLEMENT STRUCTURE

1. The Iwi of Hauraki<sup>1</sup> entered into a Framework Agreement between the Hauraki Collective and the Crown dated 1 October 2010.
2. The Framework Agreement and Agreement in Principle Equivalents represent incremental steps towards a comprehensive Deed of Settlement between the Crown and the Iwi of Hauraki.
3. The Deed of Settlement will settle all Historical Claims<sup>2</sup> under the Te Tiriti o Waitangi / the Treaty of Waitangi<sup>3</sup> in the Hauraki region which arise from the whakapapa of each of the Iwi of Hauraki.
4. As a consequence of the Deed of Settlement, each of the Iwi of Hauraki will be entitled to a range of Treaty settlement redress.
5. The Crown and the Iwi of Hauraki acknowledge that the ultimate structure of a settlement with the Iwi of Hauraki is yet to be agreed, and will be developed in the course of negotiations. Thus, for example, it is not yet agreed whether there will be multiple deeds of settlement or a single deed of settlement with iwi specific redress.<sup>4</sup>
6. This Agreement in Principle Equivalent comprises both collective and iwi specific chapters and includes:
  - a. redress agreed to by the Crown;
  - b. redress the Crown is willing to explore; and
  - c. redress the Hauraki Collective and Ngāi Tai ki Tāmaki seek.
7. The Crown acknowledges that the Collective and Ngāi Tai ki Tāmaki has the right to seek redress, but notes that some of the redress iwi seek is outside current government policy.
8. Ngāi Tai ki Tāmaki is party to the Hauraki Collective Framework Agreement and is undertaking iwi specific negotiations in respect of its interests.
9. Ngāi Tai ki Tāmaki is party to the Hauraki Collective Framework Agreement and is undertaking iwi specific negotiations in respect of its interests. Ngāi Tai ki Tāmaki is also part of the Tāmaki Collective, signing a Framework Agreement in February 2010. The redress provided to Ngāi Tai ki Tāmaki through its various iwi specific and collective settlements will together settle the historical Treaty of Waitangi claims of Ngāi Tai ki Tāmaki.
10. Ngāi Tai ki Tāmaki's negotiations in respect of its interests in Tamaki Makaurau will include negotiations in respect of the historical account, Crown acknowledgement, Crown apology and redress (cultural, financial and/ or commercial as appropriate) for the East Wairoa block.

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<sup>1</sup> Ngāi Tai ki Tāmaki, Ngāti Hako, Ngāti Hei, Ngāti Maru, Ngāti Pāoa, Ngāti Porou ki Hauraki, Ngāti Pūkenga, Ngāti Rahiri Tumutumu, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngāti Whanaunga and Te Patukirikiri.

<sup>2</sup> As defined, below.

<sup>3</sup> Attached as Appendix 4.

<sup>4</sup> And all references to the singular form therefore import the plural.

## CHAPTER 1 - HAURAKI COLLECTIVE SECTION

### PART 1 - HISTORICAL ACCOUNT, CROWN ACKNOWLEDGEMENTS AND CROWN APOLOGY

#### Historical Account

11. The Hauraki Collective Historical Account will include the following themes and other matters to be agreed:

- a. Iwi of Hauraki and the Crown;
- b. Te Tiriti o Waitangi / the Treaty of Waitangi;
- c. Pre-1840 transactions and pre-emption waiver purchases;
- d. Crown purchases: 1840-1865;
- e. War;
  - i. Crown military action in Hauraki;
  - ii. Crown naval blockade of Tikapa Moana;
- f. Raupatu (Katikati-Te Puna / Central and East Waikato / South Auckland);
- g. Gold and the opening of goldfields in Hauraki;
- h. Native Land Court: individualisation of tribal title, and costs of title determination;
- i. Te Reo Māori me ona tikanga;
- j. Crown purchase policy and legislation – 19th and 20th centuries:
  - i. Reihana and indebtedness;
  - ii. Crown use of pre-emption;
  - iii. timber licenses;
- k. marginalisation and protest: 19th and 20th centuries – including goldfields, and foreshore and seabed;
- l. Tāonga and wāhi tapu;
- m. Natural resources, including water and minerals;
- n. drainage of Hauraki Plains;
- o. rates and roads;
- p. public works and compulsory taking of land;
- q. Tikapa Moana and Te Tai Tamahine;
- r. landlessness and social deprivation;
- s. access to medical treatment and medicines;
- t. access to education;
- u. Iwi of Hauraki diaspora and urbanisation; and
- v. other socio-economic impacts.

