

TE KŌKIRI NGĀTAHI

Treaty Settlements Hui

October 2010

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Hui opens

10:00 Opening Remarks (John Clarke)

[Powhiri – Karakia – Opening Prayer]

Introduction – Ms Ripeka Evans, Hui Chairperson

Tena koutou katoa – hei nga mana, hei nga reo, mai nga tuku, mai nga awa tukuriri, mai nga maunga korero, tena koutou. Hei nga Minita o Te Runanga Kawanatanga tena koutou. Ka tautoko i nga kupu whakatau a te mana whenua. Na reira, huri noa, huri noa, tena tatou katoa, nau mai ki to tatou hui.

Thank you for attending. The purpose of this year's hui is to affirm the government's commitment to 2014; provide an update on Treaty Settlement progress since the 2009 hui, provide the Crown with an opportunity to respond to issues raised during this year's regional engagement with iwi; receive iwi feedback on why the Crown policy initiatives; and give iwi and the Crown an opportunity to share experiences of the settlement process and ideas to accelerate it. Along with our two meetings last year, the continuing dialogue on how the settlement process can be improved and the strong progress towards settlement milestones, it has been a busy time for all of us. During June and July, officials have been in contact with most of you, to seek your feedback on what today's hui should cover. The agenda for the day has been shaped by your feedback - in particular, ministers have sought to ensure there are opportunities to discuss the issues you want to cover. These include:

- Iwi participation in the management of natural resources
- Post settlement relationships; and
- Challenges you are facing in the Treaty settlement process, including problems related to obtaining and maintaining a secure mandate; and
- Resolving overlapping claims or agreeing the allocation of redress amongst subgroups.

Ministers have also sought to provide you with the chance to hear how other iwi are approaching their settlement and get together with other groups who are at the same point in the settlement process, to discuss matters of relevance to your stage of negotiations since you have an interest in these opportunities. So I would like to take you through the agenda and now outline what is going to happen.

We have a busy time until 12:45 pm when we break for lunch. First up are the opening addresses from the Deputy Prime Minister and the Minister for Treaty of Waitangi Negotiations. They will be talking directly about settlement progress, and changes in the settlement process since we last met and how the

Government's thinking has progressed over the past year. After that start, we will then shift the focus quite significantly. And at this stage I would also like to mention the presence here today of groups that have already settled, who have already received settlements. You have been invited because of the experience you can offer to others who have yet to settle and because of the next item on the agenda. Now that we can see an endpoint in the settlement process, Ministers too would like to talk about post settlement relationships. The Deputy Prime Minister and the Minister of Māori Affairs will begin this discussion with some reflections based on their experience of the settlement process. Neither of them will be talking about post settlement government policy. It is too soon for that but both want to start a discussion on what the post-settlement landscape might look like. The Minister for the Environment will then talk about the stewardship of natural resources. We will then hear a short presentation from Paul Masurey and Michael Dreaver who have been heavily involved in the Tamaki Makaurau process, which, if you haven't already heard, is a process aimed at engaging all 20 groups in that region simultaneously in the settlement process. Their next project I am informed, is turning water into wine! This presentation will then lead into the final part of the morning's proceedings. At around 11:45 am we will split up into 7 workshop groups, based on your position in the negotiations process. The groups are as follows:

Group 1 - Those just entering the process and early engagement will make up the first group.

Those who are working towards deed of mandate or terms of negotiation will form the second group.

Those who are moving towards agreements in principle are in the 3rd and 4th groups.

Those who have signed agreements in principle and are preparing deeds of settlement are in the 5th and 6th groups. We have two groups for those working to AIPs and those working to Deeds because there are so many of you at those stages, a mark of progress.

Finally, those who are progressing your settlement legislation or have reached a full and final settlement are in Group 7.

So there are seven (7) groups in all and Office of Treaty Settlement (OTS) staff will indicate the area each group has been allocated for their workshop.

Your nametags have been colour-coded to help avoid confusion. The task of these groups is slightly varied and I will go into that in more detail at the time. We will have lunch from 12.45pm to 1:30pm and I ask you all to be prompt – to return to the afternoon session will then be devoted to the feedback to the Ministers from the morning workshops. The day will close at 2:30pm with a short closing address from the Minister for Treaty of Waitangi Negotiations summing up our discussions, and before we begin our formal part of the proceedings, I also need to give you some health and safety information. If there is an emergency we will need to use the stairs to head down to the level 1 foyer exit where our registration desk and area was earlier today, we will continue out past the exit, past the ticketing gates and gather on the walkway leading toward the Railway station. The wharepaku located at the back of the room and adjacent to the escalators. Westpac Stadium, is auahi kore, it's a smokefree environment – if you need to smoke you can do so outside the entrance on level 1.

Without any further ado, now let me begin proceedings by asking the Deputy Prime Minister, the Honourable Bill English, to give his opening address.

Opening Speech – Deputy Prime Minister, Hon Bill English

Tena koutou nga kaihautu o nga iwi puta noa i Aotearoa. Tangihia nga mate o te wa – ko koe ra Ta Archie. E nga mate okioki koutou i roto i te rangimarie. Tatou e tau nei, tena tatou katoa.

Can I acknowledge my ministerial colleagues the Honourable Pita Sharples, who tells me he did a fantastic job in the welcome this morning; Chris Finlayson, Nick Smith and the Honourable Georgina Te Heuheu.

You are a pretty friendly lot here, I was out having a cup of tea there before and one of you came striding across the room and said “I really want to shake your hand” - and I thought “this is someone who is going to congratulate me for doing something good” – and then we shook hands and they said “now I’m going to go and tell people I’ve met John Key”!

John, speaking of famous people, Pita will recognise these circumstances, John was out a few weeks ago at a function and he was sitting at a table with Richie McCaw talking away and a young woman comes up and says “this is fantastic, can I get a photo?” and John says ‘yes, you can’ so she hands him the camera. So it is nice to be here with famous people like Pita Sharples. Last time last year when we had this same kind of discussion, it was aimed at moving, working out how we could move faster towards our goals of completing the treaties...completing settlement processes, driven by the fact that we could all see so many benefits from completed settlements. I remember going into the venue in Mangere and on the way in someone called out to me “is there any money left, Bill?”. And as you will recall at the time there was a lot of publicity about the recession and what was happening around the world. So at the time I set aside a prepared speech to answer the question about money and the answer then was really the same as it is now and that is that we are committed to completing the Treaty settlement process because we believe that that is good for iwi and for the wider community, and even though this year we are running a 13 billion dollar deficit, and next year it will still be 8 or 9 billion dollars, it is money we are borrowing overseas and putting into this economy, we are still determined to continue with the settlement process, because it addresses unresolved questions about our past, but more importantly is providing so many New Zealanders with a vehicle for progress. And it is allowing iwi to develop their cultural and economic resources and of course in tough times, it is important that people who might have their jobs at risk, who are struggling to meet the needs of their families, to see that this kind of process that is in their longterm interest is going to continue. So we are committed to engaging with the settlement process at all levels. As Minister of Finance I take part in that process on at least a weekly basis, and a number of our cabinet committees have wrestled with related issues at some length. My direct involvement in the process goes back to the time when I was Minister of Health in the 1990s and even in that brief experience we can see the payoff now where the government is trying to ... the government is working on rolling out whanau-ora which I believe is probably the most significant initiative that the Maori Party have brought to Government and we are seeing now the payoff for investment that was made 15 and 20 years ago in various groups you will be familiar with in regions around New Zealand, we are finding now there are large successful

organisations with real skills who can make a big impact through the whanau-ora programme. An observation I would make, is that some groups in the settlement process devote more time to the settlement process and seeking special and unique components of the settlement than might be justified by the potential results. We do recognise that each group is unique and has a unique historical experience; and negotiators have a unique responsibility to their own people; but we do find sometimes that the returns from the additional effort and resource that goes into further negotiation can drop off pretty quickly, and that continuous process often on smaller and smaller issues needs to be balanced with the dramatic gains that can come from completing settlements. And from the Crown's point of view we are keen to complete settlements because each one we complete allows the resource to deal with the others who are in the queue, and as you know yourself that queue can look fairly long. However, we are not compelled to settle at any cost. In many instances, I have noticed that some are reluctant to recognise that they have reached that point. My own view is often that just reflects the sense of responsibility negotiators have and from what I have seen of it, often the last steps are the hardest because that is when negotiators feel the responsibility of dealing with the history and that weight can be significant. I think the examples of those who have reached the end of the process and moved on to a more autonomous future where all that energy that's been applied to negotiating can be applied to their own future and their own people, is all the evidence that we need to show that's its worth taking those last few steps to complete. Later this morning my colleague Dr Sharples and I will start a discussion with you about what happens after the settlement process and the further development of the Crown-Iwi relationship. I would just like to say at this stage there is no need to view every aspect of the relationship with the Crown through the settlement process. Certainly the settlement process has been the way that the Crown and most iwi have related in the last 10 or 15 years but the government is committed to a broader relationship outside of the settlement process – in fact there are a lot of key issues that need to be dealt with that are not necessarily Treaty settlement issues. The Crown doesn't necessarily have to be involved once settlement resources are available. I think we're seeing a pattern around the country where joint ventures and participation with the private sector and local government work, and are limited only by your capacity for innovation. One of the benefits of actually settling – in my mind, in my view – is actually getting free of the Crown and its processes and its pedantic ways of doing business. Some of you are probably conscious that next year is an election year and may be wondering how that might affect negotiations. From the government's point of view it won't have an effect on negotiations, we will be continuing with the steady-as-she goes approach. The Ministry of Treaty Settlements has done an excellent job of moving so many claims along to the point where it is, we believe that, from the point of view of the wider public, the settlement process is seen positively and there is no need to put our feet up in election year. We want to continue to improve on the unprecedented momentum achieved in the last year so we won't be making decisions in haste and we won't be negotiating inflated deals simply to achieve them before the election. Finally and before handing over to my colleague Chris Finlayson, I am reminded of being immersed in settlement negotiations again is the value of the strong relationships that have developed between the settling groups and the Crown. So, quite apart from what the actual settlement looks like, we value the new and ongoing engagement that this process creates between the Crown and iwi, because that relationship is one which we can develop, one in which we can work together on the very difficult issues, particularly those issues to do with our children and our whanau that exist outside of the Treaty settlement process. We have found these relationships to be productive, even where there is disagreement, and I think that's my final point.

At all stages through these negotiations we have found that there is mutual respect, where there is mutual respect, disagreement isn't fatal to that relationship, and I want to acknowledge the effort of so many iwi leaders and negotiators who walk that very fine line between being ...carrying out their pragmatic discussions with the Crown on the one hand and being held to account by the iwi, and hapū and whanau on the other hand. They can be demanding, and they can be unrealistic and time and again we are impressed by the perception, and in many cases the courage and the strength of those leaders and negotiators who are working so hard to actually settle grievances everyone has learned to become comfortable living with, and take those brave and somewhat uncertain steps to the point where they can focus on the future. So we intend to build on the leadership which we have seen so much of and make as much progress as we can over the next twelve months.

No reira, a tona wa, ka kitea tatou nga hua me te painga o nga mahi ngatahi. No reira, tena tatou, tena tatou, tena tatou katoa.

[responding waiata] Kia ora

Ripeka Evans

Now would you welcome to the podium please, the Honourable Chris Finlayson, the Minister for Treaty of Waitangi Negotiations. Homai te pakipaki ki a ratou, ki a ia.

Address by the Minister for Treaty of Waitangi Negotiations, Hon Christopher Finlayson

E nga mana, e nga reo, rau rangatira ma, tena koutou, tena koutou katoa

Can I first of all acknowledge Ripeka Evans. One of the great benefits of being Minister of Culture and Heritage as well as Treaty Negotiations is that the work is often seamless and I am really pleased that Ripeka has come to the Ministry of Culture and Heritage and is doing great work there, and is helping me directly in that portfolio, and indirectly as Minister of Treaty Negotiations. It is really good to see you (yeah, give her a clap) – it is good to see you all again as we continue dialogue about Treaty settlements and how we can complete them – with emphasis on the verb complete to our mutual satisfaction. I am very pleased that we are finally gathered here today as of course we needed to postpone the hui in September because particularly because of the very, very sad passing of Sir Archie Tairaoa, and we ... it was entirely appropriate to adjourn that hui out of respect for Sir Archie and his whanau and we were also very, very sad to go to *Taumaranui* for his *tangi*, and to farewell him as he was taken to his resting place down the Whanganui river – it was particularly sad for certain members of the Crown team, including me, because in January we had made that same trip with him... ah... and with the Crown negotiator John Wood, so to go back there just a few months later to farewell him before we could reach the stage of signing the Deed of Settlement was doubly sad. So to Sir Archie, may he rest in peace, “*takoto mai e te rangatira, moe mai, moe mai ra*”.

