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Minister's Office

RECEIVED
19 APR 2006
IN THE OFFICE OF
HON DR MICHAEL CULLEN

Minister in Charge of Treaty of Waitangi Negotiations
Cc: Associate Minister in Charge of Treaty of Waitangi Negotiations

Subject: Ngāti Kahu ki Whangaroa fast-tracked negotiations planning and early release of claimant funding

Date:	7 April 2006	Priority:	High
Report No:	172	File Ref:	CLA-N116-PM-01 CLA-N116-NF-01-03

Action Sought

Action Sought	Timeframe
Approve the early release of \$80,000 claimant funding, to enable the Ngāti Kahu ki Whangaroa Trust Board to engage in the fast-tracked negotiations process.	ASAP
Forward copies of this report to the Minister of Finance and the Minister of Māori Affairs, for their information.	N/A

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1 st Contact
Heather Baggott	Acting Director	04 494 9861 027 277 4212	✓
Rex Sinnott	Acting Manager	04 494 9871	

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

Noted

.....
Hon Dr Michael Cullen
Minister of Finance

25/4/06

Ngāti Kahu ki Whangaroa fast-tracked negotiations planning and early release of claimant funding

Purpose

1. This report:
 - a. outlines the strategy and timeline agreed between officials and the Ngāti Kahu ki Whangaroa ("NKKW") Trust Board ("the Trust Board") for reaching an Agreement in Principle ("AIP") by August 2006; and
 - b. seeks your approval to the early release of \$80,000 claimant funding to the Trust Board to enable its engagement in the fast-tracked process.

Background

NKKW negotiations

2. On 27 February 2006, you agreed to a proposal to fast-track the NKKW negotiations, with the aim of reaching an AIP by August 2006. You also agreed that the Office of Treaty Settlements ("OTS") should continue to manage the Station and the ongoing security risks while the fast-tracked negotiations are ongoing, but that this situation should be reviewed if an AIP is not reached by August 2006.
3. In February, we estimated that continuing to farm Stony Creek Station in the interim would cost the Crown \$200,000 to June 2006 (on top of the \$425,000 during December 2005-February 2006 incurred as a result of protest and criminal activity), and a further \$100,000 for the months of July and August 2006.

Claimant funding

4. 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].
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, of which \$143,000 has been released to date. The table in Appendix 1 summarises how the NKKW claimant funding has been allocated to the achievement of specified milestones in the negotiations process.

Strategy for reaching AIP

6. Since the decision to fast-track the negotiations in late February, officials have been working closely with the Trust Board's negotiators to develop and agree a strategy and timeline for reaching the goal of a signed AIP by August 2006.
7. An AIP by August is an ambitious goal. Officials and the negotiators have agreed that the best way to maximise progress within this tight timeframe is for an intensive 4-5 day workshop where both parties will exchange information on interests and brain-storm redress options, which we have scheduled for late May. By the end of the workshop

period, officials aim to have a comprehensive understanding of NKKW's interests, so that the next month can be spent developing a Crown offer, which we have scheduled to be presented at the end of June. July and August will be taken up by finalising the package and drafting the AIP document itself.

8. These timeframes are tight, and dependent on the availability of Ministers to be involved in active decision-making at certain points in the negotiations process. Accordingly, we have built in to the strategy two key meeting points (following the intensive workshop and following the Crown offer) between you and the NKKW negotiators.
9. The table below summarises the proposed timing of key points in the negotiations process between now and August:

Date	Outcomes
April-May	Information gathering and gap-filling research Trust Board to set up infrastructure and systems
Late May	Intensive negotiations workshop (information exchange and identification of redress options)
Early June	NKKW meeting with Minister in Charge of Treaty of Waitangi Negotiations to present views on quantum factors and post-settlement aspirations
Late June	Crown offer (all elements of settlement package, including quantum)
July-August	Finalise settlement package
Late July	NKKW meeting with Minister in Charge of Treaty of Waitangi Negotiations to discuss outstanding issues (if required)
Late August	Sign Agreement in Principle

Early release of claimant funding

Trust Board's proposal

10. Although officials consider that the Trust Board is committed to engaging in the fast-tracked negotiations process, the Trust Board has advised that it is currently constrained by an inability to provide infrastructural support to the negotiators. The Trust Board has submitted a detailed proposal to officials seeking \$78,700 "up front" to facilitate its engagement in the fast-tracked process.