12. The Hauraki Collective also seeks that the Historical Account includes the following statements:

- a. the Crown waged war against its Treaty Partner, the Iwi of Hauraki;
- b. the Crown's military invasion of Hauraki and related actions were unlawful;
- c. the Crown's naval blockade of Tikapa Moana and related actions were unlawful;
- d. the Crown destroyed the tribal land holding in Hauraki;
- e. the Crown unilaterally suspended the rule of law when inconvenient foreshore and seabed decisions were made by the Judiciary;
- f. the Crown pursued predatory land policy and legislation in the 19th and 20th centuries; and
- g. the land loss suffered by the Iwi of Hauraki at the hands of the Crown resulted in tribal devastation and poverty.

## **Crown acknowledgements**

13. The Deed of Settlement will contain a full set of Crown acknowledgements that certain actions or omissions of the Crown were a breach of Te Tiriti o Waitangi / the Treaty of Waitangi and its principles.
14. The Deed of Settlement will include the following Crown acknowledgements:
- a. the Crown had a duty of active protection to ensure that there was sufficient land holding retained by the Iwi of Hauraki for their future sustenance and growth and that its failure to ensure they retained possession of adequate land constituted a breach of Te Tiriti o Waitangi / the Treaty of Waitangi and its principles;
  - b. there was large scale and rapid Crown purchasing of Iwi of Hauraki land in the latter part of the 19th century. The Crown acknowledges that Crown purchasing contributed to the overall landlessness of the Iwi of Hauraki and this failure to ensure retention of sufficient land holding by the Iwi of Hauraki constituted a breach of Te Tiriti o Waitangi / the Treaty of Waitangi and its principles; and
  - c. that the application of the confiscation policy in respect of land in East Wairoa and central Waikato (Maramarua) was unjust and in breach of Te Tiriti o Waitangi / the Treaty of Waitangi and its principles.
15. Furthermore, it is envisaged that the Deed of Settlement will include the Treaty breach acknowledgements made during Stage I of the Tauranga Moana Inquiry insofar as they relate to the Hauraki region, including acknowledgements with respect to:
- a. perceptions of rebellion and the subsequent confiscation of lands;
  - b. the failure to provide reserves; and
  - c. certain public works takings.

## **Crown apology**

16. The Deed of Settlement will contain a Crown Apology for the acknowledged Crown breaches of Te Tiriti o Waitangi / the Treaty of Waitangi and its principles.

## **PART 2 - CULTURAL REDRESS**

17. The Crown and the Hauraki Collective will explore, for possible inclusion in the Deed of Settlement, the following types of cultural redress, that are being sought by the Hauraki Collective:
- a. land transfers;
  - b. statutory instruments, including:
    - overlay classifications;
    - statutory acknowledgements, including:
      - coastal statutory acknowledgements;
      - river statutory acknowledgements and deeds of recognition;
      - maunga statutory acknowledgements and deeds of recognition; and
  - c. deeds of recognition;
  - d. relationship agreements such as resource co-governance arrangements and protocols;
  - e. access to cultural resources, including nohoanga and other arrangements;
  - f. plans for management of resources; and
  - g. official geographic name changes.

## **Land transfers**

18. The Hauraki Collective seeks:

- a. the fee simple vesting of Crown owned parts of Moehau and Te Aroha Maunga;
- b. the fee simple vesting of other Crown lands of ancestral, spiritual and cultural significance to the Hauraki Collective, including Crown land administered by the Department of Conservation / Whenua Kura (conservation land), maunga and motu;
- c. other cultural lands to be returned to the Hauraki Collective for cultural purposes;
- d. the best endeavours of the Crown to facilitate requests by the Iwi of Hauraki to local authorities for the transfer of ancestral lands.

## **Co-governance and related arrangements**

19. The Crown and the Hauraki Collective will continue to explore, further to the Framework Agreement, co-governance and other similar arrangements including in respect of:

- a. the Waihou River and Piako River catchments, which includes the Ohinemuri River, with the Waikato Regional Council and the local authorities in those catchments;
- b. the rivers and waterways of the Coromandel Peninsula with the Waikato Regional Council and the local authorities in those catchments;
- c. conservation land / Whenua Kura in the Hauraki region with the Department of Conservation.

20. The Waikato-Tainui settlement provides for co-governance arrangements, which have now been implemented through the Waikato River Authority, in parts of the Whangamarino system, and Mangatawhiri and Mangatangi streams. The Iwi of Hauraki are not included in those co-governance arrangements.

21. The Hauraki Collective seeks recognition of their interests in the Whangamarino system, and Mangatawhiri and Mangatangi river catchments.

22. The Crown and Hauraki Collective will explore arrangements such as:

- a. formal Conservation Board representation;
- b. formal Hauraki Gulf Forum representation; and
- c. a relationship agreement issued by the Minister of Conservation.

23. The Hauraki Collective also seeks co-governance arrangements over Tikapa Moana (the Hauraki Gulf) and Te Tai Tamahine (the Coromandel East Coast), including harbours and waterways, with the Waikato Regional Council and other local authorities with responsibilities in those coastal marine areas.

