

## WHĀNAU CLAIMS

In an effort to assist those Whānau who had claims included in the Trust Settlement, herewith the process to be followed.

Please note this is not a requirement from the Trust Board or Office/Operations but enshrined in the Settlement and subsequently in our Constitution. The Trust Board will consider transferring the property to the whānau one they are satisfied that the following steps have been complied with. Should you have any questions or require assistance, please contact the Office.

### **Our Deed of Trust specifies the following:**

*Section 16, Para 16.5: "Before distributing or re-settling such assets or other benefits, the Trustees must be satisfied that the distribution or re-settlement on that whānau Trust or other entity will meet the general criteria and procedures (including approval and ratification by members of that whānau) of a similar nature to those required by the Crown before settling the settlement redress to the Trustees on behalf of Iwi for collective settlement of Treaty of Waitangi historical claims".*

Put differently the Trust Board will apply the same criteria when receiving a whānau claim as that which were applicable when the PSGE was assessed through the course of our negotiations with the Crown.

What are these criteria? They can be found in the 'Red Book' - *Ka tika ā muri, ka tika ā mua: Healing the past, building a future - A Guide to Treaty of Waitangi Claims and Negotiations with the Crown*. The relevant section of the book can be accessed here:

<http://nz01.terabyte.co.nz/ots/DocumentLibrary/RedBookTheNegotiationsProces.pdf>.

The most relevant pages are pages 69-77 - covering Ratification through to the '20 questions' around PSGEs which cover principles of transparency, accountability and representation.

Through the course of our negotiations, these are the criteria by which the PSGE was assessed. I repeat these twenty questions below:

### **Twenty Questions on governance**

#### **Information required in disclosure material for governance entities**

#### **General**

In the Twenty Questions:

- a **beneficiary** is a person who is entitled to benefits from a Deed of Settlement of historical claims between Maori claimants and the Crown
- **benefits** can take a range of forms, and it is up to the governance entity to make the decisions on how those benefits will be distributed. For example, scholarships, kaumatua flats, marae maintenance and health initiatives for members are various types of benefit. There could also be "intangible" benefits such as the increased vigour and strength of a claimant group because of an increase in the number of members who speak te reo and are integrated into their own tikanga
- the **governance entity** is the representative, accountable and transparent body that receives and manages the settlement on behalf of the claimant group. It will:

- represent the claimants in regard to the settlement
- make decisions on how to manage any redress received in the settlement package (cash, properties and other redress), and
- make decisions on how benefits (if any) are passed to the beneficiaries of the settlement

- a **member** is a beneficiary who is registered with the governance entity in relation to the Deed of Settlement, and
- a **representative** is a person who is elected to the governance entity.

### ***1. What is the proposed governance entity and its structure?***

- Briefly describe the governance entity, any bodies accountable to it (e.g. asset management and benefit distribution bodies), and the relationship between the governance entity and those bodies.

### ***2. How was the proposed governance entity developed?***

- What opportunities were there for beneficiaries of the settlement to provide input in the development of the proposals? and
- To what extent were matters of tikanga and kawa considered in the development of the governance entity?

### ***3. What is the relationship between the proposed new governance entity and existing entities (if any) that currently represent the claimant community?***

- What happens to the existing entities once the new entity is established?

## **Representation**

### ***4. How can beneficiaries of the settlement participate in the affairs of the governance entity?***

- Who are the beneficiaries of the settlement?
- Are all beneficiaries entitled to register as members?
- What are the benefits of registration?
- Are there any registration requirements?
- How will eligibility for registration be verified?
- Who makes decisions on registration and how are those decisions made? and
- Can those decisions be appealed, and if so, how?

### ***5. How do members have a say in who the representatives on the governance entity will be?***

- How many representatives will there be on the governance entity?
- Who can be a representative?
- Are they chosen on iwi, marae, hapū, whanau or other group basis?
- How will they be chosen?
- How do members know when an election is due? and

- How do members exercise their vote?

