network WAITANGI NEWS SHEET

CONTENTS. **JULY 1995**

ACTION ALERT RE NON MAORI SUBMISSIONS -TREATY SETTLEMENT BILL

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Greetings,

It is imperative that as many individual and group submissions be made against the *Crown Proposals for the Settlement of Treaty of Waitangi Claims,* as possible.

Contents and numbers of non-Maori submissions are carrying much weight with politicians.

We have prepared this action alert to assist in the collation of submissions for groups and individuals with the reminder that the deadline is **August 31st.**

If we do not submit against this Crown proposal, then they assume and state they have our support and that they are making decisions on our (Pakeha,Tau-iwi) behalf.

To counteract these claims we ask that you send us either a copy of your submission or a short note describing its contents and the name and ethnicity of the group or individual submitting.

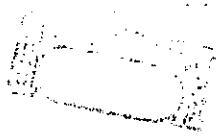
We will then network this information to your regions.

Please copy and send this on through your networks,

Warm Regards,

Karena,Jane,Joan.

NB. Info on Honourable Kawanatanga and other issues/ info you send us will be included in next newsheet.



NETWORK Waitangi

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ACTION ALERT

Network Waitangi strongly urges non-Maori organisations/individuals to write submissions on the ***Crown Proposals For the Settlement of Treaty of Waitangi Claims.*** The deadline for submissions is 31 August 1995.

Despite the widespread rejection of the ***Proposals*** by Maori at the Crown's consultation hui, the Government is moving towards their passage into legislation. Already Doug Graham is seeking parliamentary approval for $525 million to be set aside for settling claims over the next five years. The NZ Herald reported on 2/6/95 that "further appropriations will be needed to take it up to $1 billion or beyond ", a clear indication that the ***Crown Proposals*** are being consolidated.

Graham has justified these actions, even before the closure and analysis of submissions, as necessary, in the abscence of any alternative proposals, to keep the claim settlement process progressing.

A broad-based expression of non-Maori opposition to the ***Proposals*** is vital to try to restrain government determination to press ahead. Equally we must counter the submissions being forwarded by groups such as the One New Zealand Foundation and environmental lobbyists opposed to the return of conservation estate lands toMaori ownership.

By indicating support for the following recommendations from the Hirangi Hui held 29/1/95, we can remind the Government that Maori have clearly stated their "alternatives", that these embrace issues of constitutional reform and not mere tinkering with ***Proposals*** the Government has been secretly concocting over the past 2 years.

Hirangi recommendations

* To maintain good faith and honour there must be a clear indication that the Government is ready to change its plans for settlement of Treaty claims and even start afresh if that is what the people consulted wish.

* Time and resources should be allocated to enable the development of an alternate Maori proposal - the same time and the same level of resources which were available to the Crown.

* Priority and commitment should be given to a constitutional review jointly undertaken by Maori and the Crown for the purpose of developing a New Zealand constitution based on Te Tiriti O Waitangi and, among other things, fully recognising the position of Maori as Tangata Whenua.

* At least until a more comprehensive system is in place, the Waitangi Tribunal, the Courts and direct negotiation should remain in place as avenues for deciding on Treaty of Waitangi claims.

Other suggested points for inclusion in submissions

Te Tiriti O Waitangi

1.1 Reject the assumption that Hapu/Iwi ceded sovereignty to the Crown in Article I of Te Tiriti O Waitangi , a belief reiterated by Doug Graham in a recent speech to Waikanae Rotary (3/5/95) then reinforced with arguments of right of conquest and subsequent extinguishment of indigenous sovereignty.

> "The simple fact is that the British Crown's assumption of sovereignty assisted certainly in part by the Treaty, unquestionably succeeeded and it has as a matter of international law lasted. In other words what is, is. A revolution in New Zealand has occured and as Professor Brookfield in his valedictory lecture says: 'Revolution rests upon what is done, not what is legal or necessarily moral or just.' It is then a question of fact."

1.2 Question the Government's refusal to recognise the Article II right of Tino Rangatiratanga guaranteeing Crown protection for the continued jurisdiction of Maori political authorities over their peoples, natural resources etc. Ask whether "British revolutionary takeover" can continue to justify Government usurpation of the control and ownership of Maori whenua, kainga and taonga katoa.

