

**TERMS OF NEGOTIATION**

**BETWEEN THE CROWN  
AND  
NGĀTI RANGI TRUST**

February 2015

# **Crown Expectations for Treaty Settlement Negotiations**

## **Purpose of this document**

1. This document:
  - 1.1. records Ngāti Rangi and the Crown's expectations for negotiating the settlement of historical Treaty of Waitangi claims with Ngāti Rangi Trust; and
  - 1.2. 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 Ngāti Rangi 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 Ngāti Rangi 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 Ngāti Rangi;
  - 2.3. provides a platform to assist Ngāti Rangi to develop their economic base. In addition, the Crown acknowledges that Ngāti Rangi 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 Ngāti Rangi (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 Ngāti Rangi Trust have acted honourably and reasonably in negotiating the settlement.
3. The Ngāti Rangi Trust's objective of the negotiations is negotiate a settlement of the historical claims of Ngāti Rangi that:
  - 3.1. is consistent with the guiding principle: *kia mau ki te wairua o Te Tiriti o Waitangi*;
  - 3.2. restores Ngāti Rangi's relationship with the Crown under Te Tiriti o Waitangi;
  - 3.3. acknowledges the mana of Ngāti Rangi; and
  - 3.4. restores the cultural, economic, social and environmental base of Ngāti Rangi.

## **Background**

4. The Ngāti Rangi Trust was established in 1992 by key Ngāti Rangi kaumātua and claimants, with the endorsement of the Whanganui River Māori Trust Board. The Trust was established following discussions amongst Ngāti Rangi and broader Whanganui in the late 1980s and early 1990s to co-ordinate and manage iwi affairs and progress the settlement of Treaty grievances, in particular relating to Mount Ruapehu. The Trust has the widespread support of Ngāti Rangi and currently provides a range of services for its beneficiaries, including in relation to health, social services, education and natural resource management.
5. Ngāti Rangi has been an active participant in the Waitangi Tribunal's National Park (Wai 1130) and Whanganui (Wai 903) district inquiries, both of which have been concluded. The Wai 1130 report was formally released in November 2013, whilst the Wai 903 report is expected to be released in early 2015.
6. Ngāti Rangi is also engaged in the Waitangi Tribunal's Taihape (Wai 2180) district inquiry, although not as extensively as in previous inquiries given its focus on entering into settlement negotiations.
7. The Ngāti Rangi Trust formally sought mandate from the iwi during February 2013. The support for the Ngāti Rangi Trust to enter into settlement negotiations was overwhelming. The result of the voting process was 99.51% in support.
8. On 6 August 2014 the Crown recognised the Ngati Rangi Trust's mandate to represent Ngati Rangi in settlement negotiations with the Crown.

## **Te Kāhui Maunga / Tongariro National Park**

9. The Crown has made an offer to all iwi and hapū with interests in Te Kāhui Maunga / Tongariro National Park to enter into collective negotiations focussed on current and future arrangements over Te Kāhui Maunga / Tongariro National Park. Collective negotiations in respect of Te Kāhui Maunga / Tongariro National Park will be separate from any comprehensive negotiations that those iwi and hapū with interests in Te Kāhui Maunga / Tongariro National Park may be engaged in, including Ngāti Rangi. It is the Crown's expectation that the individual comprehensive negotiations with Ngāti Rangi will provide Crown apology redress, commercial and financial redress, and cultural redress including in relation to Te Kāhui Maunga / Tongariro National Park. However, any redress focussed on current and future arrangements within Te Kāhui Maunga / Tongariro National Park will be addressed in the collective negotiations.
10. The Crown and Ngāti Rangi acknowledge that other iwi and hapū have interests in Te Kāhui Maunga / Tongariro 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 Te Kāhui Maunga / Tongariro National Park. It is envisaged that this will include all iwi and hapū with interests in Te Kāhui Maunga / Tongariro National Park agreeing upon a process to negotiate a collective settlement of their interests in Te Kāhui Maunga / Tongariro National Park.

## **Actions Enabled by Final Settlement of All Claims**

11. The final settlement of all the historical claims of Ngāti Rangī will enable the:

- 11.1. release and discharge of all of the Crown's obligations and liabilities in respect of those claims;
- 11.2. discontinuance of the Office of Treaty Settlements landbank arrangement for the protection of potential settlement properties for the benefit of Ngāti Rangī;
- 11.3. removal, for the benefit of Ngāti Rangī, of:
  - 11.3.1. statutory protection for claims against the Crown;
  - 11.3.2. 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;
  - 11.3.3. removal of the jurisdiction of the courts, the Waitangi Tribunal, and any other judicial body or tribunal in respect of the historical claims of Ngāti Rangī, 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
  - 11.3.4. discontinuance of any legal proceedings or proceedings before the Waitangi Tribunal in relation to the historical claims of Ngāti Rangī.

