

TE ROOPU WHAKAMANA O NGA HAPU O NGATI RANGINUI

and

THE CROWN

TERMS OF NEGOTIATION

BETWEEN

TE ROOPU WHAKAMANA O NGA HAPU O NGATI

RANGINUI

AND

THE CROWN

SEPTEMBER 2008

TERMS OF NEGOTIATION BETWEEN TE ROOPU WHAKAMANA O NGA HAPU O NGATI RANGINUI AND THE CROWN

1. Parties to these Terms of Negotiation are:

- 1.1 The Crown, as defined in clause 7.1, and
- 1.2 Te Roopu Whakamana o Ngā Hapu o Ngāti Ranginui, representing Ngā Hapu o Ngāti Ranginui, as defined in clause 5.1.

2. Purpose of these Terms of Negotiation

2.1 These Terms of Negotiation:

- 2.1.1 Set out the scope, objectives, general procedures and “ground rules” for the formal discussions the parties will conduct in order to settle Ngā Hapu o Ngāti Ranginui Historical Claims (as defined in clause 6.1);
- 2.1.2 Record the intentions of the parties regarding the negotiations process, including the intention to negotiate in good faith, confidentially and without prejudice; and
- 2.1.3 Are not legally binding and do not create a legal relationship. However, the parties acknowledge that each expects the other to comply with the terms set out in this document during negotiations.

3. Guiding Principles

3.1 Ngā Hapu o Ngāti Ranginui guiding principles:

- 3.1.1 Each Hapū of Ngāti Ranginui has the opportunity to have a say on who represents their interests in the claim as part of the negotiations
- 3.1.2 It is fundamental that each Hapu as well as Ngāti Ranginui Iwi maintains its own identity and distinctiveness.
- 3.1.3 If issues arise during negotiations which are not, or may not be easily resolved the Crown agrees to develop a process with Te Roopu Whakamana o Nga Hapu o Ngati Ranginui to attempt to resolve these issues.

4. Objectives of the Negotiations

4.1 The parties agree that the primary objective of the negotiations will be to negotiate in good faith a settlement of Ngā Hapu o Ngāti Ranginui Historical Claims which:

- 4.1.1 is comprehensive, final, durable;
- 4.1.2 Will not:
 - (a) diminish or in any way affect any rights that Ngā Hapu o Ngāti Ranginui have arising from Te Tiriti o Waitangi / The Treaty of Waitangi and its principles, except to the extent that historical claims arising from those rights are settled; or

(b) Extinguish or limit any aboriginal or customary rights that Ngā Hapu o Ngāti Ranginui may have;

4.1.3 Recognises the nature, extent and injustice of breaches of the Crown's obligations to Ngā Hapu o Ngāti Ranginui under Te Tiriti o Waitangi / The Treaty of Waitangi and its principles, and where appropriate, acknowledges the effect that these breaches have had on the economic, social, cultural and political well-being of Ngā Hapu o Ngāti Ranginui

4.1.4 Will provide a platform to assist Ngā Hapu o Ngāti Ranginui to develop their economic bases;

4.1.5 Will enhance the ongoing relationship between Ngā Hapu o Ngāti Ranginui and the Crown (both in terms of Te Tiriti o Waitangi / The Treaty of Waitangi and otherwise);

4.1.6 Will restore the honour of the Crown; and

4.1.7 Demonstrates and records that both parties have acted honourably and reasonably in negotiating the settlement.

5. **Definition of Ngā Hapu o Ngāti Ranginui**

5.1 Ngā Hapu o Ngāti Ranginui:

5.1.1 Are the individual Hapu of the Iwi of Ngāti Ranginui;

5.1.2 Together are the Iwi of Ngāti Ranginui

5.1.3 Includes any persons who descend from the eponymous ancestor Ranginui; and/or who are members or whanau of one or more of the following ancestors and/or the following Hapu of Ngāti Ranginui: (Table A)

(a) Table A: Hapu and Ancestors -Tupuna

Hapu	Ancestors - Tupuna
Ngāti Te Wai	
Pirirakau	Tutereinga, Maungapohatu
Ngāti Taka	Tutereinga, Maungapohatu
Ngāti Kahu	Herewini Te Kaiamo, Perahia
Ngāti Rangī (through Wai 42a)	Pakaruwakanui
Ngāti Pango (through Wai 42a),	Te Poria, Pango
Ngāti Hangarau	
Ngāi Tamarawaho	Tahuriwakanui
Ngāi Te Ahi	Ngaruinga, Tamahika
Ngāti Ruahine	

- 5.2 The Hapu and rohe boundaries as defined by Ngā Hapu o Ngāti Ranginui will provide further definition and a basis for discussion for settlement negotiations.
- 5.3 Any further detail of definition required of Ngā Hapu o Ngāti Ranginui will be developed further over the course of the negotiations for inclusion in any Deed of Settlement that may be agreed between the parties.