1.3 Support the resolution from the Hirangi Hui reprinted below:

(1) The following be reaffirmed as the basis for Tino Rangatiratanga

(a) Te Tiriti O Waitangi is the constitution of New Zealand
(b) From 1840 the right of the Crown to exercise kawanatanga depended on not breaching tino rangatiratanga reserved perpetually to Maori
(c) The right of the government to exercise kawanatanga is lost if tino rangatiratanga is not provided for
(d) Any change to tino rangatiratanga or kawanatanga as provided for by the Treaty requires the prior consent of all iwi

1.4 Ask why the ***Proposals*** only focus on Article III rights and the trite assumption that "The Treaty made us all New Zealanders."(Summary pg 5) Challenge the Crown's avoidance of any confirmation of the status of Maori as Tangata Whenua with the inalienable rights to self-determination that this confers. Refer to the UN Draft Declaration on the Rights of Indigenous Peoples.

Honorable Kawanatanga

2.1 Call for the honorable exercise of kawanatanga which would require the Crown to cease developing proposals unilaterally and controlling the parametres of discussion and the terms of negotiation. This perpetuates the attitude and practice of Crown paternalism and is in breach of the Treaty. The implication that you accept the conditions of negotiation or miss out on redress makes a mockery of Crown pretensions to acting in good faith, let alone any notion of a relationship of equals.

i) ***Proposals Summary*** pgs 15 & 16 provides examples of unacceptable conditions which are placed on the negotiating process.

* The Crown's definition of the nature and extent of claims determines the redress offered. (Independent assessment of Treaty breachs is imperative)

* Settlement must cover all known claims & be accepted as final (Rather a settlement reached should be seen as a step in what is achievable today within an agreed process of constitutional reform, thereby creating commitment to the negotiating terms & outcome. Even D. Lange recently acknowledged, " We fool no one but ourselves if we think that justice is cut and dried, frozen in time and immutable.")

* All memorials on titles in tribal territory must be lifted (This condition prevents the Waitangi Tribunal from making binding recommendations on the return of land transferred to an SOE. A similar condition was applied in the Tainui Trusts Board's negotiations with the Crown over raupatu, in which the government demanded the lifting of a court order which halted the sale of Coalcorp.)

Law Professor Jane Kelsey, has succinctly summarised the ***Proposals*** unacceptable terms of negotiation :" The government

* sets the procedure to be followed

* sets the total pool of money it is prepared to spend
* decides whether iwi have proven their grievances
* selects which grievances have high enough priority to be dealt with
* sets the price they are prepared to pay for those grievances they are willing to addres
*decides whether a negotiator has a proper mandate to represent a iwi or hapu
* decides whether the plan for distributing the outcome is acceptable
* can abolish the"bank" of Crown-held land earmarked for possible return,at any time

Before Iwi know what claims the government will accept and how much it will pay, they must:

* prove, at their own expense, a Treaty breach to the government's satisfaction, with a level of proof equivalent to that accepted by the Waitangi Tribunal
* agree that the settlement will cover all their claims, even if the government's offer eventually covers only a smallpart, and accept the value government places on them
*give up all other avenues for seeking redress
*prove negotiators have a mandate through a signed "deed of mandate"- similar to the "authorised voices" in the Runanga Iwi Act that national repealed because it was considered divisive and unworkable "

2.2 As non-Maori , refuse outright the ***Proposals*** constant references to the *interests of the current generation of New Zealanders (*eg. Summary pg 6. *take into account responsibilities to all New Zealanders, act in the best interests of all New Zealanders, the right of the Crown to control the use of natural resources in the interests of all New Zealanders)* as a way of justifying:

* the imposition of the $1 billion fiscal cap
* the limitations placed on redress - removal of conservation estate & natural resource ownership
* the insistence that settlements be full & final.

Argue that as representatives of Kawantanga, we expect politicians to provide claimants with justice, not fuel the idea that resolution of claims necessarily produces an agressive, reactionary response from Pakeha and conditions must therefore be imposed to avoid this.

2.3 Demand the abandonment of the concept of a fiscal cap, an overall limit on the amount of money to redress claims.

* the $1billion cap is patently unjust and insulting.

* an independent assessment of the value of Treaty claims should be conducted

* stress Maori have indicated no interest in causing economic collapse, but called on the Crown to jointly determine a process for settlement that is fair and achievable. Recall that it is always Maori who suffer the negative impacts of economic recession or restructuring.