Last year when I spoke twice in this forum I was still in a very early stage of my Ministerial experience, and ah, there are a number of observations I want to make – the first is that the settlement process is a very

positive one, and achieving settlements is about a number of very very positive things. First it is about our shared history, trying to achieve a measure of justice for the negative impact elements of that history have had on iwi and hapū. Secondly, achieving settlements can generate relationships with the Crown that are much more productive than in even the relatively recent past. We all acknowledge that they retain frustrating elements, but post-settlement relationships are largely positive rather than negative, and finally effective cultural and economic redress gives settling groups a platform for further development based on their own choices about what they want to do and where they want to go and too few have had this autonomy in the past. I think these are really very good things to work toward and when I began this job at the end of 2008 it was with unqualified enthusiasm, and it stays that way today. The only thing is I get keener and keener to get those Deeds of Settlement. I am always looking at that map that OTS produces and it is in the booklet and I see there, and there, and there, and there, and there, and of course I want it all done and I will want it all done now, as indeed do you, but as you know the i's have to be dotted and the t's crossed otherwise we mess things up. So, being involved in achieving settlement progress has more than lived up to all of my expectations and I have to say if anything I am more enthusiastic than I was in late 2008. Establishing a dialogue with you about improving settlements and how we can reach the Government's goal has been very stimulating and rewarding. But I have to say that by far the most rewarding aspect of my work has been working with groups and regional groupings as we move towards settlement and being part of the celebrations when we reach significant milestones on the road to settlement reached and I look forward to Canvastown on Saturday as an example of that. And our joint achievements since last year *have* been significant. And in terms of numbers they include the recognition of 14 mandates, 16 terms of negotiation, 12 agreements in principle 8 deeds of settlement and the introduction of 4 settlement bills to Parliament and the passage of two settlement acts including the initial Waikato River legislation incorporating changes agreed last year and this afternoon if you have time do come down to the House of Representatives for the third reading of the upper river bill – it is going to be a great day for those like Chris McKenzie who have worked so long – laboured so long - to get that result. So that should be a great afternoon. So these milestones represent major momentum in settling the historical claims for many groups. Once concluded they will protect and reinforce the cultural heritage and provide an economic base for future development of many thousands of people. It is the largest volume of milestones achieved by OTS and claimants in a single year, and it is almost twice the output of the next largest year. Specific achievements that need mentioning include establishing an innovative way of dealing with historical claims of the 20 groups with standing in *Tamaki Makaurau*. The first major milestones to be achieved within that process have already been marked including an agreed structure for the ownership and management of the volcanic cones of the region. We began the search for a solution when I asked Doug Graham to look at the issues that were inhibiting issues in the region and had stalled progress since the signing of the first agreement in principle in 2006 with Ngati Whatua o Orakei. Sir Douglas talked with all the groups and together they reached a consensus on the way ahead. Look, there is still a long way to go but we have an overall framework within which groups can make progress at a pace that suits them. I am very optimistic about future progress and two people directly involved, Mike Dreaver and Paul Majurey, will be talking to you about this framework today. And as I mention Mike Dreaver can I also mention other Crown negotiators who are here today – they are a fantastic bunch of people – I really like working with them, they are utterly dedicated to their task and have been of very great assistance to me and I particularly acknowledge those who are with me today – Paul Swain, who is the Chair of my group

of negotiators, Fran Wilde, John Wood, Patsy Reddy, Mike Dreaver and John Eyles. They are as I say, working very, very hard – I think Mr Swain must have been in my office every day this week, constantly talking to me about various issues – I think he thought that life after politics would be relaxing; well, it's not - but in that respect he has only got himself to blame for going on the Wellington Regional Council. OTS is slowly taking over the Wellington Regional Council because Fran Wilde and Paul are on it. So in summary, there are more groups making progress through settlements than at any other time since the whole process began in the 1990s. The majority of the country is either complete, has reached major settlement milestones or is taking part in the mandating and negotiations work. I am mindful however, that there are still those waiting even to get to the negotiating table and that is why what the Deputy Prime Minister said was so right, that there are obligations as it were, to get from 99 percent completed to 100 percent completed because it means that I can then release officials from OTS to work in other areas and so if there are those last tiny outstanding issues, can I say let's get over the line because it helps other iwi. And that means that the goal of completing settlements is within sight and with goodwill on both sides, is achievable, but it does give some urgency to the topic that Mr English has touched on and what he is going to speak on in greater detail today, post settlement relationships between iwi and the Crown. It is a hugely important issue and we are keen to get your views. To return to the business of this hui, when we spoke last year the Crown sought feedback on a number of ideas on how Treaty settlements could be improved and momentum could be increased – we also sought your ideas on how process could be improved. Many of those suggested innovations from the Crown and from settling groups have in fact been implemented at a time of fiscal stringency and is an indicator of the importance we place on settlements, we have increased the resources for settlements both this year and last, with an extra 6.5 million allocated in Budget 2010. It complements my announcement at our meeting last year of the 60% increase in funding from the Crown available to those who are not eligible for funding from CFRT and the 10% increase in funding for those who have access to funding from CFRT. This extra money is going to be used mainly for more resources to allow the increasing number of groups moving through settlements to do so more quickly and that requires more negotiation staff to facilitate concurrent negotiations and faster drafting of deeds of settlement and concurrent drafting of legislation. The money will also fund increased use of Crown negotiators, enabling *rangatira to rangatira* negotiations to a significantly greater extent than in the past. As a direct result of last year's hui, we are now supporting a pilot iwi secondment programme in which members of the public service can work on settlements for groups and negotiations. It is a great opportunity for both the settling group and people who are seconded – both will benefit from it. The secondees will have the satisfaction of working on something of real significance on behalf of their iwi, we've three up and running with *Ngai Takato, Te Aupouri and Ngai Tamanuhiri*...all are working well we can do a lot more here. I think we can do a lot more. It is a pilot programme, there's capacity for up to 7 more secondments – I know that some of you have expressed concern about the criteria – look I am committed to making this programme work, and I'm looking at ways to make things more flexible. I am going to be in touch with groups who have already expressed an interest in secondments about these changes – if you are interested in a secondment and haven't told us, please contact your nearest TPK office for help. On the subject of iwi mentoring, I am pleased to announce a pilot Iwi mentoring programme - again it is a direct result of last year's hui, it is an opportunity for those who have completed historical settlements or built up their knowledge on the process, to talk about their experiences with those who are still going through the process, and to offer advice when it is requested. There are many lessons that have

been learnt on the Māori side of the settlement equation. It is important that those earlier in the process have had the benefit of those lessons. I am going to establish an Iwi mentoring steering group comprising two independent members and one representative from OTS – the steering group will facilitate and match Iwi and mentors. I am going to write to groups in negotiation shortly and ask for expressions of interest. Initially what we would like to do is focus the trial programme on small Iwi who have limited access to resources. I look forward to seeing this programme up and running with mentors in the coming months. We recently sought your views on some ideas to improve the condition of land-bank properties which is a very, very big issue, there was something about it on television the other night I understand. Thanks to all those who provided feedback. The feedback we received was mainly positive – particularly in relation to the opportunities for early transfer and private purchase of properties, and the proposal to remove obsolete and unfit improvements from some properties with Iwi agreement.

A number of Iwi were however concerned at the idea to restrict the maximum deferred selection period of a number of properties with high holding costs to one year and that it might prejudice them in relation to groups that have already settled. There was also some concern expressed about the potential for the early release of unwanted properties from the land-bank and the proposal to excuse surplus properties from the protection mechanism process when all the groups in an area have reasonably finalised property packages. A number of Iwi suggested the Crown offer to lease vacant properties to claimants at a low cost to ensure properties are tenanted and looked after. Many Iwi expressed the desire to increase their dialogue with the Crown on regional land-banking matters. So in light of all that feedback I am going to proceed to implement the ideas in a flexible way, depending on their appropriateness to particular regions and to Iwi. The Crown will, however, be taking a cautious approach to the implementation of the ideas that Iwi expressed concern about to ensure that groups are not prejudiced in any way. So properties will only be released from the land-bank if it is very clear that they are unwanted by the Iwi with interests in them. Similarly properties will only be excused from the protection mechanism process when all the groups in an area are comfortable with this or have already reached a deed of settlement. I am confident that the proposal to limit the maximum deferred selection process over some properties with high holding costs to one year won't prevent the Crown and Iwi from negotiating redress packages which are fair, in relation to the redress received by groups who have settled previously. Savings resulting from the implementation of these ideas will be put back into the operating budget to improve the upkeep of the properties and we know there is work to be done there. We are also keen to engage with Iwi more frequently on regional land-banking matters, we are going to work with Iwi in their respective regions including making use of collective fora where these exist. Of course the best way to ensure properties in the land-bank are divested efficiently is making sure that Treaty settlements continue to occur in a timely fashion. Another very, very important issue concerns the use of public conservation land in Treaty settlements. We have recently amended a policy that had been in place since the mid 1990s on the use of conservation land in Treaty settlements; the policy now provides us with more flexibility in offering Iwi greater opportunities for managing conservation land where there are recognised strong cultural relationships. These changes bring the policy into line with recent practice. Negotiators are going to have to balance an Iwi's cultural associations and desires against other public values but they will have more scope to investigate the transfer of larger sites that recognise the dislocation of Iwi from ancestral sites. Cumulatively the proposals for secondments, mentoring and improving the condition of land-bank properties and the changes to the policy on the use of public conservation land represents significant process in Treaty policy. Regional

discussions with groups in preparation for this hui identified some areas of concern I would like to comment on briefly. Challenges related to obtaining and maintaining a secure mandate resolving overlapping claims and agreeing the devolution of redress to subgroups were raised as key impediments to settlement momentum. The Crown continues to believe that the best solutions for these issues are achieved by discussions between principals rather than seeking to have solutions imposed from the outside. It has been a hard one and I have to say it has been an occasionally bitter lesson for the Crown. Although the Crown or some other external body can obviously impose a solution in the name of progress, that progress is often illusory and the settlement momentum generated by these methods is difficult to sustain. Over the past year, we have seen some innovative solutions to these issues developing in various parts of the country and one of the things that would be great if you could talk about at the workshop sessions today is to discuss with other iwi how they have approached the resolution of these issues so that this knowledge can be shared. Some groups also expressed frustrations about changes in Crown officials, process, timeframes, milestones, these sorts of changes are difficult to avoid completely, however, changes have been made to the structure of OTS over the past year to support a regional approach to negotiations. This is helping the Crown to retain critical institutional knowledge while providing flexibility in the allocation of staff and funding as priorities and workloads change. Many of the groups have seen the benefits of this change and have been complimentary about their relationships with OTS and DOC – the quality of project management in some settlement processes and the rapidity with which they were able to achieve milestones. So I am confident this new structure alongside the increased resourcing, means the Crown has the capacity to continue to respond to the increasing pace of settlements – that said, I think there are still some areas where we could have some further productive discussion and we will see what develops in some of these areas later today. Can I conclude by just encouraging some caution as well – we are undoubtedly making further progress in modifying the system, but I don't think that constant major changes to either policy settings or process, ultimately pay significant dividends for either settling groups or the Crown. I suggest that we have reached a point at which most of the approaches that are going to work in settlements have been tried and we are able to use that experience to accommodate most effective variations. For that reason can I endorse the remarks made by the Deputy Prime Minister while we recognise that each settling group is unique, and I have, that is a point I have made to all of you in the course of our meetings, we recognise the major benefits that groups realise from settlements following the completion of the settlement. We also know that the marginal results from prolonged negotiation dramatically diminish over time. I would also like to add something to another comment made by the Deputy Prime Minister, not all aspects of the Crown-iwi relationship need to be placed into the framework provided by historical settlements process or indeed the Treaty itself. When iwi and hapu had little or no resources the levers those frameworks provided were very effective in generating some counter-veiling power for Māori in their inter-action with the Crown. Now that iwi and hapū have resources of their own and the ability to develop and promote their own ideas, the major determinants of their success in doing so will be the quality of their ideas, and the ability to explain them, whether they are interacting with the private or the public sector. As the Deputy Prime Minister said, a good idea is a good idea. If you are effective in generating them, you will attract attention, partnerships and economic and social investment that is going to pay off. So while great progress is being made, and continues to be made, we've still got a long way to go and I am hardly going to delude myself by suggesting otherwise. Continued refinement will mean better results for both Māori and the Crown. The key purpose of our meeting today is how can we

apply our minds to completing settlements in the most effective way, and I very much look forward to our discussions and in closing can I just thank two groups of people – first my ministerial colleagues, with whom it is a pleasure to work on these issues, Pita Sharples is so great to work with, Nick Smith, one of my memories of that visit to the Whanganui River with Archie Tairaroa was to see a photo of a much younger Nick Smith who had handed over some conservation land toward the end of the 1990s, and a photo of you and Jason Tairaroa I think it was – a very junior Jason Tairaroa – so Nick loves this work and he is a great colleague to work with and so too, Georgina, who is always out on the road with me and finally can I just say that I have got a wonderful bunch of officials to work with – Paul James and his team, really do go that extra mile for you – they do such a huge amount of work and the idea of 9 to 5 is an anathema to the Office of Treaty Settlements – they do the job because they love it. They are a very committed group of civil servants and it is a privilege to work with them.

[waiata] Ehara i te mea.

Ripeka Evans

Tena rawa atu koe te minita, mai to mihi ki a au, mai to mihi atu ki te iwi whanui.

At this time I would like to announce a short change in speaking order and a short change and a small change to the programme. We are now going to begin the next part of our session and invite Minister Sharples to begin the discussion on post-Treaty settlement relationship – post settlement relationships and we have invited the media to remain, until Minister Sharples finishes his presentation.

No reira tena koutou katoa.

Nau mai, haere mai te Minita Maori Dr Pita Sharples.

Speech - Post Settlement Crown-Iwi Relationships, Hon Dr Pita Sharples

Kia ora tatou. Na te mea kei au te mahi mo nga take Maori, ka whakaae ana te ropu nei kia mahi tahi matou, kia oti pai a tatou kereme. Na reira, ahakoa he aha te kaupapa kei roto i te whare paremata ka nuku au ki a ratou, hamuhamu ra kia uru atu au ki roto i nga komiti Minita kia kawe ai to tatou reo, a tatou hiahia ki tera komiti, ahakoa he aha. Na i tenei wa, ka korero au mo a tatou iwi me te karauna, i te mutunga a nga kereme, me aha tatou, me aha tatou.

