

Negotiations Report for the AGM September 2009

E rau rangatira ma, e aku kaumatua, e te iwi whanui o Ngati Koata, tena koutou katoa. The negotiators, Allen and I, the Board, and our Kaumatua are pleased to present a negotiations update as of August 2009 for our people. We are grateful for the support that we have received in this important take as we work on behalf of the iwi.

The negotiations process across all of the various strands has not been an easy task. There are challenges from within our iwi over what each person thinks is appropriate and often times there are differences of opinion on what constitutes the 'Koata history'. Then we have different people having different views on how we should be redressed and all of those views can't be accommodated. Next we have issues between iwi and what each person has been brought up to believe. It's not enough to say "just stick to what our old people said" because the other iwi negotiators have the same instructions and often those histories don't agree. And on top of that we have the Crown who tries to make this process honourable, yet holds all the cards, can make unilateral decisions, provides redress that is a small fraction of what was lost and then wonders why we aren't happy. So, all in all a complex and challenging journey which we hope is drawing near to an end.

Aquaculture

Last year at the SGM we were able to report on the Aquaculture (Pre-commencement waterspace) negotiations. That Deed of Settlement was signed in Wellington (Te Papa) by our kaumatua and board members. The legislation has had its first reading and it have been through the Select Committee stage and is now to go back to Parliament for the second and third readings. Once the Bill passes that 3rd reading it passes into law and the allocation of cash will be made subject to the outcome of the Ngati Toa Mandated Iwi Organisation process. For your information, none of the 9 South Island iwi or the Hauraki iwi can receive their settlement until Ngati Toa has been granted MIO status. For those whanau from Koata who whakapapa to Toa as well, we encourage you to vote for this action at the upcoming Ngati Toa elections. In the meantime the settlement cash will sit at Te Ohu Kaimoana until MIO status is achieved for Toa, and then it can be allocated. For Ngati Koata the settlement is \$8.4m (less the \$200,000 advance already received).

For Ngati Koata we need you to support the resolution included in your AGM papers to ratify the earlier signing of the Aquaculture Deed of Settlement by our Kaumatua and Board. This is an administrative matter which will be tidied up by a small change in the current trust deed to exempt settlements from the Major Transaction clause.

Wai262 – Fauna and Flora

There is nothing happening on the Wai262 claim. We are still waiting for the Judge (Joe Williams) to finish writing the report. The claimants and lawyers are meeting next month to strategise how we can keep this claim progressing.

Coastline

The Coastline Negotiations have stalled. Five iwi are happy to sign an agreement that would share equal 1/8th of the \$12.4m that this settlement is about; but 3 iwi want to argue entitlements based on coastline. It seems it will be harder to settle these negotiations than the \$97m Aquaculture one.

The big question is do we base entitlements on customary boundaries as at [say] 1840 (if in fact you can agree what those boundaries are which is near impossible to do); or do you draw a line in the sand, acknowledge the customary associations, but recognise there are 8 iwi in Te Tau Ihu today and move forward into the future with equal rights. Ngati Koata has continually taken the second stance, but other iwi are pushing for the first.

Main Claim (Wai566 and Whanau Claims)

Our iwi has continued to confirm the following mandates, which will again be put at this AGM:

- That the Board be the Claims Committee
- That Tainui Taranaki be mandated to negotiate a settlement on Ngati Koata behalf, and
- That Allen and Roma are the representatives on Tainui Taranaki

For the information of our iwi there are also some internal processes and people that are assisting the negotiations that should also be recognised and thanked.

- Allen continues to play an important role in his mahi on whakapapa and registrations as well as being the link to the Kaumatua Council. On top of that Allen is the sounding board, mentor and safety net within the negotiations team
- The negotiators report most Tuesday nights to the Board and Kaumatua via a teleconference. From this group direction, support and guidance is given to the negotiators. The negotiations process has become a lot stronger since their regular involvement
- George Elkington has been called upon to assist the negotiations on the Coastline Negotiations and as the Koata representative on a Tainui Taranaki working party looking at Coastal and Marine Statutory Acknowledgements. George also fills in where either Allen or I are unable to attend meetings.
- The negotiators now report monthly to the Board and this reporting is helping to strengthen the Ngati Koata position
- The legal team is headed by Loretta Lovell of Te Nahu Lovell & Co Ltd. Loretta was recommended by Rahui Katene and also Paul Majurey (a partner in Russell McVeagh). She left Russell McVeagh 18 months ago after working there for 8 years (including several with Martin Dawson) to form her own firm. Working with Loretta are several lawyers, each taking a part of our extensive claims and providing a wide and strong coverage. Nadine Warbrick is assigned directly to all the Koata claims and is the liaison with the firm. Hemi Te Nahu, the other partner in the firm is responsible for our Wai 262 claim.

Working together within the Large Nature Group (Tainui Taranaki) has provided some advantages, but also some disadvantages. Overall, being forced into LNG's has created issues for iwi relationships, and has also caused delays in the settlement timetable. We will give the Crown feedback regarding this. Having said that, the District settlement process (this is the first time it has been tried in New Zealand) has been very helpful and in fact we have been offered far more redress than we would have under the old policy.

In February this year Tainui Taranaki on behalf of the iwi claimants signed a Letter of Agreement between the Crown and the claimants. A summary of this offer is found at <http://nz01.terabyte.co.nz/ots/LiveArticle.asp?ArtID=-170484814>. At the base of that page are downloads of the actual Letter. This is the offer to all 4 iwi in Tainui Taranaki. If you would like to know what exactly has been offered to Ngati Koata please contact us and we will be able to send a separate unofficial list (unofficial because until we confirm our Deed of Settlement nothing is settled).

Under the Commercial heading Ngati Koata will be receiving ¼ of what is listed in the Agreement (cash, commercial properties, accumulated rentals, interest and NZ Units under the Trading Emission Scheme). This will total approx \$24m in cash and land. Land will include Crown commercial properties (i.e. schools, Police Stations) and Crown Forestry Land which is planted in forestry. This commercial redress is finalised and there are little negotiations left available except with respect to lease and transfer values. The Trust has already received a \$500,000 advance on the settlement and a further \$516,000 reimbursement of claims expenses. These amounts will be deducted from the total on settlement day.

Under the Cultural heading we are still negotiating an acceptable package. This means going back to the Crown and advising what we will accept, what we want to decline and what further redress we need in order to satisfy the Ngati Koata iwi. This is the hardest phase leading up to the Deed of Settlement, but we are confident we will be able to report back on a more appropriate package than what is listed in the Agreement in Principle.

Under the Whanau Claim heading the Crown has tried something new in this regional settlement and that is to hear and attempt to redress whanau claims. In the past whanau and hapu claims have been deemed to be settled when the iwi settles with the Crown. In this settlement they have listened to the whanau and in some cases made offers. Under the Ngati Koata korowai there were 6 whanau claims, 4 of which were made offers, 3 of which have agreed to those offers. These specific redress will be part of the Ngati Koata Deed of Settlement and after settlement date will be transferred to the respective whanau as soon as practicable.

The planning at this stage for the Deed of Settlement is February 2010 and passing of legislation later that year. Once the legislation is passed late 2010 this settlement will be transferred to the new Post Settlement Governance Entity that Ngati Koata has to set up. You have been introduced to this new entity – Te Pataka o Ngati Koata Trust – just remember that this new entity is a requirement of the Crown otherwise we will not be able to receive our settlement.

Just a note, even though Tainui Taranaki has the mandate to negotiate a settlement, it cannot accept a settlement (i.e. ratify it) nor can it receive the settlement. Tainui Taranaki negotiators will negotiate the best package they can and then the individual iwi will ratify their own Deed's and will receive their own settlement. Tainui Taranaki will cease to exist as soon as practicable after the Deed's of Settlement are ratified.

Part of the process Koata still has left to do is to consult with our iwi on our own Deed of Settlement and on the recommended Post Settlement Governance Entity. Once the consultation process has been completed, the ratification process will begin which will involve getting as many of our iwi people to engage and vote as possible. The board will notify the iwi when this process is likely to begin, once the negotiators (i.e. Tainui Taranaki) have provided more information.

Thank you again for your mandate and support to your kaumatua, board, negotiators and legal team.

Roma Hippolite
Chief Negotiator