

**CROWN EXPECTATIONS
AND MATTERS FOR AGREEMENT**

BY CROWN

AND

Whanganui Land Settlement Negotiation Trust

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Crown Expectations For Treaty Settlement Negotiations

Purpose of this document

1. This document:
 - 1.1. records the Crown's expectations for negotiating the settlement of historical Treaty of Waitangi claims with the Whanganui Land Settlement Negotiation Trust;
 - 1.2. records the matters that the Crown and the Whanganui Land Settlement Negotiation Trust agree to; and
 - 1.3. is not legally binding and does not create a legal relationship.

Objective of the Negotiations

2. The Crown's objective of the negotiations is to negotiate in good faith a settlement of the historical claims of Whanganui Lands Settlement Large Natural Group (Whanganui Lands Settlement) that:
 - 2.1. is comprehensive, final, durable and fair in the circumstances;
 - 2.2. recognises the nature, extent and injustice of breaches of the Crown's obligations to Whanganui Lands Settlement under Te Tiriti o Waitangi / The Treaty of Waitangi and its principles and, where appropriate, acknowledges the effect of these breaches on the economic, social, cultural and political well-being of Whanganui Lands Settlement;
 - 2.3. provides a platform to assist Whanganui Lands Settlement to develop their economic base. In addition, the Crown acknowledges that Whanganui Lands Settlement may view the settlement as a means of enhancing their social, cultural and political development;
 - 2.4. enhances the ongoing relationship between the Crown and Whanganui Lands Settlement (both in terms of Te Tiriti o Waitangi / The Treaty of Waitangi and otherwise);
 - 2.5. restores the honour of the Crown; and
 - 2.6. demonstrates and records that both the Crown and the Whanganui Land Settlement Negotiation Trust have acted honourably and reasonably in negotiating the settlement.

Actions Enabled by Final Settlement of All Claims

3. The final settlement of all the historical claims of Whanganui Lands Settlement will enable the:
 - 3.1. release and discharge of all of the Crown's obligations and liabilities in respect of those claims;
 - 3.2. discontinuance of the Office of Treaty Settlements landbank arrangement for the protection of potential settlement properties for the benefit of Whanganui Lands Settlement;

3.3. removal, for the benefit of Whanganui Lands Settlement, of:

3.3.1. statutory protection for claims against the Crown;

3.3.2. any resumptive memorials from the titles of land subject to the State Owned Enterprises Act 1986, the Railways Corporation Restructuring Act 1990, the Crown Forest Assets Act 1989 and the Education Act 1989;

3.3.3. removal of the jurisdiction of the courts, the Waitangi Tribunal, and any other judicial body or tribunal in respect of the historical claims of Whanganui Lands Settlement, 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

3.3.4. discontinuance of any legal proceedings or proceedings before the Waitangi Tribunal in relation to the historical claims of Whanganui Lands Settlement.

Matters Unaffected by Settlement

4. The settlement will not:

4.1. diminish or in any way affect any rights that Whanganui Lands Settlement have arising from Te Tiriti o Waitangi / The Treaty of Waitangi and its principles, except to the extent that claims arising from those rights are settled;

4.2. extinguish or limit any aboriginal or customary rights that Whanganui Lands Settlement may have; or

4.3. have the effect of granting, creating, or providing evidence of any rights or interests under the Marine and Coastal Area (Takutai Moana) Act 2011, nor does it affect the ability of the iwi or hapū to make applications for recognition of protected customary rights or for customary marine title under the same Act, or pursue any other remedies available to them.

5. In addition, the settlement is not intended to affect any decision, proposal or report of Te Ohu Kaimoana either under the Māori Fisheries Act 2004 or in respect of the "fisheries" deed dated 23 September 1992.

Definitions

6. The Crown's understanding is that the Deed of Mandate for Whanganui Land Settlement Negotiation Trust sets out:

6.1. that Whanganui Land Settlement Negotiation Trust is the representative body mandated by Whanganui Lands Settlement; and

6.2. who Whanganui Lands Settlement is and the scope of their historical Treaty of Waitangi claims.

7. The definition of Whanganui Lands Settlement and Whanganui Lands Settlement historical claims may be further developed by the Crown and the Whanganui Land Settlement Negotiation Trust during the negotiations for inclusion in the deed of settlement.