Our Ministers I have just listened to my speech and paid no attention to you two...35 years ago the historic Māori land-march led by Dame Whina Cooper arrived in Auckland and crossed the harbour Bridge. 35 years ago we were contemplating the establishment of the Waitangi Tribunal – 35 years on, and we are contemplating how the landscape will look in a post-settlement environment. 35 years ago the harbour bridge felt the burden of thousands of footsteps of protest and this year 35 years on from the harbour bridge we proudly flew both the New Zealand flag and the Māori flag. This recognised our status as tangata whenua and marked the unity that we are rapidly moving towards. The Land March was a watershed event for all Māori. It marked the beginning of the journey that we are reflecting on today. ...[I would] like to talk about the post-settlement environment. Typically when we talk about the changes that

follow historical Treaty settlements we talk of addressing longstanding relationship mamai of greater economic capacity and the restoration of tribal estates. We talk about redirecting, redirection of our energy on both sides of the relationship from negotiations to developmental modes. Of parallel importance is that completing settlements will be a significant milestone for the Crown – it will indicate the restoration of Crown relationships with iwi, and progressing into the future. The Crown will have more confidence that these relationships are no longer based on negative equity. So mindful of a much broader agenda of Crown-Māori relationship interests that we must pursue and that agenda extends beyond the Crown-Māori relationship itself into other areas. I have particular concern about the impact of Crown processes on relationships amongst iwi for example. Post settlement relationships should not be limited to relationships with settlement entities or collectives. It is clear to me that while iwi settle on behalf of their members there is often a low level of participation in enrolment on iwi registers, mandating, and ratification. It is essential that the clear majority of those who do not participate in mandate and ratification processes support the post-settlement entities that represent them. However we also need to think of iwi members who do not participate in these processes, and other organisations and collectives with which they associate. Crown-Māori relationships need to be inclusive of all forms that Māori choose to organise themselves in and through which they choose to interact with the Crown – this includes as iwi, as hapū, as whanau, as marae, as providers, and provider-collectives, as business interests, or as constitutional Treaty partner, sharing responsibilities with the Crown. We Māori are everything. I am very conscious that the cost for government of participating in such a broad range of relationships is likely to be characterised as excessive and unmanageable. However, I am equally conscious that the Crown's combined resources are far in excess of the resources of every group here today. And every group here is concerned not just with its settlement relationship but also with every aspect of government that impacts on the lives of your members. Clearly we must find some balance where we are able to work with each other on the things that matter to each other. So on iwi-iwi relationships, in relationships amongst iwi, I have observed the impact of the settlement on longstanding iwi relationships – I have seen our regard for each other diminish in the pressure-cooker environment of achieving a settlement and iwi allies turned into iwi adversaries. This causes me much distress, restoring the Crown-iwi relationship should not compromise the iwi to iwi relationship. At the end of the day, your neighbours before settlement will still be your neighbours after settlement. Whereas as you all know, the faces of the Crown changes at very regular intervals. Just extend this a little bit longer. I am strongly of the view that the enduring nature of iwi-iwi relationships demands two things: First, a greater concern by the Crown to ensure its processes do not impinge on these relationships. I appreciate that there have been changes in processes in direct response to those concerns. I do not, however, think that the problem is solved and the continued effort on the part of the Crown is clearly necessary. And second, and on this I speak as a Ngati Kahungunu, rather than as a minister, a greater concern amongst iwi to nurture our relationships with each other irrespective of the Crown's interests of the day. In the past, in the post-settlement environment, we look forward to a restored Crown-Māori relationship as Treaty partners. Following the settlement of historical claims, we can focus on developing ways of working together to reach our aspirations for the future – and there are many signs of collaboration that's happening now that is quite exciting – collaboration not only of the bigger iwi or the financial iwi but also of smaller groups. We look forward to Crown and Māori working together on shared goals, the challenge is to establish effective and constructive relationships that can best ensure the health, prosperity and well-being of our people and our whenua. On relationship conduct I

don't think that relation conduct is something we need to spend too much time on. Our own expert bodies have developed the body of Treaty-based jurisprudence and establishes the code of conduct for the Treaty relationship. I choose the word code deliberately as Treaty principles are codified through the findings of the Waitangi Tribunal and the rulings of the High Court and the Court of Appeal. These principles span honour, good faith, cooperation, reciprocity, consultation requirements, development rights, and redress. To me, these principles are the minimum standards that we must observe in our interactions with each other. Beyond these, our relationships need to be conducted in a way that is consistent with our relationship objectives and they need to be based on our shared interests, the things we are involved in with each other. Not everything that Government is involved in will be of priority to you, and similarly many of the things that are on your own agendas you will see as iwi business and not within the purview of the government. It is important that we find a mechanism to develop our shared set of priorities so that we can focus our efforts on achieving those things. And I remind you I am talking about post-settlement relations. For relationship instruments I do not have strong views about what the mechanism should be and I welcome your views on these. I do however have strong views on what the mechanisms should not be. I am extremely concerned about the development of social accords as instruments for settlement redress. I do not doubt the need for these accords – however, in my view the need is symptomatic of a failure of successive governments to provide for the social needs of iwi and Māori. The persistent disparities between Māori and non-Māori and the failure of government to deliver services in ways that resonate with Māori communities are ongoing. And they seem at least to me to be requiring claimant groups to spend valuable negotiations capital, and claimant funding on negotiating for an assurance that government will do the basic job that taxpayers fund it to do anyway. I have a similar view about accords that are focussed on local government and natural resources management. The statutory framework is quite clear and provides for the opportunities for Māori involvement in decision-making over natural resources. These opportunities extend right through to the transfer of powers from the local government, but these provisions and therefore the intent of Parliament are consistently not given effect to. As a result again, claimant groups are spending valuable negotiations capital and claimant funding on negotiating what is already available to them. But not given effect to through the existing statutory framework. And you just have to look at the non-enforcement of the RMA conditions by various agencies towards us. It is my view that the government must do more to ensure its own effectiveness. This way settlement negotiations and post-settlement relationships can be focussed on development opportunities and not on what should already be provided to iwi and to Māori. Whatever relationship instrument or approach we agree, we need to ensure that small iwi, the variety of groups that Māori organise themselves through, and all segments of the Māori population have a voice in that relationship. So I come to the role of the Minister of Māori Affairs and Te Puni Kōkiri – I'm heartened by the Deputy Prime Minister's intent which he will reveal to you – hopefully – to bring greater level of attention and discipline to coordinating and monitoring the quality of the Crown-Māori relationship and particularly how Maori fare through that relationship. As a Minister with principal responsibility for Crown-Māori relationship I welcome this move by the government – I also welcome the enhanced role for Te Puni Kōkiri as a locally based Māori face of the Crown. The Deputy Prime Minister will see your feedback on the post-settlement relationship and a process for engagement. I am interested in your feedback on both how we coordinate our efforts and how we measure relationship performance in terms of both the process and the results. Ok, so our discussions today are about future-focussed relationships. I am concerned to ensure that we do not lose sight of the

current issues that we are dealing with. I am heartened by the moves of this government to test policy ideas during their early stages with iwi and commit to receiving ongoing iwi and Māori input – quite independently of advice from officials. We have seen this approach across a number of fronts, including, for example reform of the Foreshore and Seabed Act which involved both expert input from iwi leaders and broad-based consultation with Māori as well. It is important that we continue these processes on issues of importance to you. Such as our policy approach to fresh water, and reform of the Resource Management Act. It is only through this type of inclusive approach that we will achieve the best possible solutions and avoid unnecessary misunderstanding between iwi, Māori and the Crown, iwi Māori and the Crown. So in conclusion it is my view that we stand at the cusp of a new era in the Crown-Māori relationship – we have come a long way since the land march. For the past 35 years we have focussed airing and resolving historical Treaty claims. Now we are looking forward to the post-settlement environment. I think it is vital that we take the time now to work together on a vision for Crown-Māori relationship. There will be challenges ahead, but if we establish a solid foundation for the ongoing relationship based on shared understandings and agreed expectations, then we will be in a strong position to meet these challenges.

Na reira, huri noa tatou i konei i tenei wa, he honore maku ki te korero ki a tatou i tenei kaupapa i tenei rangi, a, tena koutou, tena tatou katoa. Kia ora...

Ripeka Evans, Chair

Tena koe te Minita. A, kua tae ki te wa mo nga tangata whakapaaho mo ta tatou haerenga atu ki reira

I now take the opportunity to invite members of the Media to now make their departure and thank you very much for your attendance. Our next speaker shall be the Deputy Prime Minister who shall continue the discussion on the post-settlement relationships..

No reira, homai te pakipaki ano ... for the Honourable Bill English...

Speech - Post Settlement Crown-Iwi Relationships, Hon Bill English

Kia ora ano tatou. Ma te korero me te mahi ngatahi ka tipu, ka hono, a, ka piritahi te rongomarie. No reira e ki ana nga korero, ko te kai a te rangatira he korero. Heoi ano, anei etahi whakaaro hei wanaanga ma koutou, ma matou, ma tatou.

Today we want to begin a discussion with you about the government's ideas on post-settlement relationships. I want to stress that what I will be talking about today represents preliminary thinking about the issues and the opportunities – we have not developed specifics in our policy, we simply want to share broad ideas with you and to invite the opportunity to develop those ideas further together. I do want to start though, by acknowledging one post-settlement relationship which lies at the heart of the government and that is the relationship between the National party and the Māori party in the formation of government. In some ways we take it for granted even in this context – that relationship in my view is having a...playing a fundamental role in shifting the Crown's view in the relationship with Māori. Because every day the Māori Party is advocating for ...certainly for the settlement process but also for the broader issues that affect Māori, quite separate from the settlement process. And if the Crown needs a reminder

that it isn't all about settlements, that somehow that discharges all the Crown's obligations to Māori, then we get it every day from the leadership of the Māori Party and their MPs and I want to acknowledge how constructively they have approached that relationship and it has the features of the settlement process really – that is it is sometimes pretty tense because there is a lot at stake, but it works. One of the reasons we have quite a bit of momentum around the relationship is with iwi in general, and in the settlement process, is that for the current government, self-determination is something we are very relaxed about. *Tino rangatiratanga* is another way of expressing some of the ideas that are at the core of the National Party philosophy. That's aspirations to self-reliance, progress through enterprise, and less government oversight. So we, and we understand, as you do, that these aspirations are critical for the success of iwi, whanau and hapū. The Crown, of course, is keen to ensure positive, enduring relationships, but I think that after the Treaty process. But I think we need to keep that in the context of the very full agenda of work that is going on now, between Crown and iwi – and I will just give you a list of some of the ones I am involved with – and this isn't exhaustive. Obviously this discussion about the Treaty settlement process is one that matters, but also there has been extensive engagement on climate change and the emissions trading system, extensive engagement over, in the, through the land and water forum, and particularly around issues of water, one of New Zealand's strategic advantages – you can see from looking out the window we've got plenty of it – and it is of huge economic value to the country. There is also the engagement over whanau ora, which is turning into a very positive, if not exciting initiative around the country. The review of the Māori language strategy is – in the light of comments in the last few days, very important and there is now, a pretty organised structure of engagement over education with a whole range of iwi in which the Minister of Education is very keen on. There is also longer-running relationships with health providers, many of which have strong iwi connections and that has been building up over the last 15 years or so. So when we talk about post-settlement relationships, we are not talking here about filling some kind of vacuum, there is an awful lot of interchange between government – in fact the problem is the opposite – how to find enough hours in the day – how to make the processes efficient enough to deal responsibly with ALL the problems and the opportunities. In this respect I would like to acknowledge the work of the various iwi leader forums. We find those forums well organised – and every, all the discussions we have had the groups have had clear ideas about their own priorities, they don't over-use the process, those meetings occur pretty regularly but they occur when they matter, and what is really important is that they focus on getting some actual decisions made and having shared responsibility for those decisions. And it has – I think the effort the iwi leaders' groups have made, are impressive. So it shows that the Crown and iwi can work together and the Crown isn't going to try and force some kind of arrangement on iwi. We accept, however, that more iwi are seeking to establish arrangements for future engagement with the government as they get, and they're using the vehicle of the Treaty settlements to achieve that. We are, for some of the reasons that Dr Sharples outlined, we don't think that negotiating individual arrangements and accords with iwi in the Treaty settlement process is the best approach. One reason is, as Dr Sharples said, the Crown should be talking to you anyway. The Crown is there, the government is there to deal with the needs of New Zealanders and just because there's a settlement negotiation on, doesn't mean that the Crown shouldn't be communicating. It is, in practice, not feasible for Cabinet Ministers, for instance, to be holding annual relationship meetings with each individual iwi, or working with a whole range of iwi or working with a whole range of iwi separately on the many issues that are actually relevant to all iwi. So we are going to, we are keen to get your advice on just how we can engage in a way that

addresses iwi-specific priorities and also collective priorities, mindful of the need for efficiency. Dr Sharples pointed out that the Crown has more resources than everyone else and that is right, but equally we are probably more likely than anyone else, to waste those resources and we don't want to do that. So we need to craft a relationship that is manageable for both the Crown and iwi. It is not going to serve anyone's interest either the iwi or the Crown or the wider community, if we set up complex processes which fall into misuse because the iwi doesn't have the resource to maintain them. Or the Crown doesn't take them seriously enough, ah, and that could easily happen. And probably even worse than that would be setting up processes where people reluctantly show up to sit through them. That kind of tokenism won't work – certainly won't work for iwi – it is something the Crown, it is a trap the Crown can easily fall into. Let's just turn up, then they feel like they've had their say, then we can all go away and hope it doesn't have to happen for a while. That is not a high enough standard. As Dr Sharples pointed out, we accept because we've been given a very clear message from iwi, that there is a need for government agencies and ministries to be more responsive and effective in the way that they engage with iwi. And I want to reassure you that the Crown is wrestling with the mechanisms by which we can achieve this. My own view is that government agencies and ministries should be more responsive to ALL New Zealanders and actually we appreciate the pressure that you are putting on us for that responsiveness because all New Zealanders are going to benefit from the Crown shaping itself up better to respond to you. Do bear in mind though, that these agents and ministries have no new money – they haven't had for two years – they are not likely to get new money for the next two years, so the more time they do spend being responsive means they are going to have to drop off some other priorities and that's what we need to work with them on. Alongside the Crown reorganising itself, I just want to re-emphasise the usefulness of you being clear about your priorities. I admire the way that iwi manage to spread their resource across so many complex issues, from the wellbeing of whānau through to complicated natural resource issues. But the fact is very few iwi will have the resource to cover all that territory and certainly not enough resource to be able to hold their end up with the Crown who do have significant resource. We have found the discussions are most productive when iwi are clear about what their priorities are. So I wanted to give you just some initial ideas which are, I suppose, principles, which apply to the post-settlement relationship. First recognising mana, that is absolutely vital. Secondly, a relationship that's based on that mana, not on agreement. We don't need to agree on everything to have a successful relationship. Thirdly, that we focus on solving REAL problems and creating REAL opportunities. It is very easy to lapse into bland, high-level strategy, where we all express our good intent but don't actually do anything. The Crown wants to show up to this relationship to do things and to achieve things, not just to talk about what could happen. We also, another principle is the early sharing of information and policy; this is something the Crown is focussed on particularly with the iwi leaders' group – it is on these significant issues that I listed before around natural resources, and water, and education and so on. We are focussing very much on early exposure of the Crown's thinking, so that we can develop common ways of thinking about solutions by getting a common understanding of what the problem is. And that of course involves open communication. I think the Prime Minister in particular has demonstrated [that] he is a very open communicator both with Ministers, with the Māori Party but, and also with iwi leaders. We also think part of this relationship should be

meeting commitments to show up and to back the decisions that we make individually and collectively. Frankly, a relationship where people show up just to have a say and have no responsibility, is not worth it. And we have been very impressed at the way in which the iwi we have worked with have been willing to