6. Ngā Hapu o Ngāti Ranginui Historical Claims

6.1 Ngā Hapu o Ngāti Ranginui Historical Claims:

6.1.1 means all claims made at any time (whether or not the claims have been considered, researched, registered or notified) by Ngā Hapu o Ngāti Ranginui or any person or group representing Ngā Hapu o Ngāti Ranginui that:

- (a) are, or are founded on, a right arising:
 - (i) from Te Tiriti o Waitangi / The Treaty of Waitangi, or its principles;
 - (ii) under legislation;
 - (iii) at common law (including customary law and aboriginal title);
 - (iv) from a fiduciary duty; or
 - (v) otherwise; and
- (b) arise from or relate to acts, policies or omissions before 21 September 1992:
 - (i) by or on behalf of the Crown; or
 - (ii) by or under legislation; and

6.1.2 includes every claim to the Waitangi Tribunal to which clause 6.1.1 applies, including:

- (a) Wai 227, Wai 727, Wai 42a, Wai 672, Wai 503, Wai 659, Wai 370, Wai 362; and
- (b) the following claims insofar as they relate to Nga Hapu o Ngati Ranginui:
 - (i) Wai 42(b), Wai 42(d), Wai 47, Wai 360, Wai 580, Wai 611, Wai 853, Wai 86, Wai 755, Wai 707, Wai 708, Wai 807, Wai 208, Wai 228, Wai 336, Wai 465

7. Definition of the Crown

7.1 The Crown:

7.1.1 means Her Majesty the Queen in right of New Zealand; and

7.1.2 includes all Ministers of the Crown and all government departments

7.1.3 Does not include:

7.1.3.1 An Office of Parliament; or

7.1.3.2 A Crown entity; or

7.1.3.3 A State Enterprise named in the First Schedule to the State-Owned Enterprises Act 1986.

8. Mandate to Negotiate

8.1 Attached is the Crown's letter (Appendix 1) which recognises the mandate of Te Roopu Whakamana for the purpose of settlement negotiations of Ngā Hapu o Ngāti Ranginui with the Crown.

8.2 If representation issues arise during negotiations that cannot be resolved by agreement within Ngā Hapu o Ngāti Ranginui, the Crown will discuss with Te Roopu Whakamana a process to address those issues.

8.3 Te Roopu Whakamana agrees to provide the Office of Treaty Settlements with reports on the state of the mandate every three months, and the Crown agrees to advise Te Roopu Whakamana of any correspondence it receives about the mandate of Te Roopu Whakamana.

9. Subject Matter for Negotiation

9.1 The parties will together agree upon subject matters to be negotiated. Any party may raise for discussion subject matters in addition to those agreed upon.

9.2 The list of subject matters to be discussed will include the following categories of redress:

9.2.1 the Crown's apology and acknowledgements to Ngā Hapu o Ngāti Ranginui

9.2.2 cultural redress; and

9.2.3 financial and commercial redress.

10. Negotiations milestones

10.1 The parties agree that negotiations will not commence until the negotiating team for Te Roopu Whakamana o Ngā Hapu o Ngāti Ranginui is appointed. The parties also agree that both parties should be satisfied that the negotiation team structure provides the best opportunity for negotiating a fair, final and durable settlement for Ngāti Ranginui.

