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7 ●
FILE

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06 MAR 2006

Minister's Office

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02 MAR 2006

Minister's Office

Minister in Charge of Treaty of Waitangi Negotiations

Subject: Ngāti Kahu ki Whangaroa – release of claimant funding instalment

Date:	2 March 2006	Priority:	High
Report No:	145	File Ref:	CLA-N116-NF-01-03

Action Sought

Action Sought	Timeframe
Approve the release of a \$25,000 instalment of claimant funding to the Ngāti Kahu ki Whangaroa Trust Board associated with the achievement of the sub-milestone "Site Visit".	ASAP

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1 st Contact
Heather Baggott	Acting Director	04 494 9861 027 277 4214	✓
Rex Sinnott	Acting Manager	04 494 9871	

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

Ngāti Kahu ki Whangaroa – release of claimant funding instalment

Purpose

1. This report seeks your approval to release the next instalment of \$25,000 of claimant funding to the Ngāti Kahu ki Whangaroa Trust Board ("the **Withheld under section 9(2)(j) of the Official Information Act 1982.**") associated with the achievement of the sub-milestone "Site Visit".
2. You have recently agreed to a proposal to fast-track the NKKW Agreement in Principle by August 2006. As we stated in that report, we are currently drafting a further report to you with a strategy for achieving the objective of an Agreement in Principle by August 2006, which will include a proposal for additional funding, or claimant funding brought forward, to ensure that the Trust Board are able to fully engage in the fast-track process. This report does not constitute that proposal. Rather, this report seeks your approval of the release of \$25,000 of claimant funding that was triggered by the site visits conducted in December 2005. The provision of claimant funding due to the Trust Board has been unable to be progressed until now due to the diversion of office resources as a result of the protest action at Stony Creek.

Background

3. In April 1999, Cabinet delegated authority to the Minister in Charge of Treaty of Waitangi Negotiations to approve the release of claimant funding in instalments once an overall funding limit has been approved [CAB (99) M11/20 refers].

Ngāti Kahu ki Whangaroa claimant funding decisions

4. In July 1997, Cabinet approved the funding of \$30,000 as a contribution to Ngāti Kahu ki Whangaroa's ("NKKW") 'pre-mandating' costs [CAB (97) M 25/16 refers], which was released to the Trust Board in August 1998. In June 2000, a further \$3,655 was released to Pita Pangari to reimburse expenses he incurred during pre-mandate discussions in May and June 1999. In March 2001, another \$4,012 was released to the Trust Board to assist with mandating hui. In total, \$37,667 'pre-mandate' funding was released on the condition that it would be deducted from the total NKKW claimant funding amount, which had yet to be determined.
5. In September 2001, the Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Finance approved an upper limit of total claimant funding for the NKKW negotiations of \$350,000 (inclusive of the \$37,667 'pre-mandate' funding already released). Additionally, both Ministers agreed to the early release of \$14,333 associated with the "Recognised Deed of Mandate" milestone, in order to assist the Trust Board in fulfilling its mandate conditions.
6. In December 2002, the Minister in Charge of Treaty of Waitangi Negotiations agreed to the early release of \$16,000 funding associated with the "Terms of Negotiation" milestone, in order to assist the Trust Board in fulfilling the remaining mandate conditions.
7. In October 2004, you approved the release of \$50,000 funding to assist with costs associated with reaching the milestone "Negotiations to Deed of Settlement".

Release of next instalment of funding

8. The Crown and the Trust Board agreed in November 2005 to divide the large "Negotiations to Deed of Settlement" milestone into sub-milestones.
9. The Trust Board has requested the release of the next instalment of \$25,000 of claimant funding associated with the achievement of the agreed sub-milestone "Site Visit". The Trust Board hosted Crown officials on a visit to the key sites in their rohe on 2-3 December 2005.
10. The following table outlines the allocation of the NKKW claimant funding against milestones and sub-milestones in the negotiations process, demonstrates how funding has been spent to date, and shows the amount now proposed for release (in bold).