have their say and take responsibility for the decisions that are made. We also want to make sure we've got sufficient foresight to deal, to cope with more issues and potentially more complex issues than we thought. So what we mean there is simple that we have great confidence in this relationship developing. I think that is one of the traps would be to over-formulate that relationship. Frankly the relationship now between Crown and iwi is miles better than you might have imagined three years' ago. And if someone had formulated a framework for it then, it would now be out-of-date. Because as Dr Sharples has said, there is so much positive momentum, we want to take advantage of that momentum and not kill it off by trying to describe it in too much detail and nail everybody down to what we think they're meant to be doing. That is something that is growing and living and adapting. So finally, the relationship should be about getting things done – not just sitting around talking about it. Can I just talk briefly about the constitutional aspect. The Māori Party in the confidence and support agreement after the last election sought a constitutional review and that is in the process of being finalised right now. It seems to me quite important that we don't confuse ourselves too much between the operational issues and the constitutional issues. There will be a forum in which the constitutional relationship can be discussed over a period actually of several years with everyone who's got an interest in it. And that gives us the space I think to focus in the meantime on the more operational and practical aspects. So in the meantime, we will be continuing to progress some of the Crown-iwi relationship arrangements that have been built into negotiations carried out, negotiations begun already. So those in the pipeline we'll continue with but I did want to let you know that the Crown is not keen to progress further arrangements and other negotiations that try to tie down a detailed Crown-iwi post-settlement relationship. Our own thinking about it is that it is not mature enough, we have simply not had enough generic discussion with iwi as a collective, to have the confidence that signing up to detailed arrangements settlement by settlement, is going to take us to a happy place. It could end up quite a mess with different people being treated differently with mana accorded in different ways, and that is not necessarily positive. So I just wanted to signal that. I think in the meantime we also need to just keep in mind those broader issues that are of benefit to the people that we're all working for and who you represent. And I want to draw attention to one particular issue that doesn't get a lot of airtime, a lot of talk in the settlement process but does matter enormously and that's in education. The government is implementing national standards across our primary schools and the fundamental reason for it is so that parents can know what's happening with their kids. And very, very keen outside of the settlement process to see engagement with iwi and hapū and whānau about how we can make sure parents know, because if they don't know what's happening to their kids they can't take an interest in it and they can't influence it. And of course we know that with a lot of Māori kids, we can do a lot better – the expectations of them have been too low, the system has not delivered the results that it should and national standards are one of the key tools that you and I have to make sure our kids get a decent education and that our whānau are engaged with ensuring that happens. And we want to make sure in all the work we're doing we keep an eye to those sort of issues that are outside the settlement process, critical to our future, but our real opportunity now, if we apply our energy to it. So the success of the Crown-iwi relationship will be measured by what we do by the people who keep an eye on us and what we can learn from each other in the process, so we are keen to hear from you about effective and efficient and productive ways of conducting a relationship which, in our view, has blossomed over recent years, is enabling government to deal with issues that have been un., ah have not been considered for decades – a relationship which we see as positive and progressive. So we are keen to hear from you.

No reira rau rangatira ma, tena koutou, tena koutou, tena tatou katoa.

[applause – te pakipaki]

Ripeka Evans, Chair

Tena koe te Minita Tuarua, te Pirimia Tuarua, te Minita e paa ana ki nga Putea a no reira tena koe te Minita. No reira kua tae ki te wa ki te huri atu ki te Minita mo te Taiao.

I would like to introduce the Honourable Dr Nick Smith, the Minister for the Environment and he shall make his presentation on natural resources. Tena koe te Minita...

Speech - Natural Resource Management, Hon Dr Nick Smith

E nga mana, e nga reo, tena koutou katoa.

Can I join with my ministerial colleagues and acknowledge the sad passing of Sir Archie Tairaroa. I was privileged in the 1990s to work with Archie on issues as Minister of Conservation, and it was with some sadness that I'm not going to have the opportunity to work through those passions that Archie had around water, as we move forward. Can I acknowledge my Ministerial colleagues – particularly Dr Pita Sharples. One of the most constructive areas that I am enjoying working so much with Pita and his team and more broadly with Maoridom is around this whole challenge of how we as a country – Māori together – good economic policy with good environment policy – and where there's so much shared ground with some of National's blue-green ideas, is that both in working with Pita and more broadly with Maoridom is that the very tensions that we have around trying to get economic growth ah, and not at the expense of the environment goes to the core of some of the deep Māori values. We might have the Act Party only interested in the economy and the Green Party only interested in the environment, Māori themselves have had to try and resolve how we move those things together, and that is at the strength of the relationship with Pita and I want to thank him for that. Can I also acknowledge Chris Finlayson in the presence of the Minister of Finance I must note that in these difficult fiscal times, it is difficult to get money for some of the cleanups of rivers and things that we should do and I'm delighted that Chris Finlayson has been far more successful with iwi in squeezing money out of the Minister of Finance to do some of those cleanups that we should progress. Can I say it is good to be here to be addressing this annual Treaty of Waitangi Settlements Hui. I want to speak about management of natural resources, I want to focus on the efforts of both Māori and government to improve collaboration and natural resource policy, particularly around the ongoing resource management reforms and the huge challenges we have as a country around fresh water. The Government acknowledges that for Māori, natural resources are central to the identity of Māori. They are central to Māori's economic and cultural interests and that they are at the heart of many of the historic Treaty settlement claims. Similarly the wise management and use of natural resources is what makes New Zealand a great country to live. It is part of the Kiwi lifestyle of fishing, swimming, kayaking, rafting, and it is not surprising that the government and Māori share a common interest in ensuring a prosperous future for our unique country around improving that environment. The importance of natural resources for iwi is increasingly evident through the historic Treaty of Waitangi negotiations and settlements. Treaty

settlement legislation has become a mechanism that has enabled iwi to have certainty around their involvement in the management of our natural resources at a regional and local level. However, if we are not careful, Treaty settlements could have an unintended consequence of leading to a pretty inefficient uncertain and confused natural resource management framework. Recent work by the Government has been to explore an approach to mitigate the chances of those sorts of unintended consequences while ensuring that the settlements are approached in a fair and consistent manner with iwi. This work guides the government in approaching Treaty claims that include natural resource management issue redress. Details can be found in the handout, involving iwi in natural resource management through the historical Treaty of Waitangi settlement, in the pack that's been provided, and I hope you will find that useful. While the strong importance of natural resources for Māori is seen, through past settlements and current and future negotiations, it is an issue that does go well beyond just that of Treaty settlements. Indeed, we need to provide a resource management framework which includes more effective and secure involvement of Māori in resource management across New Zealand. So much so that one of the four key objectives underpinning the Government's resource management reforms is to achieve improved and efficient participation of Māori in our resource management processes. In 1991, with the advent of the Resource Management Act it was envisaged Māori would have greater participation in resource management. This was reinforced in the purposes and principles of that Act. The Act specifically requires the relationship of Māori with their ancestral lands waters and other taonga to be recognised, and provided for as a matter of national importance. It also requires the principles of the Treaty of Waitangi to be taken into account in decision-making. While the RMA includes many opportunities for Māori participation, it has become evident that Māori are becoming increasingly dissatisfied with the way the Act is being implemented quite inconsistently across New Zealand amongst their regional and territorial authorities and in some cases the adequacy of some of the tools that is provided for in the Act. This is both an important and complex area and getting it right will do much for healthy co-settlement relations. While the government will work at pace on this issue we also recognise that the matter is too important to rush and get wrong. While some important groundwork has been completed, I believe that this area deserves the same level of rigour that other streams of the phase 2 RMA work requires, such as the independent expert advice and the adequate opportunity for consultation. Additionally recognise the strong relationship Māori have with water this needs to be advanced alongside the new start for fresh water programme that is currently underway. I plan to advance this work in partnership with Pita Sharples as Minister of Māori Affairs and you can expect consultation on a specific discussion document about February next year on improving Maori participation in resource management, as part of that Phase 2 work programme. Fresh Water is New Zealand's most important natural resource – it is what gives our 11 billion dollar a year dairy industry its competitive advantage. It is pivotal to our clean green brand and our 8 billion dollar a year tourism industry. Water is to New Zealand in my view, what minerals are to Australia. Managed wisely, our fresh water resource, unlike minerals though, can be available to us in perpetuity. The realisation though that we are not doing as well as we should in managing this resource, has been growing for the past two decades. Water quality, while it is amongst still the very best internationally, is deteriorating. The Government is involved in major cleanup initiatives, with Lake Rotorua, and Rotoiti, Lake Taupo, and the Waikato River, that now totals commitments of more than 400 million dollars. In June 2009, the Government agreed to a new direction for fresh water management in New Zealand to establish a fairer and more efficient, water management system. As the government we recognise that building a social consensus for change would be needed

before proposing specific solutions. As many of you are aware, the land and water forum which comprised 58 very different, diverse groups, was tasked to conduct a stakeholderly collaborative process to help build a shared view of the mix of economic environmental cultural and social benefits to be gained from improving New Zealand's management of those freshwater resources. Last month the Government received that Land and Water Forum's report and in Nelson last night they had the first of 13 public consultations on that. Very importantly alongside that, the Government has the engagement with the iwi leadership group on water programme as well as a third stream of work from officials – I want to reassure you today that good faith consultation with Māori is absolutely critical to the government advancing that fresh water work. In conclusion, we know that to see real improvements in the area of resource management, we need to have more meaningful dialogue with Maori. While treaty settlements are necessary and invaluable in restoring historic grievances, it is relationships and the ability of our whole community to collaborate that will secure the sort of future that we desire. While settlements are a pre-condition for a harmonious and prosperous future, they are not the end, means in themselves, they are the beginning. Improving Māori involvement in natural resource management is the key - ensuring Māori views and values are reflected in water management, is paramount. I am confident that we can collaborate effectively on these issues, and ensure that we can deliver that joint vision of a healthier environment and a wealthier economy that we will share for New Zealand. Thank you for your patience [in listening].

Ripeka Evans, Chair

Thank you Dr Smith. I would now like to advise participants, all participants that there is a handout if you haven't read it already about natural resources in your conference pack. So I draw your attention to that and that will further elaborate on Dr Smith's presentation. I would now like to invite Paul Majurey and Michael Dreaver to make a presentation, and we are running approximately 8 minutes behind time, so I am asking Paul Majurey and Michael Dreaver to be mindful of that – that I am sure in the interests of happy negotiations going forward, they would be willing to summarise their agreement so that we can commence workshop sessions shortly before 12pm.

Presentation – The Treaty Negotiation Process, Michael Dreaver and Paul Majurey

Michael Dreaver

Kia ora koutou – I have just thrown away the last page of my presentation to take 8 minutes out - from my bit anyway.

Paul and I have been asked to give our perspectives – two different perspectives from both sides of the negotiating table on the negotiations process in Tamaki Makaurau, Hauraki and Coromandel, for both of us I think we are giving our personal perspectives so when I'm here I'm not talking for the Crown – it is good to see that the Ministers have slipped out for the.. for our presentation anyway and I am sure Paul wouldn't claim to be talking for Ngati Te Ata today. Oh, there are still a few of them, right. There must be some texting or something you can do! What we've decided to do in terms of this presentation, is that we

don't quite know what each other are going to be saying, so what we've decided for a format to do is take three points in time over the last four-five years of the negotiations process up in Tamaki. June 2007, June 2009, and October 2010. We are going to focus on the process issues that we've addressed and our perspectives on that rather than looking at the settlement agreements that we are negotiating. We are not there yet and we've got a little ways to go. And, I think it's important to also say at the outset: we don't think, I think, from either perspective, that what we've done in Tamaki Makaurau and Hauraki Coromandel is something which can just be applied anywhere else – I think as Ministers have said, it is critical that every region, every claimant group has a process that works for them. So, those are really the introductory comments, and so I will hand over to Paul to start with our first point in time.

Paul Majurey

Kia ora Mike - Tena tatou i te autanga o te wa.

Ripeka alluded to, in terms of the progress in Tamaki Makaurau and what that means in terms of the regions involved about water into wine and I will leave you to decide which of us looks like Ihu Karaiti! But it is good to see that now we're up the rain's stopped and the sun might be outside. In terms of the Treaty negotiations process we all know it takes its toll on us all, on all sides of the equation and its certainly taken its toll on me – I've got my first set of progressive lenses in at the moment so I can't see Jack! So, if I say a few things out of step that will be why. To reiterate what Mike has said, these are our personal thoughts, when you are working with over 20 hapū and iwi it is always a dangerous thing to be speaking on behalf of other people so these are definitely my thoughts. So with that first point in time, and the first sort of discordant note, slightly departing from the script, look at 2006 and 2007, and to appreciate what was happening in those years, its instructive to look at where we are now and as has been touched on – across the Auckland region there are contemporaneous and separate negotiations taking place, with some 20-23 groups; in terms of direct discussions with the Crown at the same time, obviously. In 2006, it was the case that the Crown was negotiating with one hapū and we're talking the Auckland region and Auckland City – especially North Shore – at this point. Those negotiations resulted in an agreement in principle with sole ownership to four maunga and also included an RFR - a right of first refusal -zone over the central isthmus. First up best addressed approach to negotiations was not unique across the motu as we know, there were issues in terms of how inclusive the Treaty negotiations process was, but that was an artefact of the then Crown policy, enshrined in the red book, and that policy had as much substance as an petenpken village – an appearance of structure on the outside but not much inside. And that's where the Waitangi Tribunal in mid 2007, in its report the Tribunal for the reasons that are set out well in that report, sent the Crown back to the policy drawing board to relook at Treaty Negotiation policy, to take an inclusive approach, an approach that enshrined and embraced completely whanaungatanga. And that is what's happened. Kia ora Mike.

