



Office of Hon Christopher Finlayson

Attorney-General
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24 JAN 2014

David Manuel
Chair
Ngātikahu ki Whangaroa Trust Board
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Tēnā koe David

Thank you for agreeing to meet with Mr Ben Dalton recently to discuss potential approaches for progressing Ngātikahu ki Whangaroa settlement negotiations and resolving the occupation of Stony Creek Station. I was heartened to learn you were prepared to give further consideration to the proposals raised by Mr Dalton.

As a result of those discussions the Crown proposes, on a without prejudice basis, the following settlement package:

Proposal for progressing the Ngātikahu ki Whangaroa settlement

1. Aspects of the Agreement in Principle preserved

It is proposed that a Deed of Settlement (**DOS**) maintain the commitments made in the Agreement in Principle (**AIP**) to provide for:

- Transfer of the Thomson and Clarke blocks (part of the 'Stony Creek Assets') to the Ngātikahu ki Whangaroa Post Settlement Governance Entity (**PSGE**);
- Vesting of ten sites identified in the AIP (totalling approximately 217 hectares) to the PSGE as cultural redress;
- the Minister of Conservation, Minister for Arts, Culture and Heritage, and the Minister of Fisheries to issue relationship protocols to the PSGE;
- the Minister for Treaty of Waitangi Negotiations to write to the relevant local authorities encouraging each council to enter into a memorandum of understanding with the PSGE;
- a Joint Advisory Committee over certain sites;
- the declaration of a non-exclusive overlay classification over certain sites;
- statutory acknowledgements to be made in relation to certain sites;
- a deed of recognition to be made in relation to certain sites; and
- the possible altering or assigning of place names in consultation with the New Zealand Geographic Board.

However, in recognition of events since the AIP was signed, and in an effort to move the settlement process forward, the following amendments are proposed:

2. Stony Creek Station ownership to be determined post-settlement

Under this proposal the DOS would outline a process whereby Stony Creek Station is transferred from the Crown to an interim trust arrangement, to be held specifically until the Māori Land Court can determine who has customary interests in the land. In other words the ultimate owners of the land would be determined post-settlement through an impartial process.

To succeed all parties would need to agree to the process and be bound by its outcome. There would need to be further discussion, both with the Crown and within Ngātikahu ki Whangaroa, as to the most appropriate structure of the interim trust, including the composition of trustees. In this respect interim vesting of Stony Creek Station in an independent trust, rather than to the PSGE, may be more acceptable to all parties.

This trust would also assume responsibility for management of the Station in the interim. This would ensure that any returns from the operations of the farm could be legitimately returned to the claimant community.

3. Cash payment in lieu of Crown's obligations to maintain Stony Creek Assets and Stock

The Stony Creek Assets listed for transfer in the AIP included: Stony Creek Station, the Thomson Block, the Clark Block, plant as at 26 November 2007 and 11,500 stock units. Further, the AIP included an obligation on the part of the Crown to maintain the Stony Creek Assets (excluding the stock) in substantially the same condition as at the date of the AIP.

The occupation of Stony Creek Station and the delay in signing a DOS have compromised the Crown's ability to maintain these assets and stock across the entire farm. It is proposed that the Crown make a cash payment to the Ngātikahu ki Whangaroa PSGE in lieu of the AIP commitment, bearing in mind those circumstances outside the Crown's control. An estimate of this payment is unable to be provided until fresh valuations are undertaken. As this is an expensive process it would only be initiated if there is agreement to proceed with the proposal in this letter.

4. Ngātikahu ki Whangaroa Trust Board to manage the Thomson and Clarke Blocks

The AIP included an intention that the Crown would explore entering into a commercial arrangement with the Trust Board to lease or manage the Stony Creek Assets prior to DOS. In light of the occupation of Stony Creek Station it is proposed that the Trust Board be offered the opportunity to manage the (non-occupied) Thomson and Clarke blocks prior to DOS and until they transfer in settlement to the Ngātikahu ki Whangaroa PSGE. This would provide the Trust Board with an opportunity to deliver returns from managing these blocks to the claimant community prior to settlement.

5. On-account payment for restoring the Thomson and Clarke Blocks

The Crown would also consider making an on-account payment, after signing a management agreement for the Thomson and Clarke blocks, to help re-stock and restore the land. This would comprise a proportion of the total amount the Crown would offer to restore the farm's stock and overall condition (see proposal 3 above).

The amount and timing of an on-account payment is constrained by standard policy previously agreed by Cabinet. On-account payments made prior to deed signing are limited

to 20% of the total value of the settlement. An on-account transfer to an entity that is not a ratified PSGE can only be made under exceptional circumstances and would require Cabinet approval. Should the claimant community ratify a PSGE that the Crown will recognise then the process would be easier.

6. *Consideration of issues raised by Kaitangata hapū regarding Kowhairoa Peninsula*

As I stated at a meeting with you on 13 September 2013, and subsequently by letter, should parties achieve resolution by 31 January 2014 then I am prepared to consider the issues raised by Kaitangata hapu regarding the Kowhairoa Peninsula. That offer still stands.

Next steps

I see the proposed package as offering the best opportunity to progress the Ngātikahu ki Whangaroa settlement while also providing an opportunity for those who support the occupation of Stony Creek Station to have their 'day in court' to present their claims to this land. For this proposal to work all parties would have to agree to abide by whatever the Māori Land Court decides.

Mr Ben Dalton intends to meet with affected groups over Auckland Anniversary weekend to provide you with an opportunity to discuss this proposal further. If you agree to proceed on the basis of this proposal, on a without prejudice basis, I ask you to indicate your in-principle support in writing by 31 January 2014.

This will be an exceptional approach to a Treaty settlement and I will need to discuss it with my colleagues. Should all parties agree to pursue this course we can give further consideration as to how to proceed, including the formal resumption of negotiations and determining a feasible timeframe for signing a DOS.

Nāku noa, nā



Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations