

5 November 2021

s9(2)(a)

Tēnā koe s9(2)(a)

**Request for Official Information: Alex Frame's "The 1940s Settlement of Major Māori Claims"**

Thank you for your correspondence of 13 October 2021 requesting the following under the Official Information Act 1982 (OIA):

- a) Alex Frame's "The 1940s Settlement of Major Māori Claims".

A response to your request is attached.

When Te Arawhiti acknowledged receipt of your OIA request, we advised we may proactively release your OIA response on our website.

After considering our response to your request, we can advise that it will be published no earlier than 20 working days from the date of this letter at [www.tearawhiti.govt.nz](http://www.tearawhiti.govt.nz). Your personal and other identifying information will be removed.

If you have any concerns about the information in this response being published on our website please contact us by emailing [officialcorrespondence@tearawhiti.govt.nz](mailto:officialcorrespondence@tearawhiti.govt.nz) by 5.00pm on 19 November.

Nāku noa, nā



Katherine Leask  
Acting Director, Strategy and Policy

8 November 1989

Minister of Justice

# THE 1940's SETTLEMENT OF MAJOR MAORI CLAIMS

- 1 At its meeting on 2 November 1989, the Ministerial Group on the Tainui decision asked me to prepare a general paper describing the origins and nature of the 'full and final' settlements negotiated by Prime Minister Peter Fraser and his Government during and after World War II.

I attach a paper prepared by the Treaty of Waitangi Policy Unit's historian, Mr Richard Hill. The paper is lengthy but may be useful for the records of Ministers and their advisers.

- 2 The words of Attorney-General H.G.R Mason, a leading figure in the settlement process, may best summarise the overall position as Peter Fraser's Ministers saw it in 1947.

"I am proud to belong to a Government that has tried to establish and maintain good relations by dealing with the historic grievances of the Maori. I recognise that not every claim made on behalf of Maoris can be assumed to be meritorious, but some of them we know, are genuine, and that has been recognised. Until now, nothing has been done. It is the proud record of the Government that it has settled the great Ngaitahu, Waikato, Taranaki, and Whakatohea claims. It will always be my proud recollection that I was a member of the Government that settled those claims. Those who were born in this country, as I was, know that those claims go back as long as we can remember, and yet they have not been adjusted until now. In regard to many of the claims, they have always been admitted, although there have been differences of opinion as to the amounts involved. I am proud that it was a Labour Government that settled those historic claims."  
(N.Z.P.D 1947, Vol 276, p491, underlining supplied)



- 3 Mr Hill's paper establishes that the settlements were arrived at following negotiations in good faith by both parties, and were seen as fair by the standards of the time.
- 4 The individual Acts which recited the histories of the 'full and final' settlements were repealed in 1955 when the provisions authorising annuities to the various Maori Trust Boards were consolidated in the Maori Trust Boards Act 1955. However, it is in my view clear as a matter of law that the sections declaring the settlements to be final and in discharge of all past or future claims are still effective. Section 20(e) of the Acts Interpretation Act 1924 provides that:

"The repeal of an Act ..... shall not affect .....(iv) any release or discharge of or from any debt, penalty, claim or demand ....."

- 5 The Department of Justice's Paper (First Draft - 27 October 1989) lists reasons why it would be 'neither prudent nor honourable' to assert the 1940's settlements as a complete answer to any further claims (see para 4(c), p. 4-6). That paper urged, however, that the 1940's settlements be mobilised as 'a powerful moderating' force on demands, and should be used as a counter to any rigid positions adopted by claimants.
- 6 It is recommended that the position to be taken by the Crown might be that these settlements were intended to be full and final by both sides, but that the desired result has not been fully achieved. The Crown is accordingly prepared to waive its strict legal rights and to join with the claimants in returning to the settlements to ask in what respects the intentions of the parties have been frustrated and how that might be remedied in a manner consistent with the "Principles for Crown Action on the Treaty of Waitangi" released by Government in July 1989.

Alex Frame  
Director  
Treaty of Waitangi Policy Unit