Mike Dreaver

From the Crown's perspective, when the Tribunal report was issued, the Crown felt that – from what I understand – I wasn't working for the Crown at that stage. They felt they had negotiated in good faith. They had followed a process which had been used in a number of negotiations to date. And they had worked to try and achieve the interest, and try and achieve the settlement that would work with *Ngati Whatua o Orakei*. But the Tribunal report when it came was a real wakeup call and I think it signalled to the Crown that this sort of linear approach to negotiations that you deal with one group and then you sort

of say right, we will get everyone else around you to agree that your settlement's ok and then we'll deal with the next group, and then the next group and the next group. I think the Tribunal report in 2007 really signalled that that wasn't going to work in *Tamaki Makaurau* and probably wouldn't work in a number of other parts of the country. Nevertheless, back in 2007, the Crown did find it hard and took some time to develop a response to the Tribunal report – there were – from its perspective, a number of different claimant groups in the wider Kaipara, Tamaki area, all at different stages of readiness – it appeared to be for negotiations – the Crown had a lot of resources already involved in other negotiations in other parts of the country such as the central north island and there was some concern about mandates with a number of the claimant groups. So, that was really it – things didn't move hugely fast for probably two years – at which stage, the new minister, Chris Finlayson, called on the old warhorse, Sir Douglas Graham, to come in and give some advice on a way forward. And, at the stage when Sir Doug was first invited to consider the settlement environment in *Tamaki Makaurau* and in *Hauraki*, we had a shape of negotiations and settlements a bit like this. There was one settlement across all of *Kaipara, Auckland, Hauraki-Coromandel* – and that was with *Te Uri o Hau* – there was one agreement in principle, but that was effectively in limbo as a result of the Tribunal process – the *Ngati Whatua o Orakei*, and there had been three terms of negotiation signed with *Ngati Whatua o Kaipara, Te Runanga o Ngati Whaatua*, and *Te Kawerau a Maki*, but none of them were really in active negotiations. So it was not a particularly exciting picture from the perspective of the Crown and certainly not an exciting picture from the perspective of a number of those groups that had taken the claim to the Tribunal about the *Orakei* AIP and Orakei themselves, were left as I said in limbo, they were unable to move forward despite the fact that they had negotiated in good faith with the Crown. So in June 2009, which is our sort of second point in time, Sir Douglas and I met with a collected group of all of the iwi and hapū, from *Kaipara*, from *Tamaki Makaurau*, from *Hauraki Coromandel* and Sir Douglas presented a proposal aimed at unlocking the negotiations process, and there were three elements – the architect of that proposal had three elements which I think were novel and revolutionary at that time in the negotiations process. The first was transparency. He put up on an overhead a bit like this a proposal for the key elements of a settlement of each of the groups who were gathered in that room. So everyone got to see 1. What the Crown's initial thoughts were on settlement redress down to the proposed dollar amount for settlements but also they got to see how they stacked up against other groups. So that was number 1 and these dollar figures and these proposals were put out there for people to see but they weren't a take it or leave it offer, they said well this is how we're thinking at the start of the negotiations. The second key element to the architecture was collectivity, and that was trying to address the concern that the Waitangi Tribunal had had that there were layers of interest in *Tamaki Makaurau* in particular that it was not possible in a number of cases to provide redress just to one iwi or hapu over all the others, that notions of dominant interest or predominant didn't necessarily work when you were talking about associations that went back over 500 years and also didn't necessarily work when you were talking about iwi and hapū that had a strong *whakapapa* relationship over many, many centuries. So the proposal, and the second element of the Sir Doug proposal, was collectivity, that where there were issues such as harbours, as *maunga*, and *motu*, where there were collective interests, a number of different interests, the Crown should be prepared, and iwi and hapu should be prepared, to look at a collective approach to providing redress – sharing redress, sharing recognition over *taonga* of common interest. And the third key element of the architecture, was the suggestion that we should move all of the claims in parallel, as far as possible, so that all of the groups, rather than this linear approach, deal with *Orakei*, then

deal with the Runanga, then deal with *Ngati Te Ata*, one after the other, we should try, as far as possible, to move all of the groups along at roughly the same pace. That was particularly critical when you were talking about collective redress. So those were the three key elements of the proposal which Sir Douglas put to the table, to the Ellerslie Racecourse meeting, and Paul will talk about the claimant response.

Paul Majurey

So, this event occurred a couple of years after the Tribunal report came out. This was the Crown's first major response to that Report and the process. That room had a lot of people in it and there are some folk around here that I can see who were there that day. The first question, because no-one had seen what was in this, or knew really what was going to be conveyed that day, the first point was that there were quite a few folk in that room, and as we found out, that reflected the fact that the Crown when it looked at this challenge realised that in terms of central Auckland, there were many overlapping and shared interests which reflects that *whanaungatanga*, and so it reflects that strategy as we found out was to approach those negotiations on a three-region basis, which is why we have that large number of hapū and iwi. The second reaction, after receiving a very transparent proposal which came down to actual offers, dollar numbers, relevant forests and the like, was quite a stunned silence. As you recall, before that time, many of us are used to a four or five year dance with the Crown at least, to find out what you're going to get. So before we'd even got into the dance hall, this was it – this was what was on offer for the night. And, so you can imagine, there *was* quite a reflection going on in the minds of people, and naturally enough, everyone went to the lines that had *our* tribes on it to see what was being proposed. And then in the good Māori way, the very next reaction was to look to see what the others were getting and see what we thought about that. Which really was the point, was to bring it out in the open and to have a transparent process. And that can't be emphasised enough, knowing where roughly the starting point is – because as Mike says – this is a negotiation – it is not a take it or leave it offer. It is a starting point, we can see what the mutual starting point for everyone is, and then take the process from there. In terms of one of the features that is worth dwelling on in terms of innovation, and that has been spoken of by the Ministers, the Crown's endeavour to find innovative approaches to unlock areas of impasse, was in relation to mandating, and for those who are either from *Pare Hauraki* you will know about us – it is fairly well known in the past. In the mid 90s, we essentially had a four or five year period of impasse in terms of mandate issues. And for those here at the last *Kōkiri Ngātahi* in Wellington, you might remember well my Uncle being rather unhappy with me at the time about that, when he spoke. So in this proposal what the Crown flagged was in terms of mandating, rather than going down the road for our part of the world with umbrella groups, it was a case of going back to the people themselves via iwi. That led to this concept of interim mandate, which still is a bit challenging to some folk to get their heads around, but the long story short is that that approach unlocked the impasse for our people. So for us, for that mechanism, it worked, and we find ourselves a part of two collectives in terms of these negotiations, the *Hauraki* collective and the *Tamaki Makaurau*, or *Tamaki* collective. So, as Mike says, it's not a "one model fits all", although a model that works for *Ngati Maru* which is going to be the best one, may not work for yourselves – it will be up to you whether you take that up or not. So, in terms of that time and that place, and that approach, it was a case of receive it, take it away, and spending a lot of time reflecting on it and where it took us to from there, is where Mike's about to go to next.

Mike Dreaver

So the next table tells us where we've got to, by today, but really we were here about June 2010, so within about 12 months we've got to this stage in the *Kaipara, Tamaki and Hauraki-Coromandel* areas. We've still got one settlement completed, *Te Uri o Hou*, but we have 24 separate negotiations underway, both collective and individual – that doesn't mean there will be 24 separate settlements but there are 24 separate sets of discussions and negotiations underway, two collective negotiations – there's the *Kaipara Harbour* negotiation and then iwi by iwi negotiations. We've signed four agreements in principle, including re-signing, re-negotiating *Ngati Whatua o Orakei* agreement in principle. We've got others pending, we're hopeful of signing one more before the end of this year. We've signed two collective framework agreements. The Tamaki collective framework agreement which covered the volcanic cones, the *maunga* the *motu*, the right of first refusal across Auckland, and 2-3 weeks ago we signed the *Hauraki* collective framework agreement. So if you just compare the two periods, there's been a great deal achieved in that time – we're still looking at that top right one – we've still only got one settlement but we're certainly well down the track. And, Paul, I think you're going to talk a little bit about your experience of the negotiations over that period?

Paul Majurey

Yes, so that background gets us to the point where through that process of negotiation, we have in those two collective areas, *Hauraki* and *Tamaki*, two tables, with very diverse representation around them, different *waka*, different *whakapapa* and different world views. And therein, for me at least, lies the genius, if you like, of where things have got to, because that *whanaungatanga* approach foreshadowed in a pressing way by the Waitangi Tribunal has, when it all comes down to it, worked. There are different dynamics - as you will appreciate - there are very strong views, and jealously guarded views about *mana whenua* and the like, and those have to be respected of course, but it is that sitting round the table in front of everyone else, having those discussions, having those remembrances of tribal histories and shared allegiances or *pakanga* in the past and that's been the forum to achieve progress. It has its mechanics as you will appreciate, in terms of the governance rules that go with it, the procedural side of things in terms of how meetings have run; how decision making occurs - is it by consensus, majority, unanimity, what-have-you; those are really details that are less important from that dynamic of being round that table, and having a shared will to find progress because you really can only proceed as much as you can have that basis for agreement. That's saying things that you will be well aware of. That's been *our* progress and *our* experience in getting to the point that Mike's flagged. And "touchwood" the next several years, and hopefully not too many more, every Friday those have taken out for the next couple of years, we will get to the end point. The other key thing I want to say in terms of remembering, this is about the partnership between the Crown and Māori – is the role of the Crown in this. And over these several years, the role of the Crown *has* been very important - obviously the former approach *wasn't* working – not just in *Tamaki* or *Hauraki* but around the *motu*, and really, this going back to the drawing board, has been the key to unlocking matters to date at least, in this part of the world. The Crown's been heavily involved with that. You've heard at previous *Kōkiri Ngātahi* and today, what that's involved – the Crown negotiators and the support from the Crown officials. From my personal experience, the folk and the people that have been involved, which it all comes back down to, has been crucial. Again, in my view, we've been very lucky in both *Hauraki and Tamaki Makaurau*, to have the Chief Crown Negotiator the Crown's appointed. Chemistry is always important in these matters and sometimes that can be by design or fortuitous and

we've been lucky enough to have folk working in this relationship with the Crown who have contributed a huge amount of time, effort relationship building – I really emphasise that - and trust. And those are core elements whatever governance or negotiation process you design, it all comes down to those relationships and that *whanaungatanga*.

Mike Dreaver

Kia ora Paul. I just wanted to make a few observations on some aspects of those negotiations for the last 12-15 months from my perspective. Some of the things which I think have characterised the process – one is flexibility. We've been flexible about a number of what used to be standard process issues. Paul's mentioned mandate – a couple of times we've forgotten to sign terms of negotiation and just gone straight on with negotiations and found that hasn't harmed us too much – tried to be flexible about funding. And we've developed these notions of things called framework agreements which aren't quite agreements in principle but they lock in a degree of agreement between parties, and I think they've been a very important way to keep progress going. I think it's been really important to have a process which I think is very political – it's been, from my perspective, very helpful as a Chief Negotiator to have a direct relationship with the Minister – and I know that other Chief negotiators find that equally helpful. We have a huge amount of support from our Minister and also other ministers. I think it's also important for claimants that claimants too have political levers, the fact that you are in negotiations with the Crown doesn't stop you lobbying your own MPs and Ministers. I think a really important feature of our negotiations has been making sure we really involve the people and the places we are negotiating, so almost all our negotiations take place in the rohi of the claimants. Almost in *Tamaki Makaurau*, or in *Hauraki* and iwi offices on *marae*, down at the Holiday Inn at the airport – front lounges, local cafes, but all around and a couple of times on my front steps over a beer, and that has, I think been really important that we haven't sort of asked the claimants to constantly make that trek down to Wellington. It also means that you can connect more directly with a wider range of claimants rather than just the negotiators, and another feature I think that we've tried to really focus on is being willing as the crown negotiator, to go out to the people on the weekends on the marae and rather than expect the mandated negotiating team of two or three and say I'm sorry the Crown's policy is this, that, and the other, and the Claimant negotiators having to act like the Crown, actually to front up to the people, to the aunties, to the korus and take the stick from them so they know what the Crown is and they're not having to have everything filtered through their negotiators. We've been prepared to look at a whole wide range of issues and Ministers today have talked about the fact that we can't deal with everything through the settlement deeds and that's absolutely right but it doesn't mean that we can't continue to try and pull levers through the negotiations process or alongside the negotiations process which helped to achieve some of the objectives of claimant groups. And we've tried to be creative and constructive about that, the settlements at the end of the day may look quite similar to a number of other settlements in terms of the content, but a lot of other stuff has been happening around the edges. We've just got a ...we've had a big city... a new SuperCity in Auckland and it's been important to try and align those two processes, the settlement process and that SuperCity process. We've worked very hard on relationships with third parties, local authorities so we've tried to bring them in right from the beginning on things like co-governance and we continue to do that. And probably the second to last factor I want to focus on is *rangatiratanga* and leaving a lot of the decisions up to the people. Having these collective negotiations where iwi resolve their own problems, resolve their own issues has been absolutely critical I think, rather than the Crown coming in and trying to cut the *motu* for

the claimants. We've been very focussed on saying, "you work out the answers yourselves", and they have been very consistently coming back to us and saying "yes, we've sorted that issue out, we've had a lot of *raruraru* this morning, but this is our consensus decision. Consensus has worked very well.

And the final point I want to – I suppose – note is I think momentum has been important – momentum leads to more momentum – once you stop, you lose sometimes the sight of the objective. We have moved pretty fast. I hope we've moved just as fast as the claimants want us to move. Last Thursday – I think there is one last story I will tell to sort of illustrate that was that last Thursday I went out with *Ngaitai* on a site visit around the *Waitemata* Harbour and Carmen Kirkwood via Carmen from *Ngaitai* was telling me as we were sailing under the harbour bridge about the land march 35 years ago and about crossing the harbour bridge. And she said "at the beginning we all started walking over the bridge at the same time and then it started swaying, and people started getting really scared, and some people sat down, some people started crying, and some even lay down and then someone who she said she thought was someone from *Te Aupouri* suddenly realised that it was because they were all coming across the harbour bridge at the same time and that they needed to change their strategy a little bit so he said "you guys stay there" and he moved people across group by group, *roopu* by *roopu* and she said "we got over the harbour bridge, we got over safely, we got over quickly." And I think that's been one of the things that we've learnt from our process.

Paul Majurey

Just finally, this discussion and examples have been about process – of course process doesn't guarantee substantive outcomes but it hopefully helps. In a couple of years we might come back and talk about the substantive outcomes. And of course at the end of the day in terms of the rest of the *motu* it is for each of the people to make their decisions about what works for them and hopefully some of these elements might be instructive. *Kia ora.*

Mike Dreaver

Kia ora.

[applause – te pakipaki]

Ripeka Evans

Kia ora korua, kia ora korua mo to korero e paa ana ki te Kokiri Ngatahi, te mahi tahi tatou o nga iwi o Parehauraki me Tamaki.

