



OFFICE OF TREATY SETTLEMENTS

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FILE

Minister in Charge of Treaty of Waitangi Negotiations
Minister of Finance

Cc: Associate Minister in Charge of Treaty of Waitangi Negotiations

Subject: Ngatikahu ki Whangaroa: increase in claimant funding under modified policy

Date:	6 November 2006	Priority:	High
Report No:	72	File Ref:	CLA-N116-NF-01-03

Action Sought

Action sought	Timeframe
Approve a \$358,000 increase in claimant funding for Ngatikahu ki Whangaroa under the modified policy.	ASAP

Not relevant to request

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1 st Contact
Paul James	Director, OTS	04 494 9826 021 392 921	✓ (OTS)
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Sam Woods	Senior Analyst, Commercial Investments, Treasury	04 917 7032	✓ (Treasury)

Withheld under section

9(2)(g)(i) of the Official Information Act 1982.

Sgd. Hon Dr Michael Cullen

08 NOV 2006

Ngatikahu ki Whangaroa: modified claimant funding upper limit

Purpose

1. ~~This report seeks your joint approval for a \$358,000 increase in claimant funding for historical Treaty settlement negotiations with Ngatikahu ki Whangaroa (NKKW) as the final part of the implementation of the modified claimant funding policy.~~

Background

Claimant funding for NKKW

2. In September 2001, the Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Finance jointly approved a claimant funding upper limit of \$350,000 for the NKKW negotiations, based on the assessment criteria of the time. Of this amount, \$223,000 has been released to NKKW to date, in association with agreed negotiation milestones.

Cabinet decisions on claimant funding

3. In April 1999, Cabinet agreed that the setting of overall funding limits for mandated claimant groups, and other funding decisions under CAB (97) M38/9, would be delegated to the Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Finance [CAB (99) M11/20 refers].
4. ~~On 3 April 2006, Cabinet approved modifications to the Crown's claimant funding policy [CAB Min (06) 11/17 refers]. Cabinet agreed to replace the original claimant funding matrix with two separate matrices for Crown Forestry Rental Trust (CFRT) funded groups and non-CFRT funded groups, in order to provide additional funding to groups that are not eligible for funding from CFRT. Cabinet also agreed to certain modifications to the claimant funding matrices to better reflect the current drivers of negotiations costs. Cabinet agreed that the modified claimant funding policy ("the modified policy") be applied to all claimant groups who are currently in negotiations (for milestones that have not been met) to the extent that the new amount is greater than the funding available under the previous policy.~~

Not relevant
to request

5. ~~In July and August 2006, you jointly approved claimant funding upper limit increases for all claimant groups currently in negotiations except NKKW, who had not been assessed at the time.~~ Not relevant
to request
- Officials have now assessed NKKW under the modified policy and the results of this assessment are set out below.

NKKW assessment under the modified claimant funding policy

6. As NKKW do not have interests in licensed Crown forest land, they are not eligible for CFRT funding. The non-CFRT matrix has therefore been applied in reassessing the total amount of claimant funding for the NKKW negotiations. There are eight key factors within this matrix, which have been used to ascertain the level of funding for which NKKW should qualify at each stage of the negotiations process. A summary of officials' assessment for each of these factors (and a comparison with the original assessment undertaken in 2001) is attached as Appendix 1.

Proposed Crown contribution under modified policy

7. Based on the assessment under the modified policy, officials recommend that NKKW are eligible for the claimant funding allocations identified in Table 3 below for each of the remaining negotiation milestones (less the advances already released).

Table 2: Recommended allocations of NKKW claimant funding for remaining milestones

Milestone	Old policy	Modified policy	Already released	Proposed increase	New amount remaining
Mandate	\$49,000	\$84,000	\$52,000	0	0
Terms of Negotiation	\$16,000	\$26,000	\$16,000	0	0
Subtotal 1	\$65,000	\$110,000	\$68,000	0	0
Agreement in Principle	\$85,000	\$215,000	\$85,000	\$130,000	\$130,000
Initialled Deed of Settlement	\$156,000	\$293,000	\$70,000*	\$137,000	\$223,000
Ratification	\$44,000	\$85,000	0	\$41,000	\$85,000
Legislation and Governance	0	\$50,000	0	\$50,000	\$50,000
Subtotal 2	\$288,000	\$643,000	\$155,000	\$358,000	\$488,000
Total (Subtotal 1 + 2)	\$350,000	\$753,000	\$223,000	\$358,000	\$488,000

* Amount released in advance of achieving Deed of Settlement milestone to assist the Trust Board in engaging in the fast-tracked negotiations process.

8. The total proposed increase for NKKW under the modified policy is \$358,000. Although this is a considerable increase compared with the other claimant groups who were eligible for increases, it was identified during development of the modified claimant funding policy that NKKW would be the group to benefit most significantly from the modifications to the policy. This is consistent with one of the main aims of the revised policy, which was to weight increases in funding towards groups like NKKW who do not benefit from CERF funding.

9.

Not relevant to request

Recommendations

10. It is recommended that you:

- note that in April 1999 Cabinet agreed that the setting of overall funding limits for mandated claimant groups, and other funding decisions under CAB (97) M 38/9, would be delegated to the Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Finance;
- note that in September 2001 you jointly approved a \$350,000 claimant funding upper limit for NKKW (based on certain assessment criteria of the time);

3. **note** that on 3 April 2006 Cabinet approved modifications to the Crown claimant funding policy [CAB Min (06) 11/17 refers];
4. **note** that officials have completed an assessment of NKKW under the modified claimant funding policy, and based on that assessment recommend that NKKW are eligible for a \$358,000 increase in claimant funding;
5. ~~approve a \$358,000 increase in claimant funding upper limit for NKKW and~~
- 6.