## **Freshwater and marine fisheries**

24. The Iwi of Hauraki assert mana moana and kaitiaki responsibilities over fisheries in Tikapa Moana and Te Tai Tamahine, and seek arrangements that reflect those direct relationships.

25. The Ministry of Fisheries will explore with the Iwi of Hauraki the development of a protocol that will set out how the Ministry and the Iwi will engage in the future, to recognise and provide for the Iwi input and participation into sustainability and processes that relate to freshwater and marine fisheries managed under the Fisheries Act 1996.

26. The Ministry of Fisheries will also explore other mechanisms with the Hauraki Collective that may recognise the interests of the Hauraki Collective in marine and freshwater fisheries in Tikapa Moana and Te Tai Tamahine, and the waterways of Hauraki.

### **Other Crown protocols**

27. The Deed of Settlement will provide for protocols issued by Ministers setting out the way in which specific government agencies will interact with the Iwi of Hauraki in the future. Protocols issued by the following Ministers will be explored:

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

### **Relationships with other agencies**

28. The Hauraki Collective seeks meaningful relationships with other agencies and the Crown and the Hauraki Collective will explore how the Crown can facilitate these relationships.

### **Te Reo Māori and tāonga**

29. The Hauraki Collective seeks redress in respect of the following matters:

- a. Te Reo Māori me ona tikanga; and
- b. enhancement and return of all forms of tāonga.

### **Geographic name changes**

30. The Crown and Hauraki Collective will explore amending or assigning an agreed list of place names of significance to the iwi of the Hauraki Collective:

- a. in consultation with the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa); in accordance with the requirements of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008, and the orthographic conventions of Te Taura Whiri i te Reo Māori (the Māori Language Commission); and
- b. as included in the Deed of Settlement.

## **PART 3 - FINANCIAL REDRESS**

### **Crown financial redress offer**

31. The Crown will make a financial redress offer during negotiations to the Hauraki Collective for the settlement of all Treaty claims of the Iwi of Hauraki in the Hauraki region.

### **Interest**

32. The Crown will explore non-compounding interest accruing on the agreed financial redress amount from the date that amount is agreed to the day before settlement date.

### **Iwi Proportions**

33. It is intended that the proportion for each of the Iwi of Hauraki to the financial redress will be agreed between the Iwi of Hauraki in a timely fashion. Failing that, on the basis that no agreement between the iwi has been reached, the Crown will propose the proportions of the total financial redress offer it considers relates to each of the Iwi of Hauraki.

### **On-account payment and incentive**

34. The Hauraki Collective seeks an incentive for collectivity over and above the financial redress amount as and when agreements are made.
35. The Crown will explore the Hauraki Collective's request for on account cash payments as and when agreements are made.

### **PART 4 - COMMERCIAL REDRESS**

#### **Crown forest lands**

36. Once relevant Deed of Settlement have been ratified and become unconditional, the Hauraki Collective will have the right to purchase the following Crown Forest Licensed lands at market valuation with the associated accumulated rentals being passed on to the Hauraki Collective:
- a. Kauaeranga;
  - b. Tairua;
  - c. Waihou;
  - d. Whangamata;
  - e. Whangapoua.
37. The Hauraki Collective will also receive the ETS credits, as provided for under the Climate Change Response Act 2002, associated with these Crown forests.
38. The Hauraki Collective and Tauranga Moana iwi will also receive redress in relation to the Athenree Crown Forest Licensed land.

#### **Landcorp properties**

39. On settlement date the Hauraki Collective will have the right to purchase Whenuakite Landcorp farm at market valuation.
40. Hauraki Collective seeks to purchase approximately 315 hectares of Pouarua Landcorp farm at market valuation.

#### **Acquisition of other Crown properties**

41. The Hauraki Collective seeks the right to purchase the following types of land and receive fee simple title:
- a. Crown lands, including Ministry of Justice properties, such as courts, and Ministry of Education school properties (land only); and
  - b. Office of Treaty Settlements' land bank properties.
42. The Hauraki Collective seeks the right to purchase non-core Crown lands.
43. Purchase mechanisms the Crown and Hauraki Collective may explore in respect of land made available for transfer include purchase, leaseback and / or deferred selection.
44. The Hauraki Collective seeks other commercial redress mechanisms.
45. The Crown and the Hauraki Collective will explore the ability for the Collective to purchase commercial redress properties over and above the financial redress amount.
46. The Hauraki Collective also seeks the right to acquire certain lands via gift from the Crown.