Land & Resources

3.1 Call for the immediate impositionof a moratorium on all sales of lands & natural resources in Crown ownership, which includes SOEs and local authorities.(Ref: Appendix 1)

3.2 Reject Government assertions of legal ownership of natural resources & the Conservation estate.

* Ownership of lands, water, river & lake beds, foreshore and seabed, sand and shingle, minerals, geothermal energy etc was confirmed in Article II & to ignore this is to extinguish Treaty rights, so why call them ***Proposals for the Settlement of Treaty of Waitangi Claims.*** Cite examples of indigenous ownership and control of natural resources on tribal lands in other countries, eg. Oil & gas wells on Canadian Indian territories which provide a substantial economic base

* The return of ownership to iwi does not preclude standard commercial lease arrangments, extraction/use rights etc. However state that there must be compensation paid for the loss to iwi of benefits resulting from the Crown's monopoly on economic exploitation of the resource.

* Counter environmentalists' arguments that Maori ownership of lands currently administered by DOC will restrict public access or undermine conservation programmes
Remind government of Maori concern for environmental protection, witnessed in the number of Tribunal claims & court actions over issues of pollution (eg. Kaituna, Manukau, Motunui) and the fundamental principles of Kaitiakitanga which underpin Maori relationships with the natural world.
A return to Maori ownership doesn't automatically rule out possibilities of joint DOC/Hapu or Iwi management, nor signal access restriction . However it will prevent the Crown or private entrpreneurs from creaming the profits of eco-tourism.

3.2 Challenge the ***Proposals*** **Protection Mechanism for Surplus Crown Land** (Ref: Appendix 2)

* The Crown is deciding on the validity of claimants grievances and as the figures show rejecting practically all applications with no right of appeal.

* Ask why the government is not prepared to "dismantle the current protection mechanism" when Maori have voiced their concerns about its operation.

* Emphasise again the need to freeze the sales of all Crown lands & assets.

STOP THE CONVERSION OF THE *PROPOSALS* INTO LEGISLATION

SEND YOUR SUBMISSIONS TO :

Office of Treaty Settlements
Department of Justice
Private Bag 180
Wellington

Appendix 6

NZ Herald 10.6.95

Court 'war' for claims

A Ngai-tahu leader, Sir Tipene O'Regan, has accused the Government of being vindictive in shelving settlement of the tribe's South Island claims while continuing to negotiate with northern iwis.

The tribe was preparing to do war in the courts, having filed 12 separate suits against the Crown aimed at protecting tribal interests and preventing further loss of vital assets.

They include legal proceedings to stop the sale of Land Corporation and Coal Corporation properties and to prevent further mineral permits being issued for pounamu (greenstone).

"We are now settling down to what is essentially trench warfare," Sir Tipene said, "and we don't go to war unless we feel sure we will live through the battle.

"They are clearly out to sideline Ngai-tahu and the South Island," he said.

As well as having its land claim stonewalled by the Crown, the tribe faced the prospect of losing its claim to a monopoly over Maori fish quota off the South Island, and Sir Tipene said that would cost the southern economy dearly.

Sir Tipene said he was frustrated Ngai-tahu had come so close to settling its land claim only to have the Government "pull the plug" last August so it could do a hard-sell on the proposed national fiscal envelope for settling claims.

Relations deteriorated when the Government started selling South Island properties which Ngai-tahu had earmarked as being desirable for settlement.

"What we have had since is a fair measure of state vindictiveness," Sir Tipene said.

The Government had shown favour to northern iwis by putting aside generous amounts of land for treaty settlements, whereas Ngai-tahu had to fight to stop South Island land from being sold during the negotiating process.

—NZPA

Plea over envelope

The third and final Waitangi Tribunal report into Ngaitahu treaty claims, released today, recommends the Government rethink its controversial fiscal envelope for Treaty of Waitangi claim settlements.

The report, on Ngaitahu ancillary claims, confirms earlier findings that the Crown breached the Treaty of Waitangi between 1844 and 1864 by failing to set aside sufficient lands to provide for the southern tribe's present and future needs out of the 34.5 million acres originally held by Ngaitahu.

The 35,737 acres left with Ngaitahu were subsequently eroded by acquisitions for public works and other statutory means, with Ngaitahu left with one-thousandth of their previous domain, the tribunal's report says.

Following on from the 1991 main land claim report and the subsequent Ngaitahu sea fisheries report, the latest document upholds 41 of 100 claims relating to issues including compulsory land acquisitions and the lack of protection for Maori land under legislation.

"The South Island Landless Natives Act of 1906 set up to remedy the situation was a cruel hoax which did little to relieve the grim reality of Ngaitahu's landlessness," the presiding officer, Judge Ashley McHugh, said in releasing the report.