8. The Public Finance Act 1989 contains a definition of the Crown.

Other Matters

9. In relation to the Tongariro National Park and Whanganui National Park negotiations the Crown has made an offer to all iwi and hapū with interests in Tongariro National Park and Whanganui National Park to enter into collective negotiations focussed on current and future arrangements over Tongariro National Park and Whanganui National Park.
10. For the purposes of this document collective negotiations in respect of Tongariro National Park and Whanganui National Park will be separate from any comprehensive negotiations that iwi and hapū with interests in Tongariro National Park and Whanganui National Park may be engaged in, including the Whanganui Land Settlement Negotiation Trust.
11. The Crown and the Whanganui Land Settlement Negotiation Trust acknowledge that other iwi and hapū claim interests in Tongariro National Park and Whanganui National Park and agree that, should they wish to, those iwi and hapū with interests will actively engage in collective redress discussions with a view to negotiating a collective redress model for the benefit of the iwi and hapū with interests in Tongariro National Park and Whanganui National Park. It is envisaged that this will include all iwi and hapū with interests in Tongariro National Park and Whanganui National Park agreeing upon a process to negotiate a collective settlement of their interests in Tongariro National Park and Whanganui National Park.
12. The parties acknowledge all claims as they relate to the Whanganui River are settled. The Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 defines the claimants (Whanganui Lands Settlement) and the scope of the claims settled by the legislation.
13. This document, and any negotiations held, do not bind the parties to reach a settlement. All agreements reached during negotiation are not binding on either party until and unless expressly provided for in the signed deed of settlement and settlement legislation.
14. Crown guidance on the process for negotiations is set out in Healing the Past, Building a Future: A Guide to Treaty of Waitangi Claims and Negotiations with the Crown.

Matters for Agreement by Crown and Whanganui Land Settlement Negotiation Trust

1. The Crown and Whanganui Land Settlement Negotiation Trust (the parties) agree:

- 1.1. negotiations will be on a "without prejudice" basis and will be conducted in good faith and a spirit of open communication;
- 1.2. negotiations will be conducted privately and in confidence between parties unless the parties agree otherwise;
- 1.3. any agreement reached in the course of negotiations will remain confidential to the parties unless they agree otherwise;
- 1.4. to make media statements only when mutually agreed;
- 1.5. the Crown may be required by law to release information about the negotiations (for example, under the Official Information Act 1982) and where appropriate will consult with the Whanganui Land Settlement Negotiation Trust prior to releasing any information;
- 1.6. they may agree to extend their confidential negotiations to include other interested groups:
 - 1.6.1. the extended negotiations can apply to some or all of the issues in the negotiation;
 - 1.6.2. other interested groups included in the extended negotiations will be expected to agree to the same obligations of confidence to join the negotiations;
 - 1.6.3. for example, the Crown and Whanganui Land Settlement Negotiation Trust may agree to include one or more neighbouring groups in negotiations to jointly address common redress sought by the groups and the overlapping interests of the neighbouring groups;
- 1.7. to ensure regular and appropriate internal communication procedures through the negotiations;
- 1.8. that using correct spelling for Whanganui names is of the utmost importance, including the use of macrons where appropriate and that best endeavours will be used to ensure the correct spelling of Māori words throughout the negotiations;
- 1.9. to recognise the importance of using te reo Māori during negotiations and in documents, where appropriate, the Whanganui Land Settlement Negotiation Trust will provide the Crown with adequate notice of this;
- 1.10. during negotiations Whanganui Land Settlement Negotiation Trust will not pursue any legal proceedings relating to the subject matter of negotiations;
- 1.11. if Whanganui Land Settlement Negotiation Trust or the registered claimants initiate legal proceedings, the Crown will consider its position and may withdraw from negotiations; and
- 1.12. Whanganui Land Settlement Negotiation Trust will provide the Office of Treaty Settlements (OTS) with reports on the state of its mandate every 3 months and OTS will advise the Whanganui Land Settlement Negotiation Trust of any correspondence it receives about the mandate of Whanganui Land Settlement Negotiation Trust;

Guiding Principles

2. The parties recognise the importance of the following principles of the Whanganui Land Settlement Negotiation Trust to Whanganui Lands Settlement:


- 2.1. Wairuatanga To encourage, maintain and promote spiritual identity and connection with our taonga, the spiritual existence, intertwined with the physical. It is expressed through the intimate connection of our people with the Maunga, Awa, Moana, Tupuna and Atua;
- 2.2. Whakapapa The definition of our Whanganui Iwi, Hapū and who we are – this is the bridge that links us to our land and Tupuna;
- 2.3. Whanaungatanga The understanding of relationships of Whanganui Iwi/Hapū that includes rights and responsibilities consistent with being part of a collective. It is the principle which binds our Whanganui Iwi/hapū, and affirms the value of collectiveness;
- 2.4. Kotahitanga The principle of unity, of moving together as Whanganui Iwi with purpose and vision to advance our land claims for the mutual benefit for Whanganui Iwi/Hapū, and celebrating our Whanganui Iwi diversity;
- 2.5. Rangatiratanga To advance and promote Whanganui Iwi self-determination, an expression of the characteristics of people who show humility, leadership by example, generosity, diplomacy and knowledge throughout the land negotiations to benefit our Iwi and Hapū;
- 2.6. Manawhenua The principle that connects Whanganui Iwi/Hapū to our land, reaffirming this by the right of whakapapa. It defines our turangawaewae and ukaipo, these places where we belong;
- 2.7. Manaakitanga The principle of behaviour and attitude that encourages the upholding of our Whanganui Iwi tikanga, that acknowledges the mana of others, as expressed through sharing resources, ideas, expertise and having trust and respect for each other throughout the land negotiations;
- 2.8. Te Reo Our language that embodies, encompasses, expresses and defines our kawa, tikanga, values and beliefs of our Whanganui Iwi world-view;
- 2.9. Kaitiakitanga To provide a clean, safe and healthy environment by promoting the protection and restoration of our whole environment as Whanganui Iwi/Hapū; and
- 2.10. Whakarauhiitanga To ensure that all within Whanganui Iwi are open, accountable and transparent to each other's Iwi/Hapū as well as having excellent communication mechanisms that continually inform and update Whanganui Iwi/Hapū during the land claims negotiations

Overlapping Interests

3. The overlapping interests of all groups, either settled or unsettled, must be addressed to the satisfaction of the Crown before a deed of settlement is initialled.
4. Redress negotiated as part of the deed of settlement may need to reflect the significance of an area or feature to overlapped groups. Non-exclusive redress instruments may be used.
5. The Crown will encourage Whanganui Land Settlement Negotiation Trust to engage with neighbouring groups from the outset of negotiations to agree how any interests in overlapped areas should be provided for.
6. The Crown will assist the Whanganui Land Settlement Negotiation Trust by providing information on proposed redress items to groups with overlapped interests and facilitating discussions to resolve issues.
7. The Crown's preference is that groups decide between them how best to deal with overlapped interests. If this is not possible, a Ministerial decision may be necessary.
8. Where the Crown is engaged in negotiations with claimant groups whose rohe overlap, the Crown will regularly update each mandated body on the progress of each negotiation (but will preserve any necessary confidentiality of information in those negotiations).
9. Where the Crown becomes aware that the mandated representative of another claimant group has expressed an interest in potential settlement assets or redress in which Whanganui Land Settlement Negotiation Trust have also expressed an interest, the Crown, before finally offering the particular redress item or asset for inclusion in a settlement, will:
 - 9.1. notify Whanganui Land Settlement Negotiation Trust of the shared interest; and
 - 9.2. facilitate a discussion between the relevant mandated representatives in order to attempt to resolve, at an early , any potential conflicts between claimant groups about the potential redress.
10. The parties 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 DAY OF

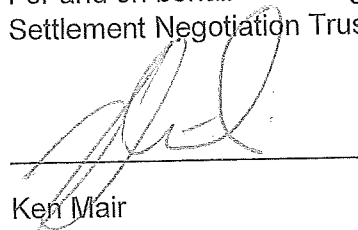
For and on behalf of the Crown:



Hon Christopher Finlayson

Minister for Treaty of Waitangi Negotiations

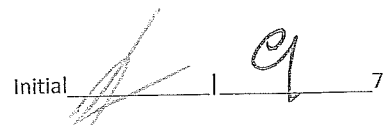
For and on behalf of Whanganui Land Settlement Negotiation Trust:



Ken Mair

Chair, Whanganui Land Settlement Negotiation Trust

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