### **Right of First Refusal**

47. The Deed of Settlement will provide the Hauraki Collective a right of first refusal, on similar terms as in recent Treaty settlements, for the period of 170 years in relation to Crown properties within the Hauraki region.
48. The Crown and the Hauraki Collective will continue to explore a Right of First Refusal for the period of 170 years in relation to land currently held by non-Core Crown entities within the Hauraki region.
49. The Hauraki Collective also seeks a right of first refusal over certain other lands in the rohe of the Iwi of Hauraki.

### **Other commercial redress**

50. The Hauraki Collective also seeks inclusion of the following in the Deed of Settlement:
- a. rights relating to nationalised and non-nationalised Crown-owned minerals and information held by the Crown or Crown Research Institutes on these minerals; and
  - b. in relation to conservation land / Whenua Kura, Tikapa Moana and Te Tai Tamahine, preferential access to concessions;
  - c. opportunities to enter into formal arrangements with the Crown over its proposed commercial arrangements in the Hauraki region, particularly in relation to infrastructure development and investment.
51. In relation to minerals, the Iwi of Hauraki reaffirm that since the 19<sup>th</sup> century they have consistently resisted the Crown's construct of a Royal prerogative, whether at common law or under statute, and never gave their free, prior and informed consent to the Crown's use of their minerals. Thus, within Hauraki, the Crown's arguments about legislative mineral rights are erroneous as the Crown never had lawful title to the minerals on which to found their purported legislative assumption of ownership.
52. The Crown asserts ownership of minerals under the Crown Minerals Act 1991 and does not accept that the nationalisation of minerals is a breach of the Treaty. Section 10 of the Crown Minerals Act 1991 provides that all gold, silver, uranium and petroleum existing in its natural condition in land shall be the property of the Crown. Section 11 of the Crown Minerals Act 1991 reserves all minerals to the Crown in any future alienation of Crown land and upholds all reservations of minerals made in earlier enactments. Decision-making regarding prospecting, exploration and mining of petroleum and minerals is prescribed under the Crown Minerals Act 1991.

### **Iwi proportions to collective commercial redress**

53. It is intended that any allocation between the Iwi of Hauraki of commercial redress will be agreed between the Iwi of Hauraki in a timely fashion. Failing that, on the basis that no agreement between the iwi has been reached, the Crown will propose the proportions of the total commercial redress offer it considers relates to each of the Iwi of Hauraki.

## **PART 5 - OTHER ISSUES FOR DISCUSSION**

54. The Crown and the Hauraki Collective acknowledge that certain other matters which are the subject of historical claims have either not yet been discussed in negotiations or require further discussion, and agree to commence / continue those discussions following the signing of this Agreement in Principle Equivalent and any other documents through to Deed of Settlement and Settlement Legislation.



## PART 6 - TERMS AND CONDITIONS

55. This chapter is subject to the following terms and conditions:

- a. it is without prejudice;
- b. it may not be used as evidence in any proceedings before, or presented to, the courts, the Waitangi Tribunal, any court or any other judicial body or tribunal (except as agreed between the parties);
- c. it is non-binding and does not create legal relations;
- d. the final settlement is conditional upon Cabinet agreement;
- e. statements regarding redress the Hauraki Collective seeks represent the wishes of the Hauraki Collective and do not represent:
  - a Crown endorsement of that type of redress; or
  - a Crown Commitment to negotiate either the type of redress or the provision of the actual redress specified in the statement, or both;
- f. the Crown will only provide redress over Crown land unless otherwise agreed with the land-holding agency;
- g. protocols will be, in substance, on the same terms as protocols provided in recent Treaty settlements;
- h. with respect to cultural redress offers, a final list of prioritised areas and / or properties and agreed redress over those areas and /or properties;
- i. any transfer of properties as cultural redress will be subject to public access, the protection of appropriate conservation values, and third party rights as applicable, along with the finalisation of all outstanding matters relating to transfer;
- j. cultural redress properties transferred will not be offset against the financial redress amount unless otherwise agreed;
- k. any offer in regard to Ministry of Education properties (land only) will be made following further analysis by the Ministry of its approach to requests for sale and leaseback and subject to Cabinet approval;
- l. all outstanding elements of the financial and commercial redress offer being finalised, including property identification and any associated valuations;
- m. the transfer value of commercial redress properties will be offset against the principal financial redress amount;
- n. the transfer value of the Crown Forest Licensed land will be offset against the principal financial redress amount;
- o. the transfer to the Hauraki Collective of the Crown Forest Licensed land will be subject to:
  - survey;
  - determination or agreement of a transfer value based upon agreed valuation instructions and a fair valuation process in a similar form to previous Treaty settlements;