Among the recommendations made by the tribunal was that four pieces of land in the South Island taken for public works be returned to the descendants of their original Ngaitahu owners.

The areas include Taiaroa Head in Dunedin, which is the site of the city's albatross colony and a leading tourist attraction, another area on the Otago Peninsula and land in Southland.

The tribunal said there was adequate provision to enable the return of crown land to Maori ownership, while also giving complete protection of national interests.

Ngaitahu has rejected the fiscal envelope proposal and is pursuing legal action against the Crown for a multimillion dollar forestry compensation package.

—NZPA

NZ Herald 15.7.95

Easier land deals for foreigners opposed

Farmers, Ngaitahu leaders and local authorities oppose planned law changes which would make it easier for foreigners to buy New Zealand land.

MPs at a parliamentary select committee in Wellington were told the law changes would lead to the sell-off of New Zealand's heritage to foreigners, while calls were made for a halt to such sales until Treaty of Waitangi claims had been settled.

The Overseas Investment Amendment Bill revamps laws controlling foreign investment in rural land and on reserves, lakes and offshore islands.

The Land Settlement Promotion and Land Acquisition Act 1952 would be repealed while the control of overseas investment would be governed by regulations rather than written into the new law.

The bill proposes that applications for buying land be weighed against three criteria — national interest, economic benefit and concordance with Government policy. Approvals would have to be sought in fewer circumstances.

The president of Federated Farmers, Mr Graham Robertson, called for the tightening of the proposed criteria by which an overseas investor could get approval to buy land.

He said the federation had no objection to foreign investment from genuine, bona fide farmers.

But he said there was a deep concern among farmers that the nature of the farming industry could change with an onslaught of foreign investment.

Many of those seeking to invest here came from a subsidised, protected agricultural base, he said.

Mr Robertson said he failed to understand what greater good foreign ownership contributed to the New Zealand economy.

There should be a clear and explicit process by which overseas investment was approved, and that should be controlled in law and not through regulations, he said.

"The problem with the legislation is that it merely requires the Minister of Lands to consider the national interest when giving the go-ahead for a purchase," he said in a later statement.

"The bill does not say what the national interest is nor how it should be assessed.

"Relying on the whim of a minister is not good enough. Federated Farmers wants criteria written into the law."

Giving evidence in support of the Hurunui District Council, the Ngai Tahu Trust Board chairman, Sir Tipene O'Regan, said the Crown should not continue to dispose of assets through agencies such as Landcorp until Treaty of Waitangi claims had been settled.

He said Ngaitahu was not opposed to overseas investment here, but the pressure to dispose of crown land increased when foreign buyers were in the market.

An Auckland City councillor, Juliet Yates, told MPs that the council was "deeply concerned" at changes included in the Overseas Investment Amendment Bill which could impact on the environment and cultural heritage of islands in the Auckland region.

Under the bill overseas investors need only seek approval for purchases on reserves, foreshores, lakes and specified large inhabited offshore islands for areas exceeding 0.4ha.

I answer your queries in the order that you put them.

1 The Officials Committee is an interdepartmental committee which assesses applications and makes recommendations to the Cabinet Committee on Treaty of Waitangi Issues. It comprises representatives from the Department of Prime Minister and Cabinet (Chair), Office of Treaty Settlements (secretariat), Te Puni Kokiri, Treasury, Crown Company Monitoring Advisory Unit, and Department of Survey and Land Information (DOSLI).

2 The Committee as a whole is accountable to the Cabinet Committee. The individual members are accountable for the quality of their advice through their Chief Executive to their respective Ministers.

3 Departments nominate their own representatives. The Committee seeks outside expertise as required (eg kaumatua, historians).

4 As at 21 April 1995, 3911 applications have been received, relating to 820 properties. So far there are five Category A properties in the process of being protected, and Cabinet is to consider the protection of additional properties shortly.

No category B applications have been successful. However, 31 properties have been assessed as meeting category C criteria and these will shortly be offered to the relevant land banks for protection. Two such land banks have been approved since the start of the protection mechanism - and in future surplus properties falling within these areas will be automatically offered for land banking after clearance of any category A applications.