**6. How often and how will the representatives change?**

- What is the term of office for a representative? and
- Under what circumstances (if any) can a representative be removed?

**Accountability**

**7. What are the purposes, principles, activities, powers and duties of the governance entity and any bodies accountable to it?**

- What are the duties and obligations of the representatives?
- Do the governance entity and any bodies accountable to it have to act exclusively for the benefit of beneficiaries? and
- Who exercises control over any bodies accountable to the governance entity?

**8. Which decisions will members have a say in and how?**

- As well as having a say in who the representatives on the governance entity will be, will members have a say in any decisions made by the governance entity?
- What notice, quorum and other relevant provisions will there be relating to meetings of members?
- What voting rights do members have at hui called by the governance entity (such as the AGM)? and
- What majority will be required to pass a resolution at a meeting of members?

**How are decisions made by the governance entity?**

- How often do the representatives meet?
- What quorum and other relevant provisions will there be relating to meetings of the governance entity?
- How are these meetings publicised? and
- Can members attend those meetings and what rights do they have at those meetings?

**10. Who will manage the redress received in the settlement?**

- Will different bodies manage different aspects of the redress?
- Are the relationships between the representational, commercial and social functions of the governance entity clearly defined?, and
- Are there any limitations on management decisions on holding or using assets, for example, do any transactions require the consent of members?

**11. Who will determine what benefits are made available to beneficiaries?**

- Can the function of determining benefits be delegated by the governance entity?

**12. What are the criteria for determining how benefits are allocated and distributed?**

- Are these criteria set in the constitution of the governance entity or are the decisions left to the representatives?

**13. How will the people managing assets and determining benefits be accountable to beneficiaries?**

- Will there be regular hui or other reporting processes for the representatives to report to beneficiaries?
- What reports will beneficiaries receive?
- How will roles and responsibilities be separated to clearly define the limits of power that each office holder has?
- Are there any limitations on liability of the representatives?
- Can the representatives be directors or employees of any bodies accountable to the governance entity? and
- What would happen if a representative had a conflict of interest in a decision or transaction of the governance entity?

**14. What are the rules under which the governance entity and any bodies accountable to it operate?**

- How do members get access to the rules (trust deeds or constitutions) of the governance entity and any asset management and benefit distribution bodies?, and
- What legislation is particularly relevant to the rules (e.g. Companies Act 1993, Trustee Act 1956, Perpetuities Act 1964, Te Ture Whenua Māori Act 1993)?

**15. Are there any interim governance arrangements in the period between the establishment of the governance entity and the date that the settlement assets are transferred? If so, what are they?**

- Who will represent beneficiaries of the settlement during the interim period?
- What can they do? and
- Will there be interim elections?

**16. How will the structure and the rules of the governance entity and any bodies accountable to it be changed?**

- How can the structure and the rules of the governance entity be changed?
- Are there any rules that cannot be changed?  
and
- How can the relationships with any bodies accountable to the governance entity be changed?

**17. What are the planning/monitoring/review processes for decisions of the governance entity?**

**18. What if members do not agree with a decision made by the governance entity?**

- Can members call a special meeting of the governance entity?, and
- Are there dispute resolution procedures for particular issues?

**Transparency**

**19. How often will accounts be prepared and audited?**

- Who prepares the accounts?
- How is the auditor chosen?
- Can a representative be the auditor?, and
- Will members have access to copies of accounts?

**20. Will beneficiaries receive information about decisions that affect them? How? How often?**

- Can they get a copy of the rules of the governance entity (see question 14)?
- Will they get Annual Reports and other regular reports?
- Can they get minutes and resolutions of meetings of the representatives? and
- Where do they get further information?

What is the process going forward? Upon receipt of information fulfilling the above requirements as contained in the twenty questions, I will submit your claim to the Trust Board for consideration.