- discussion and agreement on the definition of / and appropriate legal access and other rights required;
  - the preservation of any existing third party rights of access to the Crown Forest Licensed land; and
  - discussion and agreement on any provision for access to, and preservation of, wāhi tapu of other iwi/hapū;
- p. the Deed of Settlement will provide for the accumulated rentals (held by the Crown Forestry Rental Trust) associated with the Crown Forest Licensed land selected for transfer to be paid to a suitable post settlement governance entity in accordance with the Trust Deed of the Crown Forestry Rental Trust dated 30 April 1990 (as if the Waitangi Tribunal had made a final recommendation for the return of that land to the Governance Entity). The accumulated rentals are in addition and separate to the financial redress amount;
- q. the accumulated rentals associated with the Crown Forest Licensed land will be paid in accordance with the terms of the agreed settlement legislation;
- r. the Crown confirming that any overlapping claimant group interest in relation to any part of the settlement redress has been addressed to the satisfaction of the Crown in respect of that item of redress;
- s. agreed tax and other commercial arrangements for the Hauraki Collective Governance Entity;
- t. the Hauraki Collective obtaining, before the Deed of Settlement is signed, a mandate from their iwi constituents (through a process agreed by the Collective and the Crown) authorising them to enter into the Deed of Settlement and settling the Historical Claims on the terms provided in the Deed of Settlement; and
- u. the establishment of a governance entity that –
- is appropriate to receive the redress; and
  - provides, for the settling group –
    - appropriate representation;
    - transparent decision making and dispute resolution processes;
    - full accountability; and
- v. the Crown being satisfied that, through a ratification process approved by the Crown, members of the settling group have approved –
- the governance entity to receive the redress; and
  - the settlement on the terms provided in the deed of settlement.

## **PART 7 - DEFINITIONS**

56. The “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:
  - an Office of Parliament;
  - a Crown Entity; or
  - a State Enterprise named in the First Schedule to the State-Owned Enterprises Act 1986.

57. The deed of settlement will provide that historical claims means:

- a. every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that the settling group, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that –
- is, or is founded on, a right arising –
    - from Te Tiriti o Waitangi / the Treaty of Waitangi or its principles; or
    - under legislation; or
    - at common law, including aboriginal title or customary law; or
    - from fiduciary duty; or
    - otherwise; and
  - arises from, or relates to, acts or omissions before 21 September 1992 –
    - by, or on behalf of, the Crown; or
    - by or under legislation; and
  - includes every claim to the Waitangi Tribunal that relates exclusively or in part to the settling group or a representative entity; and
  - does not include claims –
    - that a member of the settling group, or a whānau, hapū, or group, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in the claimant definition:

58. Except as explicitly agreed, the Deed of Settlement will not affect any rights of the Iwi of Hauraki, including aboriginal title or customary rights.

## **CHAPTER 2 – NGĀI TAI KI TĀMAKI SECTION**

### **PREAMBLE**

#### **Ngāi Tai ki Tāmaki record the following**

TAPUWAE ONUKU – We of the sacred footprints in the earth.

TAPUWAE ARIKI – The footprints of the high-born.

TAPUWAE OTAI – The footprints on the Foreshore.

Ngāi Tai ki Tāmaki, who claim historical and customary interests in the Mahurangi, Kaipara, Tāmaki Makaurau and Hauraki regions.

The eponymous ancestor of the people of Ngāi Tai ki Tāmaki is Te Whatatau. The people of Ngāi Tai ki Tāmaki are those persons who whakapapa to Te Whatatau whether it be by birth, legal adoption or Māori customary adoption in accordance with Ngāi Tai tikanga.

The people of Ngāi Tai ki Tāmaki are pre-fleet people but also trace their origins, in part, to the Tainui waka. Ngāti Taimanawaiti, Ngāti Taihaua, Te Uri o Te Ao, Ngāti Te Raukohekohe, Ngāti Kohua, Ngāti Rangiahia, among others are the hapū that Ngāi Tai ki Tāmaki represent.

It is important to note, in the context of settlement negotiations, that Ngāi Tai ki Tāmaki are separate and distinct from Ngāi Tai at Torere. Ngāi Tai at Torere are whanaunga of Ngāi Tai ki Tāmaki who have interests primarily within the eastern Bay of Plenty

### **PART 1 - MANDATE RECOGNITION**

1. On 26 February 2010, by letter from the Minister for Treaty of Waitangi Negotiations and the Minister of Māori Affairs, the Crown recognised the Treaty negotiation mandate of the Ngāi Tai ki Tāmaki Tribal Trust to negotiate and settle the historical Treaty of Waitangi claims of Ngāi Tai ki Tāmaki. The letter is attached as Appendix 1. A Terms of Negotiation was signed by both parties on 4 July 2010.