10.2 The parties agree that the general process of negotiations will include, but not necessarily be limited to:

Agreement in Principle

10.2.1 the signing of an Agreement in Principle which will outline the scope and nature, in principle, of the settlement redress which will be recorded in the Deed of Settlement;

Initialled Deed of Settlement

10.2.2 the initialling of a Deed of Settlement by the parties. The Deed of Settlement will set out the terms and conditions of the settlement of Ngā Hapu o Ngāti Ranginui Historical Claims;

Ratification

10.2.3 the presentation by Te Roopu Whakamana of the initialled Deed of Settlement to Ngā Hapu o Ngāti Ranginui for ratification in a manner to be agreed by the parties. An approved governance entity structure or structures will also be presented to Ngā Hapu o Ngāti Ranginui for ratification before the settlement legislation can be introduced;

Deed of Settlement Signed if Ratified

10.2.4 If the Deed of Settlement is ratified, the Deed of Settlement will be signed on behalf of Ngā Hapu o Ngāti Ranginui by representatives determined by Te Roopu Whakamana, and by a representative of the Crown.

Governance Entity

10.2.5 the approval by the Crown, and the ratification by the claimant group, of a governance entity to represent Ngā Hapu o Ngāti Ranginui and to receive and manage the settlement assets; and

Settlement Legislation

10.2.6 the passage of settlement legislation. The settlement of Ngā Hapu o Ngāti Ranginui Historical Claims will be effective once a suitable governance entity is formed to hold the settlement assets and the required settlement legislation receives the Royal Assent.

11. What the Settlement of Ngā Hapu o Ngāti Ranginui Historical Claims Will Enable

11.1 The parties agree that the settlement of Ngā Hapu o Ngāti Ranginui Historical Claims will enable the:

11.1.1 final settlement of all Ngā Hapu o Ngāti Ranginui Historical Claims, and the release and discharge of all of the Crown's obligations and liabilities in respect of them;

11.1.2 discontinuance of the Office of Treaty Settlements land bank arrangements for the protection of potential settlement properties for the benefit of Ngāti Ranginui;

11.1.3 removal of 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 and for statutory protection for claims against the Crown to be removed for the benefit of Ngā Hapu o Ngāti Ranginui

11.1.4 removal of the jurisdiction of the courts, the Waitangi Tribunal, and any other judicial body or tribunal in respect of Ngā Hapu o Ngāti Ranginui Historical Claims, 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

11.1.5 discontinuance of any legal proceedings or proceedings before the Waitangi Tribunal in relation to Ngā Hapu o Ngāti Ranginui Historical Claims.

11.1.6 settlement package to recognise the interests of individual Hapu of Ngāti Ranginui, and that this will be the subject of discussion during the negotiations

12. Particular redress

12.1 Parties to agree that it may be appropriate for particular redress to be directly linked or provided directly to, the individual Hapu of Ngāti Ranginui, and that this will be the subject of discussion during the negotiations.

13. Communication

13.1 The parties will each ensure regular and appropriate internal consultation procedures throughout the negotiations, taking into account the need to keep the claimant community informed, but also the need for confidentiality regarding third parties.

14. Overlapping Claims

14.1 The parties agree that overlapping claim issues over redress assets will need to be addressed to the satisfaction of the Crown before a Deed of Settlement can be concluded. The parties also agree that certain items of redress provided to Ngā Hapu o Ngāti Ranginui as part of the Deed of Settlement may need to reflect the importance of an area or feature to other claimant groups.

14.2 Te Roopu Whakamana will discuss Ngā Hapu o Ngāti Ranginui interests with overlapping claimants at an early stage in the negotiation process and endeavour to establish a process by which they can reach agreement on how such interests can be addressed. Individual hapu rohe mapping may assist with this process.

14.3 The Crown may assist Ngā Hapu o Ngāti Ranginui as it considers appropriate and will carry out its own consultation with overlapping claimants.

14.4 The Crown may be in Treaty settlement negotiations with overlapping claimants. Issues arising in those negotiations, including issues concerning Crown forest land, may be relevant to these negotiations, and vice versa. The Crown will ensure that Ngā Hapu o Ngāti Ranginui is kept informed of these issues (subject only to the confidentiality of matters specific to the other negotiations).

14.5 The parties acknowledge that addressing overlapping claims may delay the negotiations. In the event such delays arise as a result of issues relating to overlapping claims, the parties agree that the negotiations between them will continue in good faith and that any such delays do not constitute a breach of good faith.

15. Not bound until Unconditional Deed of Settlement

15.1 The parties acknowledge that this document does not bind either party to reach a settlement and that any agreement reached in negotiation discussions is confidential, without prejudice and will not be binding until embodied in an unconditional Deed of Settlement.