Now I would like to move quickly to the most important part of the programme today, and to address what the work is that you are now about to progress- we would like everybody to move now into the workshops that you have been assigned to and if I can just advise that moving forward that we have shifted the deadline for lunch to 1pm – we invite you to partake of lunch at 1pm when you've completed your workshop work, and to bring your lunch back here if you'd like to have a mixed working lunch so that we can bring so that we can commence on time again at 1:30 for the conclusion part of our feedback session. At the moment, if I can just remind you of the five, six, seven groups that you have been assigned to. Group 1 is the Blue group – those of you who are just entering the process and early engagement; Group 2

are for those of you who have pink dots, those who are working towards Deed of Mandate or Terms of Negotiation, Groups 3 and 4, Group 3 is the Orange group – those of you who are moving towards agreement in principle; Group 4 is the Yellow Group – those of you who are also moving towards agreement in principle; Group 5 is the Brown Group – those of you who have signed AIPs and are preparing for Deeds of Settlement, and likewise, Group 6 – the pink group – are those of you who have signed AIPs and are preparing Deeds of Settlement and are ... you shall comprise Group 6 [the Green Group]. Group 7 is the Red Group – those of you who have already signed AIPs, sorry, who have already signed final Deeds of Settlement and have settled. I ask you now all to take your leave to move towards the workshop rooms which are directly down the corridor towards the left. Kia ora.

Green Group – the Green Group 6 – sorry! The OTS staff shall direct down towards where the workshops are being held

[Groups move to workshop rooms]

Bell.

I just draw your attention to the fact that you are to nominate your own meeting area. All you do is look for the ladies with the cards, look for the OTS members with the staff o Tane with the staff. With the big coloured cards!

Can I draw your attention also to the screens which have the full list of all of the workshop participants colour-coded – and you are welcome to create a space around the card that's being held. Would the OTS staff please keep your cards up until the people find you – brown card is down towards the back of the room in front of the Pizza Cucina sign. Green card could you make yourself... here we go ... green card is to the left...green card not to be confused with the entry visa to the United States, is over here – Group 6. Kia ora facilitators would you please make yourself known to the OTS staff as well – facilitators at the moment include Jamie Tuuta, Haami Piripi, Toby Curtis, Toby Curtis you're facilitating the Red Group, Haami Piripi you're facilitating the Green Group – Group 6, Jamie Tuuta you're facilitating the Yellow Group. Group 4 – Paul Majurey if you're still present in the room, you're facilitating the Orange group; all other groups will nominate their own facilitator and report back.

1:00-1:30 pm Lunch

Afternoon Session

Group Feedback from Hui Workshops

Ripeka Evans, Chair

Kia ora ano tatou...Can I have an indication from OTS as to which group is the first ready to settle? Here we have in the far right corner ... Piki mai kake mai ...

Ok, our first group to report back this afternoon shall be the Pink Group who are a group of iwi that are engaged in pre-negotiation seeking mandate, working on mandate and terms of reference; and the facilitator and reporter back for that group shall be John Whaanga. Can I remind all facilitators and people reporting back that we would like people to be respectful of the fact that we have 7 groups reporting back and could you please be concise, and make your report back between 5 and 7 minutes – thank you.

Pre-negotiations (Pink) Group – John Whaanga

Kia ora Ripeka, for those clear and concise instructions. You will have pleasure in knowing that I come from the matriarchal East Coast so I am well used to taking and following orders from Maori women! I of course represent the most important grouping in this room of *Ngati Tuwharetoa, Ngati Haua, Ngati Hinerangi, Ngati Whakaue, Rangitane o Wairarapa ki Tamaki Nui a Rua, Ngapuhi and Te Tira Whakaemi o Te Wairoa*.

We talked about a number of issues following on from the questions that were provided for us and so the first of those were:

- What kinds of advice would we be passing on to other people involved in the previous stage of negotiations? and we spent a lot of our time talking about how difficult it is for us to represent these issues.

It is not an easy task given the amount of expectations we have to manage and satisfy from those constituent groups that we represent. So we had a number (and I am not going to traverse all of them in the interests of time management) but certainly one of the issues for us was around representation, and how you maintain that ongoing representation. The importance of communication, and the importance of having some flexibility around these things. One of the issues we *did* identify is there is nothing in the process for lodging a Waitangi Tribunal or Treaty of Waitangi claim, that requires the person lodging that claim to justify and give evidence that they in fact represent the iwi and hapū interests they are claiming in their claim. And what invariably happens is that we get to pick up those issues when it comes to mandating. So for a number of our groups what has happened is that the basic rules in lodging a claim do not require you to substantiate whether or not, if I put a claim on behalf of *Ngapuhi* – that I in fact have the mandate from *Ngapuhi* to do that. And so what invariably happens to us when we come to *mandating*, is we get to mop up and deal with those issues. And invariably they elongate the process. And there is a tension point between Treaty settlements as a process of reconstituting our tribal infrastructure, and representing our iwi and hapū, and claimants who take on a life of their own. And so certainly for some of us we are very clear that what we are doing through the Treaty claims process, is amongst other things, reconstituting our iwi and hapū, so really who lodges the claim on behalf of an iwi and hapū is secondary to the fact that those claims are for iwi and hapū themselves. To be honest where I come from, whoever lodges the claim is merely a name on a piece of paper with a whole lot of other people sitting behind them. The other thing we talked about was funding issues, and there were several issues about that – the amount of costs we have to wear up to Deed of Mandate and the cost we have to incur up to that point before we receive funding through OTS – The other thing is that the negotiations model is framed around an understanding that iwi and hapū who are about to move into negotiations with the Crown in fact have the required infrastructure and capacity to engage. Now for many of us that's not the case. For many of us we

either have no infrastructure in place, or very limited partial infrastructure, and so one of the things we talked about in terms of what are some of the solutions forward, is looking at the current funding formulation to figure out how it is in there we can recognise the fact that for many of our groups we don't have the required infrastructure and capacity and capability to engage fully in the Treaty claims process. The other way of dealing with that that we identified was using existing strategies such as mentoring to provide, to have people come in to work with us or to use the secondment program to bring in those skills because the other big issue we found amongst ourselves is invariably there is a very small number or nucleus of people in each of our groups who actually have the capacity and experience to do some of the things we need doing. So, for instance, for the group I represent, if we have to write a letter to the Minister of the Crown, there's most probably three of us out of the 12 mandated members who could go home and write that up overnight. Now you might say "well that's only a minor little task", but it is an example of what happens sometimes we rely on a nucleus of, a smaller nucleus of people within our governance arrangements, and if they go, or die, or move off the scene, we find it very hard to move on from that. The other area we did talk about and we had some discussion on – was the large natural groupings, and certainly from our perspective and *Te Wairoa* one of the things I shared as potential strategy head is that *we* in fact manage and deal with those things. So in our case we knew the Crown was not going to move away from its strategy of large natural grouping, so we went and established our own large natural grouping based on our whanau. And then we went and had a hard argument with the Crown about recognising us as being of a sufficient size. So we turned from our perspective, an issue we had fundamental problems with, which was the Crown determining our representation and make up, recognised what the Crown was trying to achieve, because it did not have the capacity to negotiate with every individual iwi and hapū in the country, and said "well, we'll manage that, we'll bring ourselves together as *whanaunga*, and we will have an argument with the Crown that we are of a sufficient size to be a large natural grouping. And the final thing which we did talk about too, around *whakapapa* and *whanaungatanga*, was that at the end of the day regardless of the claims we advanced, the most important thing between us and as we work in our groups was the *whakapapa* and *whanaungatanga* with each other. The Treaty claims process, if the Treaty claims process finished tomorrow, we would still be *whanaunga*. Ah, and more importantly, if we get those relationships right, we can sort out the things the Crown hates dealing with. Now I can tell you as someone who has worked for the Crown off and on for over two decades, the Crown does not like dealing with cross-claim issues, the Crown does not want to get involved in *whakapapa* issues. And *really*, in one respect, the onus is on us to solve those issues, because they are issues that only we can solve. The Waitangi Tribunal with all due respect to itself cannot solve our *whakapapa* issues, a High Court judge cannot solve our *whakapapa* issues, the Minister for Treaty Negotiations though he does well in advancing Treaty claims, I'm sure would not want to get involved in those issues, and if he made a determination, despite our healthy respect for him of course, we would still find it hard to live with that. So the thing is, there are issues that only *we* can resolve satisfactorily. And if we resolve those issues satisfactorily within our groupings, it gives us the opportunity to deal with him with other groupings and those larger cross-claim issues. I think I have covered everything have I, *roopu?* – no violent objections down there? Ka pai, kia ora tatou.

Ripeka Evans, Chair

Ka pai John, the next group to report back is the Settled group. Thank you – Materoa Dodd on behalf of Te Runanga o Ngati Awa will present on behalf of the settled group.

Settled Group – Matoroa Dodd

Te Runanga o Ngati Awa

Kia ora tatou, it is a privilege to be here representing *Te Runanga o Ngati Awa* and apologies of course from our Chiefs – well, there are heaps of chiefs but the recognised ones – well, they're all recognised, but I guess the ones who are more familiar in the big wide political world – with due respect, Sir Wira Gardiner and Sir Hirini Mead, and between these four walls and you and I, I'm the next in charge – heehee - Just keep it between us!

It was a great privilege to sit with the groups who have settled, I just want to read out who they were *Kai Tahu, Nga Rauru, Waikato Tainui, ourselves Te Runanga o Ngati Awa and Te Arawa Lakes Trust*.

I think that the key points that were consistent throughout each, everyone's, korero about what made settlement so much easier, was definitely leadership; having a vision, a strategic strategy forward; having a very good relationship with, dealing with the Crown; and while people may not, well we won't go there but you know what I mean, it is very important to kindle those very important relationships with the Crown and I guess for *Ngati Awa* it was having a profile in Wellington that also was a key, I think, in being able to expedite our settlement at that time because we had a profile here. There are a number of issues, would you believe, that have arisen as a result of the tribes that have settled and I guess, there are disadvantages as well. Particularly for the smaller tribes who settled earlier in the peace, ie like *Ngati Awa* and *Nga Rauru*, who settled at the time when the settlement was about *raupatu*, when the settlement was about confiscation, and the terms have sort of ... the goalposts have sort of moved a little bit and we would hate to be disadvantaged when there was good intent in the early days that settlement be made on *raupatu* solely. So, and I think today that there is movement in terms of what tribes are settling on at this stage. There is also tribes who are settling, who settled early, and tribes who are about to settle, and if the fiscal billion dollar cap is reached, and surpassed, then what happens to the tribes who are settled early and who don't have the benefit of that ratchet clause in their settlement? Because that does mean and have a huge impact for tribes who have settled and also tribes who are about to settle. So there are those things that need to be thought out. There are other advantages for the big tribes that settled also and that is things are able to be parked. Ie, with respect, the Waikato River, they were able to secure and move on to another aspect of settlement whereas other tribes have not been able to have that luxury. And just to finish off some of the other comments that were made in our group – do your homework well; as I've said - develop good relationships with the Crown, get what you can - because as you know tribes who were given a - there are some tribes who fell to the bottom of the list and that's been unfortunate and so they have had to start clawing up again, so one of the comments from our group was "get what you can". And to do with it – do *well* with what you get. I am just trying to make sure that I cover everyone's comments that came through in our group because I am aware that there was only a small number of us, and without being *whakahihi* about the tribes that have settled and the groups that settled and the tribes yet to settle, that I am doing to our group justice in terms of what were the outcomes. I actually think I have covered them – Mr Curtis, [Toby Curtis?]

Ripeka Evans

Russell, do you want to take the microphone to Toby?

I think that the comment that was raised in our group was that there needed to be joint drafting of the legislation so that the intent of what was agreed between the Crown and iwi was the word and that is the agreement that moves forward. There was concern in our group that once an agreement was made, then all of a sudden the Crown Law Office then interpreted what the agreement was about which changed the whole purpose and intent of what was agreed between Crown and iwi. Aroha mai.

[Toby Curtis] You are right, the lady of Mataatua.

Kia ora – now there is no other comment that our group had that I have missed out?

That you might like to make? That was the conclusion and korero within our roopu. Kia ora.

Ripeka Evans

Kia ora tatou – could we have the next group to report back please? And that is the Blue Group.

Early Engagement Group – Che Wilson**Ngati Rangī**

Kia ora tatou. Ko Che Wilson tenei no roto ana mai o Ngati Rangī, ara, i te take o Ruapehu

There were a number of iwi in our group and as I look at my colour dot, so we are the blue group, probably cold. And the settled iwi, being the red, hot. So we look forward to getting to red! People involved, iwi involved are Ngati Maru ki Taranaki, Ruapani, Whanganui, Whakatohea, Ngai Tai and Ngati Rangī. There were some general issues regarding research funding and implications of the fiscal envelope. However, I have got six points that I will try and cover in my time here.

The first one was the artificial constructs that are placed on the process; whether that is OTS boundaries, debate around iwi and hapu, and how that gets people all muddled up. So that was one point.

The second point looking forward to there being more options, more ways to approach Treaty settlement, and the discussions had were round the CNI, on-account settlements, and hoping that there are going to be more of those. So we were looking in a constructive way rather than just the challenges that are approaching us.

Number three – the need to engage with groups that aren't in formal negotiations but neighbour those iwi that ARE in negotiations. To manage both the information being disseminated but also to manage the relationships – both for the Crown to manage those and for then for those other iwi that are in negotiations to manage them ourselves, because we often tend to rely on the Crown to fix up our own raruraru which isn't always fair.

Number four – we thought it would be really good to have iwi involved in the development of policy in the future to hasten Treaty settlement, so those iwi who are in the red team, and others as well, to input into

policy development – which hopefully will also help with some consistency in approaches. Well, consistency in settlements.

Number five – there’s a desire for dual engagement, and rohe potae is a good example of that where you’ve already got some parts of that area that have settled, but they’ve acknowledged that some of their people are wanting to go through the Tribunal process so working through that to look at ways forward. And the last point I want to note is the need to focus in on settlement, not on claims. And so focussing in on the end game, rather than a Deed of Settlement, an AIP, so rather than an AIP and then everything else, focussing in on settlement. So those are the key issues that came out of our roopu, and those of the Blue that were in that roopu, hopefully I have covered everything – Heoi ano, koiane matou – Kia ora ra.