### **PART 2 - HISTORICAL ACCOUNT, CROWN ACKNOWLEDGEMENTS AND CROWN APOLOGY**

2. The Crown and Ngāi Tai ki Tāmaki will agree an historical account that, in addition to the Collective account, includes the following themes:
  - a. Ngāi Tai ki Tāmaki origins and history in Hauraki;
  - b. Ngāi Tai ki Tāmaki and the Crown in Hauraki;
  - c. Alienation of Ngāi Tai ki Tāmaki lands and resources;
  - d. Landlessness of Ngāi Tai ki Tāmaki; and
  - e. Socio Economic and Political consequences.
3. The Deed of Settlement will also contain:
  - a. Crown acknowledgements to Ngāi Tai ki Tāmaki that certain actions or omissions of the Crown were a breach of Te Tiriti o Waitangi / the Treaty of Waitangi and its principles; and
  - b. A Crown Apology to Ngāi Tai ki Tāmaki for the acknowledged Crown breaches of Te Tiriti o Waitangi / the Treaty of Waitangi and its principles.

### **PART 3 - CULTURAL REDRESS**

4. In addition to or as part of the cultural redress provided to the Hauraki Collective, the Crown and Ngāi Tai ki Tāmaki will explore, for possible inclusion in the Deed of Settlement the following types of cultural redress specifically for Ngāi Tai ki Tāmaki:
  - a. land transfers;
  - b. statutory instruments, including:
    - overlay classifications;
    - statutory acknowledgements, including:
      - coastal statutory acknowledgements;
      - river statutory acknowledgements and deeds of recognition;
      - maunga statutory acknowledgements and deeds of recognition; and
  - c. deeds of recognition;
  - d. relationship agreements such as resource co-governance arrangements and protocols;
  - e. access to cultural resources, including nohoanga and other arrangements;
  - f. plans for management of resources; and
  - g. official geographic name changes.
5. Ngāi Tai ki Tāmaki also seeks:
  - a. return of and access to tāonga; and
  - b. specific recognition of Ngāi Tai ki Tāmaki within relevant co-governance arrangements that may be negotiated.
6. The Hauraki Region sites of ancestral, spiritual and cultural significance to Ngāi Tai ki Tāmaki that Ngāi Tai ki Tāmaki seeks to negotiate cultural redress over include those areas identified in Appendix 2.

### **PART 4 - FINANCIAL REDRESS**

7. Ngāi Tai ki Tāmaki will receive Hauraki Region financial redress as agreed in accordance with Part 3 of the Collective Section.
8. The Crown will explore associated non-compounding interest accruing on the Ngāi Tai ki Tāmaki Hauraki Region financial redress amount from the date that amount is agreed to the day before Settlement Date.

### **PART 5 - COMMERCIAL REDRESS**

9. The Hauraki Region sites over which Ngāi Tai ki Tāmaki seeks to negotiate commercial redress include those identified in Appendix 3.
10. The Ngāi Tai ki Tāmaki seeks the right to purchase the following types of land and receive fee simple title:
  - a. agreed Crown lands, including courts and Ministry of Education school properties (land only);and
  - b. agreed Office of Treaty Settlements' land bank properties.
11. The Ngāi Tai ki Tāmaki seeks the right to purchase non-core Crown lands.
12. Purchase mechanisms the Crown and Ngāi Tai ki Tāmaki may explore in respect of land made available for transfer include purchase, leaseback and / or deferred selection.
13. The Ngāi Tai ki Tāmaki seeks other commercial redress mechanisms.

14. The Crown and the Ngāi Tai ki Tāmaki will explore the ability for Ngāi Tai ki Tāmaki to purchase commercial redress properties over and above the financial redress amount.
15. The Ngāi Tai ki Tāmaki also seeks the right to acquire certain agreed lands via gift from the Crown.

#### **PART 6 - OTHER NGĀI TAI KI TĀMAKI SPECIFIC ISSUES**

16. Ngāi Tai ki Tāmaki seeks that the Crown discuss or explore redress to address other Ngāi Tai ki Tāmaki specific issues in the Hauraki Region, including:
  - a. Ngāi Tai ki Tāmaki relationship with marine and freshwater fisheries;
  - b. Ngāi Tai ki Tāmaki interests in aquaculture; and
  - c. Ngāi Tai ki Tāmaki interests in the marine and coastal area.