16. Governance Structure for Settlement Assets

- 16.1 The parties agree that, before settlement legislation can be introduced, an appropriate legal entity, or entities will need to be in place that:
- 16.1.1 has or have been ratified by Ngā Hapu o Ngāti Ranginui (in a manner to be agreed by both parties);
 - 16.1.2 is in a form which both parties agree adequately represents Ngā Hapu o Ngāti Ranginui
 - 16.1.3 has transparent decision making processes; and
 - 16.1.4 is, or are accountable to Ngā Hapu o Ngāti Ranginui .

17. Claimant Funding

- 17.1 The parties acknowledge that the Crown will make a contribution to the negotiation costs of Ngā Hapu o Ngāti Ranginui . This contribution will be paid in instalments for the achievement of specified milestones in the negotiation process.
- 17.2 The parties agree that the Crown will make contribution to the costs incurred (at an agreed amount) by Ngā Hapu o Ngāti Ranginui for the Pre-negotiations and Deed of Mandate stages.
- 17.3 Te Roopu Whakamana will adhere to the Office of Treaty Settlements' claimant funding policy guidelines. In particular, before each instalment of claimant funding is approved, Te Roopu Whakamana will provide the Crown with invoices that demonstrate that the previous instalment of claimant funding was applied to negotiation expenses.
- 17.4 Te Roopu Whakamana will also provide the Crown with independently audited accounts for the claimant funding that it receives from the Crown, certifying that the funding has been spent on the negotiations.

18. Waiver of Other Avenues of Redress

- 18.1 If one party considers that litigation has become necessary, that party will give the other party 10 working days notice of the intention to bring proceedings. By the end of the 10 day working day notice period the terms of negotiation may be terminated at the agreement of both parties.

19. Procedural Matters

- 19.1 The parties agree that:
- 19.1.1 negotiations will be on a "without prejudice" basis and will be conducted in good faith and in a spirit of co-operation;
 - 19.1.2 negotiations will be conducted in private and will remain confidential unless agreed otherwise (such as when consultation with third parties is necessary) or when the Crown is required to release information under the Official Information Act 1982;
 - 19.1.3 either party may withdraw from negotiations if the negotiations become untenable
 - 19.1.4 consistent with the obligations of good faith negotiations, if the Office of Treaty Settlements becomes aware of changes in the legal control, or ownership of, or the granting of long term interests in land or assets of the Crown in which Ngā

Hapu o Ngāti Ranginui claims or is likely to claim an interest, the Office of Treaty Settlements will inform and consult with Te Roopu Whakamana of the proposal.

- 19.1.5 early in the negotiation process both parties will discuss Ngā Hapu o Ngāti Ranginui 's redress interests and the Crown's policies in respect of those interests. Based on these discussions the Office of Treaty Settlements will also provide information on relevant Crown assets potentially available for redress, including possible transfers, in a settlement;
- 19.1.6 media statements concerning the negotiations will only be made when mutually agreed by both parties;
- 19.1.7 the location of meetings will be suitable and convenient to both parties; and
- 19.1.8 the Crown and Te Roopu Whakamana o Nga Hapu o Ngati Ranginui recognise the importance of using Te Reo Māori in the negotiations, where appropriate. Te Roopu Whakamana o Nga Hapu o Ngati Ranginui will provide the Crown with adequate notice when a translator is required in the negotiations.

20. Amendments

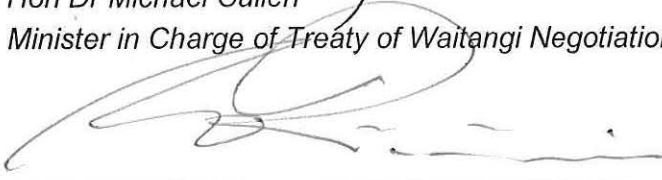
- 20.1 The parties acknowledge that it may be necessary to amend these Terms of Negotiation from time to time and agree that no amendment is effective until approved by both parties and recorded in writing.