TABLE 1: NKKW CLAIMANT FUNDING

Milestone	Allocated (\$)	Sub-milestones	Previously released (\$) (Date released)	Proposed for release (\$)	Remaining (\$)	
Recognised Deed of Mandate	52,000	N/A	30,000 (July 1998) 3,655 (June 2000) 4,012 (March 2001) 14,333 (September 2001)	-	-	
Terms of Negotiation	16,000	N/A	16,000 (February 2003)	-	-	
Negotiations to Deed of Settlement	238,000	N/A	50,000 (October 2004) <i>Released in advance</i>	-	-	
		Site Visit		25,000	-	
		Identification of cultural interests				25,000
		Signed Agreement in Principle				50,000
		Initialed Deed of Settlement				50,000
		Ratified and signed Deed of Settlement				38,000
Ratification	44,000	Governance entity established			30,000	
		Settlement legislation introduced			14,000	
Total	350,000		118,000	25,000	207,000	

11. In assessing the Trust Board's request for a further instalment of claimant funding, officials have considered whether the funding provided to date has been spent on reasonable negotiations costs, and whether progress has been made in negotiations.
12. The Trust Board has provided officials with a statement of audited accounts. Officials are satisfied, based on this information, that the previous claimant funding instalment of \$50,000 (released in October 2004) has been spent on reasonable negotiations costs.
13. As you know, negotiations with the Trust Board were suspended during the period April-September 2005 in order to progress mediation with the Ngāti Aukuwa faction who

oppose the Trust Board's mandate. Despite this period of suspension, the Trust Board and the Crown have been able to progress the following matters in negotiations:


- planning for negotiations towards an Agreement in Principle;
- Crown presentation on quantum factors;
- Crown presentation on cultural redress instruments;
- a site visit around NKKW's rohe as part of the "Identification of Interests" process for the cultural redress workstream; and
- a presentation by the Chief Negotiator for the Trust Board on the grievances held by NKKW relating to past Crown actions or inactions.

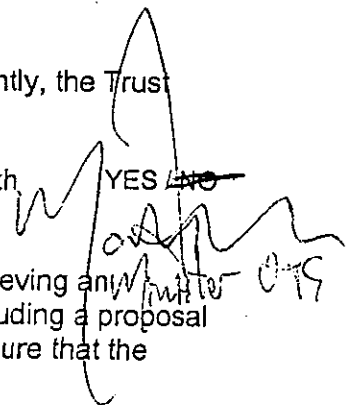
14. Officials consider that the Trust Board has demonstrated good progress in negotiations to date.
15. Officials therefore propose that you approve the release of \$25,000 to the Trust Board, triggered by the achievement of the sub-milestone "Site Visit". The remaining \$163,000 associated with the "Negotiations to ~~Deal of Settlement~~" milestone will be released, upon the achievement of the specified sub-milestones shown in Table 1 above.

Recommendations

16. It is recommended that you:

1. note that, in accordance with Cabinet's delegated authority, the Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Finance approved a total claimant funding upper limit of \$350,000 for the Ngāti Kahu ki Whangaroa negotiations;
2. note that a total of \$118,000 has been released to the Ngāti Kahu ki Whangaroa Trust Board to date;
3. note that the Trust Board has requested the release of the next instalment of \$25,000 claimant funding associated with achieving the sub-milestone "Site Visit";
4. note that officials are satisfied that Trust Board has demonstrated that it has spent the previous claimant funding instalment of \$50,000 (released in October 2004) on reasonable negotiations costs;
5. note that prior to the suspension of negotiations, as well as recently, the Trust Board has made good progress in negotiations;
6. approve the release of \$25,000 to the Trust Board associated with achieving the sub-milestone "Site Visit"; and
7. note that officials will report to you shortly with a strategy for achieving an Agreement in Principle with the Trust Board by August 2006, including a proposal for additional funding, or claimant funding brought forward, to ensure that the Trust Board are able to fully engage in the fast-track process.


Heather Baggott
Acting Director

YES ~~NO~~

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