#### **PART 7 - OTHER ISSUES FOR DISCUSSION**

17. The Crown and Ngāi Tai ki Tāmaki acknowledge that certain other matters which are the subject of Hauraki Region historical claims have either not yet been discussed in negotiations or require further discussion, and agree to commence/continue those discussions following the signing of this Agreement in Principle Equivalent and other documents through to Deed of Settlement and Settlement Legislation

#### **PART 8 - TERMS AND CONDITIONS**

18. This chapter is subject to the following terms and conditions:
  - a. it is without prejudice;
  - b. it may not be used as evidence in any proceedings before, or presented to, the courts, the Waitangi Tribunal, any court or any other judicial body or tribunal (except as agreed between the parties);
  - c. it is non-binding and does not create legal relations;
  - d. the final settlement is conditional upon Cabinet agreement;
  - e. statements regarding redress the Ngāi Tai ki Tāmaki seeks represent the wishes of the Ngāi Tai ki Tāmaki and do not represent;
    - a Crown endorsement of that type of redress; or
    - a Crown Commitment to negotiate either the type of redress or the provision of the actual redress specified in the statement, or both;
  - f. the Crown will only provide redress over Crown land unless otherwise agreed with the land-holding agency;
  - g. protocols will be, in substance, on the same terms as protocols provided in recent Treaty settlements;
  - h. with respect to cultural redress offers, a final list of prioritised areas and / or properties and agreed redress over those areas and /or properties;
  - i. any transfer of properties as cultural redress will be subject to public access, the protection of appropriate conservation values, and third party rights as applicable, along with the finalisation of all outstanding matters relating to transfer;

- j. cultural redress properties transferred will not be offset against the financial redress amount unless otherwise agreed;
- k. any offer in regard to Ministry of Education properties (land only) will be made following further analysis by the Ministry of its approach to requests for sale and leaseback and subject to Cabinet approval;
- l. all outstanding elements of the financial and commercial redress offer being finalised, including property identification and any associated valuations;
- m. the transfer value of commercial redress properties will be offset against the principal financial redress amount;
- n. the Crown confirming that any overlapping claimant group interest in relation to any part of the settlement redress has been addressed to the satisfaction of the Crown in respect of that item of redress;
- o. agreed tax and other commercial arrangements for the Ngāi Tai ki Tāmaki Governance Entity;
- p. the Ngāi Tai ki Tāmaki obtaining, before the Deed of Settlement is signed, a mandate from their iwi constituents (through a process agreed by the Collective and the Crown) authorising them to enter into the Deed of Settlement and settling the Historical Claims on the terms provided in the Deed of Settlement; and
- q. the establishment of a governance entity that –
  - is appropriate to receive the redress; and
  - provides, for the settling group –
    - appropriate representation;
    - transparent decision making and dispute resolution processes;
    - full accountability; and
- r. the Crown being satisfied that, through a ratification process approved by the Crown, members of the settling group have approved –
  - the governance entity to receive the redress; and
  - the settlement on the terms provided in the deed of settlement.

## **PART 9 - DEFINITIONS**

19. The “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:
    - an Office of Parliament;
    - a Crown Entity; or
    - a State Enterprise named in the First Schedule to the State-Owned Enterprises Act 1986.
20. The deed of settlement will provide that historical claims means

a. every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that the settling group, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that –

- is, or is founded on, a right arising –
  - from Te Tiriti o Waitangi / the Treaty of Waitangi or its principles; or
  - under legislation; or
  - at common law, including aboriginal title or customary law; or
  - from fiduciary duty; or
  - otherwise; and
  - arises from, or relates to, acts or omissions before 21 September 1992 –
    - by, or on behalf of, the Crown; or
    - by or under legislation; and
- includes every claim to the Waitangi Tribunal that relates exclusively or in part to the settling group or a representative entity; and
- does not include claims –
  - that a member of the settling group, or a whānau, hapū, or group, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in the claimant definition.

21. Except as explicitly agreed, the Deed of Settlement will not affect any rights of the Iwi of Hauraki, including aboriginal title or customary rights.



SIGNED for and on behalf of THE CROWN by –

The Minister for Treaty of Waitangi Negotiations

Hon Christopher Finlayson

SIGNED for and on behalf of Ngāi Tai ki Tāmaki by the representatives for the mandated body -

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**James Brown**

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**Lucy Steel**

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**Carmen Kirkwood**

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**Laurie Beamish**

APPENDIX 1

LETTER OF MANDATE RECOGNITION



Office of Hon Dr Pita R Sharples

MP for Tamaki Makaurau  
Minister of Māori Affairs  
Associate Minister of Corrections  
Associate Minister of Education

26 FEB 2010

James Brown  
Chairman  
Ngāi Tai ki Tāmaki Tribal Trust  
C/- McCaw Lewis Chapman Lawyers  
P O Box 9348  
HAMILTON 3240

Tēnā koe

Thank you for submitting the Ngāi Tai ki Tāmaki Tribal Trust Deed of Mandate for negotiations with the Crown on behalf of the Ngāi Tai ki Tāmaki Tribal Trust.

We have concluded that the Ngāi Tai ki Tāmaki Tribal Trust has the support of the Ngāi Tai ki Tāmaki claimant community and is an appropriate body to represent Ngāi Tai ki Tāmaki in negotiations for the comprehensive settlement of historical Treaty claims with the Crown. We are, therefore, pleased to recognise the mandate of the Ngāi Tai ki Tāmaki Tribal Trust.