Signed this 27th day of September 2008

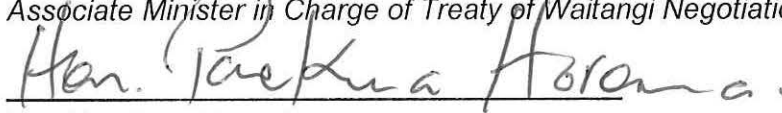
For and on behalf of the Crown:



Hon Dr Michael Cullen
Minister in Charge of Treaty of Waitangi Negotiations

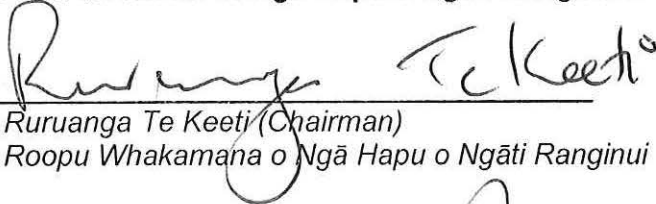


Hon Mita Rinui
Associate Minister in Charge of Treaty of Waitangi Negotiations



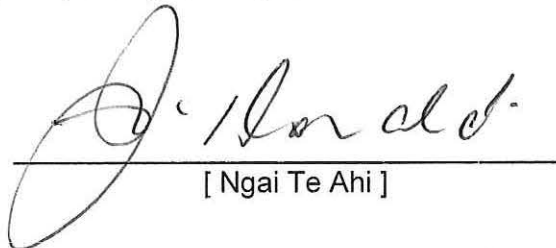
Hon Parekura Horomia
Minister of Māori Affairs

For and on behalf of Ngā Hapu o Ngāti Ranginui :



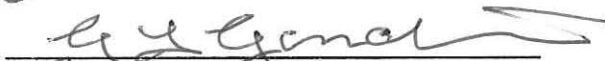
Te Ruruanga Te Keeti (Chairman)
Te Roopu Whakamana o Ngā Hapu o Ngāti Ranginui

Authorised Signatory:




[Ngai Te Ahi]

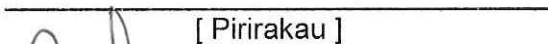
Authorised Signatory:



[Ngati Hangarau]

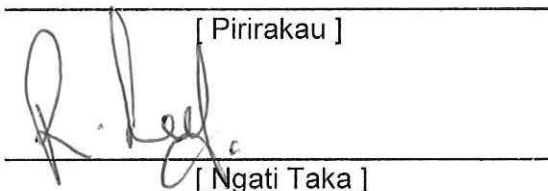


Authorised Signatory:



[Pirirakau]

Authorised Signatory:



[Ngati Taka]

Tanwarangi Nuku.

Satai Hewanwa Allen

Rairi

K. Temet

J. J. Pollock

R. Loef.

W. Taragon

W. J.

W. J.

J. B.

Te Purawa Karurangi.

Aneta Keweti.

Waka Gage

Anna Gardiner

W. J.



Office of Hon Dr Michael Cullen
Deputy Prime Minister
Attorney-General
Minister of Finance
Minister in Charge of Treaty of Waitangi Negotiations
Leader of the House of Representatives

COPY

07 APR 2008

Horimatua Evans
Te Roopu Whakamana o Te Raupatu o Ngā Hapū o Te Iwi o Ngāti Ranginui
PO Box 13656
TAURANGA

Tēnā koe Horimatua Evans

We refer to the Deed of Mandate submitted by Te Roopu Whakamana o Te Raupatu o Ngā Hapū o Te Iwi o Ngāti Ranginui (Te Roopu Whakamana). The documentation demonstrates an open and transparent process in which the claimant community has chosen to mandate Te Roopu Whakamana.

It is important that the negotiations process is as efficient and manageable as possible. For this reason, it would be preferable for Te Roopu Whakamana to appoint negotiators before Terms of Negotiation discussions commence. We note that the interests of each of the claimant hapū of Ranginui will be represented in negotiations under the umbrella of Te Roopu Whakamana.

On the basis that this work is completed and agreed with the Crown, we are pleased to formally recognise Te Roopu Whakamana to represent Ngāti Ranginui in negotiations with the Crown for the comprehensive settlement of all historical Treaty claims of Ngāti Ranginui.

Officials from the Office of Treaty Settlements will contact you shortly regarding claimant funding. We look forward to being updated on your progress towards Terms of Negotiation.

Nā māua noa,

Hon Dr Michael Cullen
Minister in Charge of
Treaty of Waitangi Negotiations

Hon Parekura Horomia
Minister of Maori Affairs

cc: Mr Te Ruruanga Te Keeti, Chairperson, Te Roopu Whakamana