11. The key outcomes identified by the Trust Board, and the budgeted cost required to meet those outcomes, are outlined below:

Outcome	Details for achieving outcome	Budgeted cost (\$)
Management of "fast-tracked negotiations to AIP" project	Recruitment of a project manager to provide administrative and organisational support to the Trust Board and negotiators	32,000
Trust Board administration	Rental and equipment lease for 6 months	20,000

Outcome	Details for achieving outcome	Budgeted cost (\$)
<i>Strategic Plan</i>	Delivery of a <i>Strategic Plan</i> for the Trust Board, outlining goals, strategies, areas of priority, risk management analysis	6,000
<i>Policies and Procedures manual</i>	Delivery of a comprehensive <i>Policies and Procedures</i> manual for the Trust Board and negotiators	3,000
Communications strategy	Website (maintaining online)	3,000
	Newsletters / mail outs	1,200
	Newspaper advertising	2,500
	Hui / community meetings	5,000
Economic development strategy	Comprehensive iwi research, development of strategy and implementation	6,000
TOTAL		78,700

Assessment of proposal

12. Officials have assessed the Trust Board's proposal, and consider that the budgeted costs are reasonable. We also consider that the Trust Board has demonstrated its commitment to the fast-tracked process by working with officials to develop and agree a negotiations strategy and timeframes to reach an AIP by August 2006.
13. Since 1998, the Trust Board has received only \$143,000 from the Crown as the Crown's contribution to its negotiations costs. Officials have recently been advised that the Trust Board's application to Te Puni Kōkiri for capacity building funding has not been approved. NKKW has not been eligible to receive funding from the Crown Forestry Rental Trust, as they do not have interests in licensed Crown forest land. The Trust Board has no further resources at their disposal.
14. We therefore propose that you approve the early release of \$80,000, associated with the milestone "Negotiations to Deed of Settlement", to enable the Trust Board to engage in the fast-tracked process.
15. This proposal represents an exception to the Crown's policy of releasing claimant funding instalments of up to \$50,000 at a time, which is intended primarily to reduce the risk that claimant groups will run out of funds before the settlement is completed.
16. As a non-CFRT funded group, NKKW is likely to benefit from the revision of its upper claimant funding limit under the revised OTS claimant funding policy, which was approved by Cabinet on 3 April 2006 [CAB Min (06) 11/17 refers]. Officials estimate that the upcoming implementation of the revised policy will result in an increase in the total upper limit for NKKW of approximately \$200,000. We consider that this likely increase will significantly mitigate the risk that the present proposed early release of \$80,000 will result in the Trust Board running out of funds before the settlement is completed.
17. OTS and Treasury officials will shortly assess NKKW under the revised policy and report to the Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Finance seeking approval of the revised total upper limit.

Consultation

18. ~~The Treasury was consulted in the preparation of this report and agrees with its contents and recommendations.~~

Recommendations

19. It is recommended that you:


1. **note** that you have agreed to a proposal to fast-track the NKKW negotiations, with the aim of reaching an AIP by August 2006;

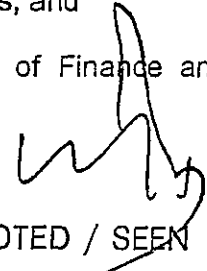
Negotiations strategy/timeframes

2. **note** that officials have developed and agreed a negotiations strategy and timeline with the Trust Board's negotiators;
3. **note** that officials consider that adhering to the tight timeframes will depend on the availability of Ministers to be involved in active decision-making at certain points in the negotiations;
4. **note** that a key element of the strategy is an intensive 4-5 day workshop (to be held in late May) where both parties will exchange information on interests and brain-storm redress options;

Early release of claimant funding

5. **note** that the upper limit of total claimant funding for the NKKW negotiations is \$350,000, of which \$143,000 has been released to date (see Appendix 1);
6. **note** that the Trust Board has submitted a detailed proposal to officials seeking \$78,700 "up front" to facilitate its engagement in the fast-tracked process;
7. **note** that officials have assessed the Trust Board's proposal, and consider that the budgeted costs are reasonable;
8. **note** that the implementation of the revised claimant funding policy is likely to result in an increase in the total upper limit of funding for the NKKW negotiations of approximately \$200,000;
9. **approve** the early release of \$80,000 claimant funding, to enable the Trust Board to engage in the fast-tracked process; and YES / NO
10. **forward** a copy of this report to the Minister of Finance and the Minister of Māori Affairs, for their information. YES / NO


Heather Baggott
Acting Director


NOTED / SEEN
Hon. Mark Burton

Appendix 1: Ngāti Kahu ki Whangaroa claimant funding

Milestone	Allocated (\$)	Sub-milestones	Released (\$)	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	[Instalment released in advance]	50,000 (October 2004)	-
		Site visit	25,000 (March 2006)	-
		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		143,000	207,000

RELEASED UNDER THE OFFICIAL INFORMATION ACT