Ripeka Evans

Kia ora – can I call for the person who is due to report on the Orange Group – Chris Fitzgerald? (McKenzie)

Working to Agreement in Principle (Orange) Group – Chris McKenzie

Kia ora tatou haere tonu nga mihi ki a koe e te Minita ki a koutou nga manu katua nga manu matarae. Nei ra te mihi ki a koutou.

Kia ora koutou

My name is Chris McKenzie – I represent the Orange Group. As you will see there are a number of tribes in the orange group [Ngati Rangiwewehi, Raukawa, Ngati Maru, Ngati Rangiteaorere, Ngati Porou ki Hauraki, Ngati Paoa, Ngati Rangiteaorere, Ngati Koroki Kahukura, Nga Rahiri-Tumutumu, Pouakani]. There were twice as many when we started but during the collective negotiations another group pulled away and formed their own – the reddish-brown group we like to call them! But we are hoping that through the course of negotiations we will get back together and sit at one table again! We answered two questions because as a small group we are quite agile and mobile – words that are not usually used to describe me, but – the first question we asked was “what advice would you provide to iwi involved in the mandate and negotiations phase?” And it’s a difficult question because, heck, we haven’t even finished negotiations, so we don’t even know yet whether some of the things that we think are the way to go, should be passed on to others unless they have been tried and true, but we will give it a go. And just make sure that you understand that there is that you want to enact if you want to. There are a number of suggestions and thoughts that we’ve had though. This is in no particular order this is just a number of things that have cropped up from our conversations. You shouldn’t even start to think of it in terms of negotiations unless you are prepared from the outset in everything you do, it is the most nervous time for your uri and if you aren’t clear about what you are doing at every step and build those foundational processes, people won’t trust you in the beginning. And that includes, get started on tribal registrations, start identifying people who might be negotiators, start telling people and seeking thoughts and comments on the body to be mandated, make sure you have firm kaumatua support, the whole range has to be transparent and done early. You, should get a sense and keep a sense of where the iwi hapu and whanau are thinking in terms of their expectations and settlement redress, because as you all know some people thinking 16 billion dollars and every inch of land in our whenua and including half of that whenua from that tribe that pinched it from

us 300 years ago, and you will know that that is not realistic, so you have to keep your finger on the pulse on what is happening at grass roots and manage expectations but keep a good sense. It is really important from our perspective, from our group's perspective to develop a really robust comms, ah, communication strategy and communicate, communicate, communicate. Internally with your tribes via Facebook, panui, kano ki te kano, hui, externally with people in your community and of course with your Crown and Treaty partner. Talk to your partner, talk to your next door neighbours early, even if they don't like you and you don't like them. Talk to them early. I am BLESSED! Blessed at my home, to have the most awesome, awesome neighbours to get on with – listen to their aspirations as well because whilst they might not be at the same level as you or they might be further ahead than you, that will impact on your negotiations as you move through. So it is really important that you get a handle on that. Just because you get your mandate, you think right, that's done, let's move on to Terms of Negotiation, review your mandate continually, internally and with the crown. Check all the time that you are not getting the "you are doing a good job, boy" and then all of a sudden outside in the smoking room they're going ... gee I don't like that Chris McKenzie, I don't like the way he's running our claims – review your mandate continually internally and externally. But when you appoint someone to do the mahi, support them. You know, don't say "you do it boy, oh you're doing a good job – cor, he's useless, have you seen the way he ..." – appoint him and support them. Work together with people – it is not a competition you know, there isn't a scoreboard saying Waikato Tainui 170, Raukawa 12 – it is not a competition. Be inclusive, with everybody but be diligent to manage your risks – and those are just a few – we had ten minutes to see what advice we might be able to pass onto people who might be in the mandate and terms of negotiation phase. I want to move now to what we think are some current issues leading up into the AIP and Deed of Settlement phase. And one of the key things – there are a number of key things in this area and one of them is an inconsistent approach to redress, and the difficulty in maintaining relativities between settled tribes and non-settled tribes; and as we work through the settlement process, we acknowledge that the environment changes and so we have given you a couple of examples:

Last year the Ministry of Education might have been happy to provide sale or lease back on a numbers of schools – this year they are not. Well the key isn't just to say "well, we aren't giving you that any more", the key is to say "offset that with something". You can't just say "only one year DSPs now, no we are not having widespread RFRs, no you can't have sale and lease-back, that has to be offset. Because what the tribes want to feel is a sense of perspective, a sense of justice and relativity with those that have gone before them. There are a number of issues wrapped up in that and so it is very inconsistent sometimes because you know, even though we might not think it, we talk to each other ALL the time. And so one tribe, will go "gee they're trying to push this DOC land onto us" the other will say "we can't even get a conversation to get a bit of DOC land". You know there are those kind of issues. One tribe will say well, we've got some educate, special education redress, and other tribes will say "we can't even get a "look-in" at discussing these issues." What we are saying here is that there needs to be a consistent approach to redress and failing that, the packages themselves need to be relative through the years. And that goes also for the years in which it was good for the government of the day to hide the value of packages so, we all know what the hidden value is because we ask our cousins because they can't wait to gloat about it! Yet in the paper it says X but what we really got was Y, and so we really want to base our relativity against Y and not against X. This morning we heard that we need to – not stop pursuing unique opportunities and redress but our group has decided that we still need to be flexible in addressing redress opportunities. We

are in a very different environment. There is a bit of a shortage of cash although there is a firm commitment from this government and this Minister to settle these claims in a timely fashion and that might mean that there might be some solutions that each of the tribes have individually and that might mean some unique and flexible redress arrangements. One thing that our group said was that the consistency of staff that we deal with in OTS is much better over the last year and a bit, but that we need to maintain this, we can't change the lead negotiator every six months and can't have people dropping in and out of teams. And I guess that you know that your teams stay the same for three decades, it is the same people who put the claims in 20 years ago that are still involved in it and we just want some consistency there as well. But that we also see that the relationship with the Office of Treaty Settlements is key, and not least of all to ensure that the Minister receives accurate information, so that when we have a conversation with him about important aspects of our settlement that it is not a surprise, or that he has all the relevant information to provide some comment back to us. A very key and important aspect of the conversation that we've had was that despite the fact that it gets talked about in many many different forums we have not yet found a way to address the issue was that some of the smaller groupings feel isolated and not only feel like that but in actuality HAVE less political clout and less ability to develop a strategy around getting that political clout. This is one of the the key issues that came from our table, that access to the top levels of power is easier for some than others. That's a given. We are not begrudging the people who are able to go in there and do that, but what we have to do, is maintain an even playing field as we walk through negotiations, and last but not least, there are still some issues that have cropped up about land-banking processes, still continually failing – you think that some surplus property went through a process and then it is for sale or someone else has got it. We have tried to pull together as many points and issues as possible in the short time that we have available and thank you all for listening and reddish-brown group – we will have you back anytime you want to – you just come back and see us – kia ora tatou.

Ripeka Evans

Kia ora – could I ask Glen Katu to now come forward and present - aroha mai Chris McKenzie for my misnomer!

Working to Deed of Settlement (Brown) Group – Glen Katu

Ngati Maniapoto

Not to be outdone by our whanaunga Chris, we have got a nice picture here too kare.

Ko Glen Katu taku ingoa, tetahi o Ngati Maniapoto, Ngati Rereahu me ki a Ngati Toa Rangatira. No reira aku rangatira huri noa te whare nei tena koutou tena koutou tena tatou.

Just like to start with saying we were one of the groups discussing how claimants are working towards settlement and those of the iwi that I have noted down, claimants that I have noted down, are from Rereahu, Tamanuhiri, Rongowhakaata, Ngati Manuhiri, Te Runanga o Ngati Whatua, Te Arawa and Turanga nui a Kiwa did I miss any?

Kao, ka pai!

My number 2, Chris, my kaumatua and lead negotiator would like a copy of your Powerpoint – we were very interested in your kaupapa round neighbouring relationships and manning them well, so please give us a copy of your powerpoint – Rereahu is of course the neighbour to Raukawa. Number 4 in my document – just relating to temperatures, our group is neither hot or cold, and probably lukewarm as we are approaching settlement with the Crown and of course with much anticipation. Number 5 – our group was very vocal, honest and transparent in my view showed great leadership. So what I am about to read out to you are a few issues, a couple of solutions, but we have lots of advice. Kia ora tatou.

Now, I am going to work through the issues – I am pleased the Minister is still here.

Issue number 1 – the Department of Conservation: our members feel they have been very difficult to work with and they particularly wanting a lot and giving little in terms of settlement redress.

Number 2 – some collectives that are in our group believe that timeframes that were given to agree a collective strategy – one example that was given was only six months was very tight and very stressful on those involved in agreeing the collective strategy. Another issue:

Number 3 – CFRT our members and it was basically unanimous – CFRT, we believe have been inconsistent in the application of the funding policy they have put in place to manage on our behalf.

Number 4: OTS – information – and this has been spoken about in previous addresses – some of the information policies, sometimes that is inconsistent over a period of time. Now coming to – I’ve got a couple of solutions – so I will go there first before the advice – in terms of a couple of solutions, our group would like the Crown, when approving mandate for claimants that they then work with the claimants and only listen to the dissidents that might be out there.

Number 2 solution is: many of our iwi have quite rightly put together iwi models of engagement, of relationship building, and even when terms of settlement models – and they would like those models to be considered by the Crown a little bit more urgently and perhaps improving and using some of those models which iwi have themselves designed. In terms of advice, number 1, the collectives have agreed that one of the things that they should that you should address first – I know it has been alluded to in previous conversations – that iwi in collectives should agree their boundaries and agree their internal matters, and come to agreeance on the way they are going to approach the Crown before they meet with the Crown and start negotiating. They also said that after Deed of Settlements have been agreed and initialled, these who are in the collective said “we should get out of the collective as soon as possible to start developing your own iwi coming back together later to negotiate other strategies.

Number 3 – Again around the collectives, some of the collectives said we must remain tight, work together if we’ve got some dirty washing don’t hang it out in public and certainly don’t take it to meetings with the Crown. Good leadership is required to main collectives to make them work.

You all have said that throughout today and that is another piece of advice from our committee, from our group. On entering settlement with Crown agencies, our group said please extend appointments for settlements to include people in our universities and perhaps other organisations, and not just from Crown agencies.

Number 6, even allow settled iwi some of those mentors and not just those people working for the Crown at the time.

Number 7 - Legal Aid. Members have said if you are lucky enough to secure legal aid, when you apply for it and get it, try your hardest to retain it for as long as you can, and when paying for your lawyers, work and manage their workload to ensure they get things done but that they work effectively and efficiently and that the money that is used to pay them is used for work that needs to be done and save some of those dollars in your claimant funding for other work. Number 9 – just been over that one.

Number 10 – in terms of agreements, if - and you've heard this one before as well, if we are to deal effectively with TLAs, RLAs and government departments, we should go for formal agreements with those organisations, and that's the end of my report. Kia ora tatou.

Ripeka Evans, Chair

Kia ora – could we have Haami Piripi please to report back and after that could we have Jamie Tuuta to provide the last report back.

Working to Deed of Settlement (Green) Group – Hugh Karena

Te Aupouri

Kia ora everybody. You obviously know I'm not Haami Piripi of Te Rarawa. We have just had a conversation over there on some of the terms of settlement. Cause settlement was known as the Vietnam of all Vietnams in regards to settlement. That's probably because the Crown took some 12 goes at it – couldn't get it right and we took the opportunity to re-evaluate ourselves a couple of years ago, and work out a strategy that working together is a lot better than working independently and that is a lesson I think all iwi should learn. It has allowed us to perhaps improve our quantum, improve our ability to work together and also our ability to think about how we work together beyond the claims and into the future. And that's about the management or collective management of assets that we have in common and a few other ideas around the commercial interest and commercial businesses. So it was about how do we not only settle our claims, but how do we move ourselves forward collectively, and in the process of doing that we were able to resolve a lot of the cross-claim issues that had plagued us prior to those last couple of years and obviously our next step is now to build an enhanced relationship that we have with the Crown and I have heard a lot of talk today about that and we support that. But we support it at a partnership level that involves and enhances the Treaty partnership which is what this whole process is all about. So there are a couple of us in our little group – Ngati Kuia, Ngati Porou as usual ... support what's been mentioned in regards to the lessons that have been learned from the process or previous processes of entering into a negotiations process and the requirements that the Crown applies to us. I suppose our sort of conversation is directed at the Crown in terms of how they can improve things as well. A lot of the processes and the determinations on how things get done are laid down by the Crown and I think we as Māori and iwi tend to follow those lines to our own detriment at times and I think there needs to be more of a flexibility on accepting that each iwi has a unique way of doing things – there are some unique dynamics and those can't be put into a box and constrained according to a particular process or protocols.

So one of the things we talked about is the need that, if you are going to work collectively, those at the table representing the various groups should actually - as of right before they get to that collective stage - have an established mandate. It saves you a lot of grief later on when the collective falls apart and then everybody figures out who's to blame and where should we fix it. The people who should be at the table – as we mentioned at the very beginning – are the people who had a clear evidence base that they do represent. Then you don't have a problem of arguing over who's the chief or who's the little chief – at the end of the day you are all there for the same purpose.