We congratulate you on reaching this milestone and look forward to finalising Agreements in Principle with you in the near future. Kātī mō tēnei wā.

Heoi anō

  
nā Hon Dr Pita R Sharples  
Minister of Māori Affairs

  
nā Hon Mr Christopher Finlayson  
Minister for Treaty of Waitangi Negotiations

## APPENDIX 2

### NGĀI TAI KI TĀMAKI CULTURAL REDRESS PROPERTIES/ AREAS

Site	Area	Site Type	Ngāi Tai ki Tāmaki Interest/Connection
Ahuahu	Gt Mercury Is.	Motu/Waahi Tapu	Navigation/Rituals
Haupapa/Matamata Harakeke	E.Coast	Headland	Navigation
Harataunga	E.Coast	Harbour/Kainga	Navigation
Kauwera	E.Coast	Headland	Navigation
Katikati	E.Coast	Waahi	Kainga
Kai Tara Kihi	Kopu/Hikuwai	Maunga	Patupaiarehe/Turehu
Kiko Whakarere	W.Coast	Bay	Whatatau/ Raukohekohe
Kohukohunui	Hunua	Maunga	Origin Wairoa Awa
Koputauaki	W.Coast	Bay	Battle Site
Kuaotunu	E.Coast	Bay/Kainga/Pa	Ancient Pa/Navigation
Moehau	Central	Maunga/Urupa	Waahi Tapu/Navigation
Mataora	E.Coast	Harbour	Navigation
Manaia	W.Coast	Kainga	Ancient Kainga
Korapuki	E.Coast	Motu	Navigation
Motutere	Central	Maunga	Patupaiarehe/Turehu
Motu Kahaua	W.Coast	Motu	Navigation/Ritual
Motu Poho Kuo	W.Coast	Motu/Urupa	Navigation
Motu Potaka	W.Coast	Motu	Navigation
Motu Rua	W.Coast	Motu	Navigation
Muriwai	W.Coast	Bay/Harbour	Battle/Navigation
Motuteka	E.Coast	Motu	Navigation
Nga Kuri A Whare	E.Coast	Reef	Navigation/Boundary
Ngututu	Central	Maunga	Patupaiarehe/ Navigation
Ohinau/Ohena	E.Coast	Motu	Navigation

Ohuinga o Ngā Tai	E.Coast	Kainga	Ancient Kainga
Okahutai	E.Coast	Bay/Kainga	Ancient Kainga
Ongohi	W.Coast	Awa	Patupaiarehe
Opito	E.Coast	Bay/Kainga	Navigation/Quarry
Opoutere	E.Coast	Bay/Kainga	Navigation/Kainga
O Tautu i Te Rangi	W.Coast	Bay/Pa	Waahi Tapu
Papa Aroha	W.Coast	Bay/Kainga	Kainga
Puke Kakariki Kai Tahi	Central	Maunga	Patupaiarehe/Turehu
Repanga/Cuvier Is	E.Coast	Motu/Waahi Tapu	Navigation
Rua Mahua/ Aldermans	E.Coast	Motu	Navigation
Tahanga	E.Coast	Maunga/Quarry	Navigation/Quarry
Tairua	E.Coast	Harbour/Kainga	Navigation
Tokatea	E.Coast	Maunga	Navigation
Te Anaputa o Tainui	W.Coast	Cove/Shelter	Taniwha Ureia
Te Hapu o Kohe	Central	Maunga	Boundary/Manu
Te Kohatu Whakairi a Ngatoroirangi	Central	Maunga	Navigation
Tuateawa	E.Coast	Kainga	Waahi Tapu
Te Koronga	Central	Maunga	Patupaiarehe/Turehu
Tuhua Iti	W.Coast	Motu	Navigation
Tuhua Nui	W.Coast	Motu	Navigation
Waiaro	W.Coast	Kainga/Lagoon	Ancient Kainga
Waihihi	E.Coast	Kainga/Urupa	Ancient Kainga
Waikawau	E.Coast	Bay	Tauranga Waka
Whakau	E.Coast	Motu	Navigation
Whanganui	W.Coast	Motu	Navigation
Whangapoua	E.Coast	Bay	Ancient Kainga
Whenuakite	E.Coast	Kainga	Ancient Whakapapa
Whangamata	E.Coast	Harbour/Kainga	Ancient Kainga

### **APPENDIX 3**

#### **NGĀI TAI KI TĀMAKI HAURAKI REGION COMMERCIAL REDRESS AREA / PROPERTIES**

- Landbanked properties;
- Ministry of Education properties;
- Department of Corrections properties;
- New Zealand Defence Force properties; and,
- Other Crown-owned properties.