Not relevant
to request

M Fisher

Robyn Fisher
Acting Manager, Policy/Negotiations
Office of Treaty Settlements
For Director

S. Woods
Sam Woods
Senior Analyst
Commercial Investments
For Secretary to the Treasury

APPROVED / DECLINED	APPROVED / DECLINED
 Hon Mark Burton Minister of Treaty of Waitangi Negotiations	 Hon Dr Michael Cullen Minister of Finance
Date: <i>07</i> / <i>11</i> / 2006	Date: <i>8</i> / <i>11</i> / 2006

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Appendix 1

Ngatikahu ki Whangaroa assessment against the eight factors in the *Non-CFRT Funded Groups* matrix

Factor	Assessment	Comment
CLAIMANT GROUP SIZE	Small to medium (2,000-8,000)	<p>In the original claimant funding assessment undertaken in 2001, NKKW were assessed as being of small size, based on the 1996 Census, in which 365 people identified as "Ngatikahu ki Whangaroa - Ngāpuhi ki Whangaroa".</p> <p>In the 2001 Census, 1,965 people identified as "Ngatikahu ki Whangaroa - Ngāpuhi ki Whangaroa". The notional iwi population for "Ngāpuhi/Ngatikahu ki Whangaroa" in the Māori Fisheries Act 2004 is 2,040.</p> <p>Census figures are, however, not an accurate indicator of population for NKKW because the NKKW population figure is bound up with the "Ngāpuhi ki Whangaroa" figure. OTS used a figure of 2,000-2,500 based on a comparative analysis of the 1949 Māori Electoral Roll. This was the population figure used in advice to Ministers on quantum factors.</p>
DISTANCE FROM WELLINGTON	Medium	<p>This is a new factor for the assessment matrix introduced in April 2006.</p> <p>Three of the four NKKW negotiators and the NKKW Trust Board's legal counsel live in Auckland. One of the NKKW negotiators lives in Dargaville. To date, all negotiation meetings with NKKW have been held in Auckland, due to the Trust Board's lack of funds. The core negotiation team would need to fly to Wellington from a major airport (i.e. Auckland). The NKKW negotiators have flown to Wellington for Ministerial meetings.</p> <p>The NKKW negotiators have travelled back to Whangaroa monthly for Trust Board meetings and for site visits in December 2005. When going to Whangaroa, the negotiators must drive and stay overnight.</p>
GEOGRAPHIC DISPERSAL	Medium	<p>In 2001, the geographic dispersal of NKKW was assessed as low, although it was identified that the majority of beneficiaries resided less than 3 hours' drive from the claim area or in Auckland. The Trust Board have previously conducted hui in Auckland.</p> <p>Under the revised matrix criteria, this description would be assessed as NKKW having medium geographic dispersal, in that the majority of beneficiaries reside outside their claim area, and consultation processes among the group would reasonably include hui to be held in centres other than the rohe where there are significant concentrations of beneficiaries (i.e. Auckland).</p>
SUB-GROUPINGS	5-10	<p>There are six NKKW marae identified in the Terms of Negotiation (Taemaro, Waimahana, Taupo, Waihapa, Waitaruke and Mangawhero).</p> <p>NKKW have identified the following seven hapū for the purposes of claimant definition: - Ngāti Roha, Ngāti Aukiwa, Ngāti Rua, Kaitangata, Ngāti Rangimatamoemoe, Te Hoia and Pohitiare.</p>
POLITICAL UNITY AND STABILITY	Low level	<p>NKKW were assessed in 2001 as having a medium level of political unity/stability.</p> <p>Since 2001, a group using the NKKW hapū name Ngāti Aukiwa, which does not recognise the mandate of the Trust Board, has undertaken occupations and protest activity on Stony Creek Station, the frequency and intensity of which have recently escalated.</p> <p>NKKW are assessed as having a low level of political unity/stability according to the revised matrix criteria.</p>

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Factor Assignment Common

<p>CROSS CLAIM POTENTIAL</p>	<p>Low</p>	<p>In 2007, NKKW were assessed as having a low cross-claim potential. Two overlapping groups have been identified—Ngāti Kahū and Ngāpūhū—and the degree of overlap is small. The interests of Ngāti Kahū have been identified in the Muriwhenua Land Report, although the interests of Ngāpūhū have not been identified in a Tribunal report.</p> <p>The Trust Board has advised that they have mutual understandings with both the mandated body for Ngāti Kahū and the mandated body for fisheries redress for both NKKW and Ngāpūhū/Whangaroa regarding their respective interests and claim areas.</p>
<p>LEVEL OF LIKELY RESEARCH</p>	<p>Low Complexity</p>	<p>The NKKW claims primarily involve pre-1865 land purchases by the Crown. There is little dispute between the Crown and NKKW over the historical record. There is a low expectation of the detail and amount of negotiation required in the Historical Account. The Crown and NKKW are unlikely to need to undertake much historical research due to the availability of the Muriwhenua Land Report.</p>
<p>NATURE OF LIKELY REDRESS</p>	<p>Medium</p>	<p>The number of cultural redress instruments used in the settlement is small, medium and the cultural redress is based on existing precedents.</p> <p>The nature of the commercial redress is unique and has required extensive policy development due to the fact that the value of the commercial assets in the NKKW area of interest greatly exceeds the quantum range.</p>

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