So establish your mandates, establish the evidence that supports it and in hindsight of working together the benefits of a collective approach – it is the old adage strength in numbers and it does make you a force to be reckoned with. And we have learned that in 25 years, is in the Far North. We also need to say to the Crown that when people do establish their mandates you need to be clear that you support them. There is nothing worse than having someone tell you you don't have a mandate every time someone writes a letter out of the blue, and the Crown then goes into a sort of a shock mode and then asks you to justify your mandate that they've just approved themselves, and you just end up wasting so much time proving who you are over a large number of years and it is just a time-wasting exercise. So what we are saying to the Crown is “you determine the mandating process and by which things are done, you approve it, if there is a challenge, don't take it out on those who do have the approval and the mandate – establish with those who are challenging it, whether they in fact have a mandate to do so. So that's the onus of your mandate process – you need to own it, and you need to stand by and support the iwi that might be confronted at stages throughout the process, as to their validity in being in the process. Also around the post-settlement governance entities – we are in that stage now. We have identified some major problems around having a Sealord settlement a number of years ago, having historical claims settlement in this day and age, and trying to develop a post-settlement government entity to try and manage those assets is an absolute nightmare and so there needs to be some consistent dialogue around the expectations of OTS, and other parties, as to how Māori organisations can be developed according to Māori needs, without the constraints being put on it by legislation such as charitable trust status versus commercial entities, versus Māori authorities. Each iwi has recognised the need to consolidate its assets, but we are hamstrung by the requirements of various processes and procedures and we are also hamstrung by legislation such as the Fisheries and all those types of things which don't allow us to merge quickly or easily with the structures that we are trying to design today. So you need to sort of come up with a formula that allows us to do both – very quickly and efficiently. And so what we are saying that perhaps needs to be done a lot earlier in the process rather than at the end of it so it gives people the opportunity to understand or buy into a settlement structure that is applicable to the settlement outcomes, rather than designing a structure and dumping everything into it and trying to figure out later how we try and make it work. There is also the overload of professional advice – one of the lessons that we have learnt quite quickly is that if you want to save money, do a lot of the work yourself, but it also goes back to the Tribunal itself in terms of what it said to us in the past. At the end of the day this is YOUR history, this is YOUR future, and if you want to do anything about it then you need to take control of it. Far too much is the expectation that the professional circles are the people who should design our future and our lives for us. It should be the other way round – they ARE a necessary evil at times, but use them appropriately and when it is required – don't allow them to determine what our future should be. We also believe that forums like this are ideal- I think we also are asking the Crown about the possibility of us having our own iwi-led forums and having our own discussions

– it is not just about ourselves but it is about the ability to find solutions to moving forward ah... and in the process so there's a consistent learning and understanding of what is required, but there's also a consistent approach on how we move together in the future. And that's not just for iwi, but that's also in our relationship with the Crown. So we would like the opportunity to have at various times forums such as these which are iwi-led that allow us to talk about how we find solutions to cross-claims – how we made the process consistent to each other and so that we have a better understanding of it and how we move forward into the future as iwi amongst ourselves, and again, beyond the claims into our relationships with the Crown. And so, that is the summary of our response to the Crown. We also – just a little plug support the ongoing ideas of secondments – they DO work, they DO provide a valuable link between government departments and iwi aspirations and how we blend the two with our compromising and so we look forward to the fact that they do roll them again. So on behalf of the Far North and our other relations around the country, that is our submission tonight.

[applause – te pakipaki]

Ripeka Evans, Chair

Tena koe. Tena koe te whanaunga. Can I now ask Jamie Tuuta to give the final presentation and within our timeframe can we have a reporter instead of Jamie. Kia ora.

Working to Agreement in Principle (Yellow) Group – Antoine Coffin

Kia ora mai tatou ko Antoine Coffin taku nei ingoa no Tauranga, no nga iwi o te Ngati Ranginui raua ko Ngai Terangi. Mihi tuatahi e tautoko ana nga mihi kua mihia i tenei ra ki a koe e te minita. Rau rangatira ma tena tatou katoa.

This is my 4.5 minute summary of our discussions – tima kowhai and you know the whakatauki “ka pua te kowhai ka momona te kina” – 12 points for our team – first is the principles – our group focussed on those principles which were those areas we thought there had been an error of concern and we would like some focus on those principles of flexibility mentioned by many today – the principle of clarity of purpose and role, the principle of rangatira ki te rangatira, making sure that that the chiefs are talking to the chiefs, the kaimahi are talking to the kaimahi, a couple meeting face to face – the principles of innovation, consistency and equity. In terms of some specific issues and some of these have been raised by others, there was a concern that the profile of Māori Ministers during the process having them there would give confidence to them during those processes; there was a view that each negotiation should be treated on its own merits and also that in terms of the negotiations, there was a concern that OTS and indeed the Minister need to have the capacity to be well-informed particularly of the claim character and ready to engage before the negotiations start. Some other comments from our group included that there was perceived to be a gap between the Cabinet considerations and some of the political rhetoric, particularly with regard to some of the presentations this morning, about natural resources. There were particular words in the speech – Roopu Māori – that come with very strong meaning; but they aren't in the list in the letter of the considerations that Cabinet will look at. The mandating process was one that was identified as an area of concern in regards to when considering traditional forms of mandating and we had one representative talking about a marae, a mandating process that didn't necessarily meet the mandating

process of the Office of Treaty Settlements. It was a concern that there should be very accurate technical information – an example used of course a list of Crown assets, making sure that was right the first time around – and also matters around inequities and value of redress and I think Chris pointed this as well in regards to looking for higher value across the total package to make up for those inequities. And there was also identified some misalignments or miscommunications within ministries and departments, between head offices and local offices, and also some misalignments between the policy direction amongst ministries and departments and OTS and Cabinet. And – have I missed any others out? Oh and just lastly that the engagement should be at all levels – ka mutu.

[applause – te pakipaki]

Ripeka Evans

Kia ora mai tatou, kia ora mai tatou katoa. Thank you all very much for your very high quality and consistent reporting back. Can I now invite the Director of the Office of Treaty Settlements or Minister, beg your pardon Minister, Minister Finlayson, to provide some closing remarks.

Closing Address by the Minister for Treaty of Waitangi Negotiations, Hon Christopher Finlayson

Thank you very much – this series of closing remarks will be in two parts – I will make some comments but then I've got to round up Toby, Chris McKenzie, Colin and Gina – because we've got to go to the House for the third reading. I'm sorry if it seems to be a disturbance – I was checking on how quickly question time was going because I am up straight afterwards but I think they are still “clowning around” on question 4. But, so it gives me a chance just to make a few comments and then I will get Paul to talk about particular issues raised concerning mandate, PSGEs, funding and process issues. I think they are all very good points that have been made and I am pleased I was able to sit through the entire reporting-back discussion because there are some really good points that I think we need to get act better in order, in order to be able to help you. There are three points I just wanted to include on before passing over to Paul, ah and it is this... it hasn't come up, but if you don't mind my saying so I think it is very important that with the sensitive negotiations that we ensure that we are talking rangatira ki te rangatira, and not rangatira ki te rangatira via TV3. And it is, if I can give you just the obvious example – a couple of days ago I was stopped by one of the reporters of TV3 who said “oh there's a rumour that negotiations with Tuhoe have recommenced” – and I said “well actually they've never stopped” and a story was spun about that, and a story was spun about what the detail of the negotiations was, and I had been repeating like a litany I am not going to talk to Tuhoe through the media - we're having negotiations. And I just think there is a potential to a greater or lesser extent, for – if there's too much media talk – I, we, love the media, we need the media, they perform an important role in a democracy, but their primary aim is to tell a story and I just think it is SO important that we don't talk to one another through the media and that we avoid all potential of misconstruing things, or messages get warped or whatever, and it means very much to me, particularly obviously in relation to my negotiations with Tuhoe – there is a claim there as we all know the history – it cries out to heaven for a good settlement and a just settlement, and so it is so very, very important that we

make sure that the media don't necessarily get in the way. And added to that, there are other issues floating around at the moment where there is ample scope for misconstruction, can I simply say this - whether it is a Treaty issue or a foreshore issue, if in doubt, contact me to get the real oil, and I'm very, very happy to go out on the road to talk to ANY group at ANY time on those issues, because I am not going to be beaten by people like the coastal coalition, or other groups - I 'm interested in access to justice and property rights. And it is interesting when you talk about those issues out on the road - I was in Kerikeri for example the other day with some basically it was an audience of late-middle-aged people and when you talk about property rights and access to justice and so on, they were nodding! So I am not going to be beaten on that issue by a misconstruction and by groups that are malignant - I am going to beat them and so if YOU want me to come out and talk to you if you have any concerns on any of these issues, I will grovel to my private secretary to make sure I get there. Each January I've had a hui out on the road - there will be another one this year, and if I can't be in ten places at one time, but if you want to talk about anything, the Crown negotiators are a fantastic team, and I really enjoy working with them - we meet quite a lot to go through the issues, and they can come out on the road as well. So, it is something that is so very important that we can't afford to communicate with one another through the media on any of these issues. We've got to talk rangatira ki te rangatira. The third point that I just wanted to emphasise and it is something really Che Wilson said, is that the focus is on settlements - I ... we've got this fancy chart here and I spend so much of my time looking at the country. And saying gee - we're getting close there, or there's work to do there, the matter is I think we've had a very, very good year. I wish I could have done more - 12 agreements in principle signed, 8 deeds of settlement but there are a lot of agreements in principle out there in the next couple of months that I want to move to deeds of settlement, and get it into the House with legislation, and I am conscious that everyone's working hard but I do think there comes a time when you've got to say, right, that's it, we're there. And look, I'm conscious, it is not a commercial negotiation - it is insulting and demeaning for anyone to call it that - it is so much more than that. It's a claim that goes to your very soul, and we know every meeting you go to you hear of those who have begun the claim and have passed away and the claim is being borne by nieces or grandchildren, and just in the last 12 months for example, with Lady Mahuta, with Sir Archie Taiaroa, with all these fine people who have carried the torch for so long, they've passed on but, and the obvious one is WAI262 - we've received a you know, a really good chapter from the Tribunal on Te Reo the other day - that claim was started - there was one claim that left Sala Murray - so we have an obligation to these people to pursue the claims - Yes, but in my view there comes a time when we have to say, "right, that's it - deed of settlement time" and I know what some of you are thinking - oh he just wants his life made easier. And you're right, but I know it takes courage to say right we'll settle but I can only do what I can do within the parameters, and there comes a time when Cabinet gives ME marching orders and that's it. So, thank you very much for your contributions - as I say Paul's going to go through the detail - there was one comment that I was... I just want to get out of here before it is discussed in any detail ... and I put on my Attorney-General's hat now ... Don't overuse lawyers. It seems to be repeated on quite a number of occasions. So I'll go off to the House now with our friends from the Upper Waikato and deal with that legislation. I very, very much look forward to keeping in touch and to seeing you at signings of deeds of settlement, signings of AIPs out on the road, if not before Christmas, then certainly in my trip in January. Thanks once again.

Ripeka Evans

Tena koe, te Minita. Paul James, Director of the Office of Treaty Settlements will now address you.

Closing Address by the Director for the Office of Treaty Settlements, Mr Paul James

Kia ora katou – I think I get to be a little bit of an afterthought by the Minister as he rushes out the door, sorry, but I will do my best to sum up a little bit and talk a little bit about the steps from here. First just to start with some thankyou... First thankyou must go to the people who have guided us through today, which is Ripeka, John Clark, really appreciate their guidance in terms of both setting up the day and also running us through the day. I would like to thank you all for coming into town and participate fully – it has been really good – we think we’ve got a really good representation from throughout the *motu* – and that has been really excellent for us. I would also like to thank my team – a lot of hard work goes into days like today and behind the scenes and particularly to Sarah and Russell and Thea who’ve done all the hard work – up until midnight last night and over the previous two weeks as well getting us set up – so thank you.

I think there is a couple of really pleasing points about today – one of them was last year when we held the last ...hui here. I remember standing down at the ground floor and seeing as people walked through, us just trying to help guide them through to getting them nametags, getting them through the building and things like that, what I noticed was that this year when people arrived there was a hello, how are you, there was a hongi, there was a kiss, there was a welcome, because we had spent so much time in the last 12 months talking with people and we had established relationships in a different way to where we were 12 months ago, and it is so crucial to getting through settlement to having those relationships so it was, for me a pleasing sign of where we’re starting to get through. The feedback we’ve had today was really valuable, we will use it – it was for me a good reminder of several things. The first is that there weren’t any great shocks in a lot of what you’ve said – they’re things you have been saying to us for the last several months and over the last couple of years in some instances so we think we have made some progress in resolving some of the issues you’ve raised, but we don’t think we’re there yet, so the commitment is to redouble our efforts and seeking to find better ways to do things. The striking thing for me about the feedback from you today, it was really how do we do this better. There was a lot about the process, there was a lot about information, and OTS improving lifting the delivery of information to you via people – there was a lot about how do we interact both within the Crown, between the iwi and OTS, and so we are going to go away, we are going to take those broad ideas and specifics you raised and we are looking to come back to you with some more concrete things that could be changed, that could be improved and worked on. One of the big things we’ve learnt in the last couple of years about doing things differently is being addressed in a local context that while national thinking helps a lot, it is important to undertake that local solutions are really the critical things here. So look forward to working with you in those existing relationships and how we do things better – how we get you the information you need, and how we can change and improve the way we are working with you. There were just a couple of specifics I will pick up on. Quite a lot of comment from some of the groups about mandating, about post-settlement government entities as well and there are some things we can do differently there. We acknowledge mandates for a challenge and we’ve learned a lot in the last twelve months about innovative mandating methods, some possibility creating interim mandates and for engaging alongside a mandate process. PSGEs we see as a real looming issue being identified for us about groups as they move into settlements, how they match up to existing structures, particularly where they’ve received fishery settlements, and getting a coherent structure across that. It is a big issue, we are very alive to it. There is advice going from us through

Fisheries and Cabinet at the moment, and we hope to be able to get some really good solutions in place for you to choose from on that issue. Absolutely hear the messages about funding, secondments, and more broadly capability and really interested in some of the ideas that came up here about the comments being widened, about the support for the mentor programme being a bit more with you over the next few months, and just generally how can we help people work through what is a tremendously complex and challenging process. I don't think I will try and sum up any more than that actually beyond just finishing up with how good it has been to have today – really interested in your feedback about the day – feel free to drop us an email, talk to the Negotiations Manager or the Chief Negotiator you are working with. We only want to hold this if it is of use to you, of benefit. I hope having the opportunity to see four senior ministers, the Deputy Prime Minister, Minister of Māori Affairs, Minister of the Environment and our Minister speak is of value to you – it is to us – and I hope that the ability to talk among yourselves in more of a set-piece formal environment has helpful too – if not, let us know, if you think it can be done differently for next year let us know, but we are committed to keeping up a process like this in some shape or form. Thank you very much for coming along and I really appreciate the contribution you've made today.

John Clarke

Kaati kei whea mai tenei. He nui nga korero ki a tatou mai i tetahi moka o te whenua ki tetahi moka. No reira me kii kare e pahu i te ao i te po. Hei korero whakamutunga ki a tatou. Tuatahi ka tukuna te rakau ki a Herewini Parata koia hei korero mo te motu. Koia tenei e kaha nei ki te whakahuihui i a tatou a te tau e tu mai nei i roto i Turanganui. Muri mai i a ia ma Jamie Tuuta koia hoki hei kanohi mo Taranaki whanui e kapi to tatou hui. No reira tena koutou, tena koutou e tau ana.

HUI ENDED