## **Matters Unaffected by Settlement**

12. The settlement will not:

- 12.1. diminish or in any way affect any rights that Ngāti Rangī 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;
  - 12.2. extinguish or limit any aboriginal or customary rights that Ngāti Rangī may have; or
  - 12.3. 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.
13. 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**

14. The Crown's understanding is that the Deed of Mandate for Ngāti Rangi Trust sets out:
  - 14.1. that Ngāti Rangi Trust is the representative body mandated by Ngāti Rangi; and
  - 14.2. who Ngāti Rangi is and the scope of their historical Treaty of Waitangi claims.
15. The definition of Ngāti Rangi and Ngāti Rangi historical claims may be further developed by the Crown and Ngāti Rangi Trust during the negotiations for inclusion in the deed of settlement.
16. The Public Finance Act 1989 contains a definition of the Crown.

## **Other Matters**

17. 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.
18. 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 Ngāti Rangi Trust

1. The Crown and Ngāti Rangi 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 necessary the Crown will promptly inform Ngāti Rangi of such requests or requirements and discuss its intention to release information prior to its release;
  - 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 Ngāti Rangi 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. Ngāti Rangi Trust will provide the Office of Treaty Settlements (**OTS**) with reports on the state of its mandate every three months and OTS will advise Ngāti Rangi Trust of any correspondence it receives about the mandate of Ngāti Rangi Trust;
  - 1.9. during negotiations Ngāti Rangi Trust will not pursue any legal proceedings relating to the subject matter of negotiations;
  - 1.10. during negotiations Ngāti Rangi Trust will endeavour to ensure that no registered claimants will pursue any legal proceedings relating to the subject matter of negotiations;
  - 1.11. if a registered claimant initiates legal proceedings relating to the subject matter of negotiations, the Crown will discuss ways forward with Ngāti Rangi Trust;
  - 1.12. the Crown acknowledges that the Ngāti Rangi Trust may seek to be a party to proceedings initiated by a third party before any court or tribunal. Ngāti Rangi Trust and the Crown record that their expectation is that nothing in these Terms shall prevent Ngāti Rangi Trust from participating in any such proceedings in order to protect the rights and interest of Ngāti Rangi against such third parties;
  - 1.13. nothing included in this document will require Ngāti Rangi Trust to withdraw as a party to the Waitangi Tribunal's Taihape District Inquiry;

- 1.14. nothing included in this document will prevent Ngāti Rangi Trust from continuing to participate in the Waitangi Tribunal's Taihape District Inquiry, in recognition of the fact that it is important to Ngāti Rangi Trust and for the sake of the historical record that the Tribunal is able to inquire and report upon all Ngāti Rangi's claims;
- 1.15. The Crown will promptly discuss with Ngāti Rangi Trust any correspondence received from third parties which relates to Ngāti Rangi negotiations and will provide Ngāti Rangi Trust with a copy of this correspondence where appropriate; and
- 1.16. the Crown will not dispose of Landbank property in the Ngāti Rangi area of interest without prior consultation with Ngāti Rangi Trust.

### **Overlapping Interests**

2. 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.
3. 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.
4. The Crown will encourage Ngāti Rangi Trust to engage with neighbouring groups from the outset of negotiations to agree how any interests in overlapped areas should be provided for.
5. The Crown will assist Ngāti Rangi Trust by providing information on proposed redress items to groups with overlapped interests and facilitating discussions to resolve issues.
6. 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.
7. 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).
8. Where the Crown becomes aware that the mandated representative of another claimant group has expressed an interest in potential settlement assets or redress within the Ngāti Rangi area of interest or in which the Ngāti Rangi Trust has also expressed an interest, the Crown, before finally offering the particular redress item or asset for inclusion in a settlement, will:
  - 8.1. notify Ngāti Rangi Trust of the shared interest; and
  - 8.2. facilitate a discussion between the relevant mandated representatives in order to attempt to resolve, at an early stage, any potential conflicts between claimant groups about the potential redress.

SIGNED THIS 27<sup>th</sup> DAY OF February

For and on behalf of the Crown:

For and on behalf of Ngāti Rangi Trust:

Christopher Finlayson

Kemp Dryden

Hon Christopher Finlayson  
Minister for Treaty of Waitangi Negotiations

Kemp Dryden  
Chairperson, Ngāti Rangi Trust

In the presence of:

In the presence of:

[Signature]  
Signature of Witness

Raana V. Marekura  
Signature of Witness

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Witness Name

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Witness Name

John Wood  
Signature of Witness

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Witness Name