Note that the current Cabinet criteria requires that a land bank be established before a property can be protected under B or C criteria. Cabinet has agreed to consider the establishment of a land bank:

i where a claim is in hearing or under negotiation or mediation; or,

ii where it is a raupatu claim; or,

iii on a case by case basis, in those claim areas where a prima facie case has been established: ie where interim findings indicate so, where an agreement in principle has been achieved, or where the Crown has made concessions on substantive issues during hearing or negotiation.

In addition, the Crown must be assured that the correct claimants and the correct representatives of the claimants have been identified.

In practice, this means that negotiations must be reasonably well-advanced for properties to be protected under categories B and C.

5 Although the Government did not conduct detailed consultations with iwi on the proposals when they were first mooted, it did hold a series of meetings with the National Maori Congress on them. There was also consultation with Maori on the precursors to the protection mechanism eg the Crown Congress Joint Working Party system and the land banking system established for Ngai Tahu.

6,7 The protection mechanism was included in the discussion booklets *Crown Proposals for the Settlement of Treaty of Waitangi Claims* by way of background, not as matter for consultation. The Government does not intend to dismantle the current mechanism. However, it has recently decided to undertake a review of all protection mechanisms (including land banks). This is partly in response to concerns voiced by Maori on the operation of the current mechanism.

8 Pending this review, the Government has no proposals to establish land banks other than on the grounds outlined in (4) above, and with the conditions set out in *Crown Proposals for the Settlement of Treaty of Waitangi Claims*.

9 We will carefully consider all submissions on the Crown's proposals for the use of the conservation estate in settlements. Note that the deadline for submissions to the Office of Treaty Settlements (Private Box 180, Wellington) is now 31 August 1995.

Yours sincerely

Douglas Graham
Minister in Charge of Treaty of Waitangi Negotiations

Department of Justice
Private Box 180
WELLINGTON

Submission on the Crown Proposal for the Settlement of Treaty of Waitangi Claims:Summary

From Joan Macdonald
Network Waitangi.

Network Waitangi is an organisation which provides education on Te Tiriti O Waitangi,in historical context and its relevance today; and the implications of the Treaty for all people in Aotearoa.
We have groups in a number of centres around the country and although our work is aimed mainly at non-Maori we also have Maori members who provide information for Maori.

This submission prepared on 5 July 1995

We are against these proposals because this in an inappropriate way to deal with the issue of claims and sovereignty under Te Tiriti O Waitangi.

We support the resolutions and recommendations of the Hirangi Hui which was called by Sir Hepi Te Heu Heu and held on 29 January 1995.
Some of these recommendations are:-

* At least until a more comprehensive system is in place the Waitangi Tribunal,the Courts,and direct negotiation should remain in place as avenues for deciding Treaty of Waitangi Claims.

*During and following the consultation process,the level of support for or against the Proposal should be jointly determined by the Government and Maori.

*To maintain good faith and honour there must be a clear indication that the Government is ready to change its plans for the settlement of Treaty claims and even start afresh if that is what the people consulted wish.

* Time and resources should be allocated to enable the development of an alternative Maori Proposal- the same time and the same level of resources which were available to the Crown

* In view of the profound constitution implications for Maori and the nation,there should be international involvement in the consultation and submission analysis process of the Governments Proposal

* the Government should make explicit its methodology for deciding that a fair and affordable fiscal envelope should not exceed 1 billion.

* The estimated value of Treaty claims should be determined by an independent agency jointly appointed by Maori and the Crown

* priority and commitment should be given to a constitutional review jointly undertaken by Maori and the Crown for the purpose of developing a New Zealand Constitution based on the Treaty of Waitangi and,among other things,fully recognising the position of Maori as tangata whenua.

General Objections to Crown Proposals

In general we object to these proposals because the Government has formulated the proposals and set the procedures to be followed without appropriate consultation with tangata whenua.

The government is refusing to recognise the Article II Treaty right of Tino Rangatiratanga which guarantees Crown protectionfor the continued jurisdiction of Maori political authority over their peoples,natural resources etc.

With regard to: 2 Claims and Their Representation Summary Pg 12

The government is setting all the rules and defining who the claimants should be which goes completely against Article II i.e the Government decides whether a negotiator has a proper mandate to represent an iwi or hapu;.
selects which grievances have a high enough priority to be dealt with;.
decides whether the plan for distributing the outcome is acceptable.

3 The Negotiating Process Page 15 & 16

We do not agree that it is an honorable exercise of kawanatanga for the Crown to develop proposals for negotiating, unilaterally,and to control the parameters of discussion and the terms of negotiation.

5 Redress Page 19 & 20

We reject the Governments assertions of legal ownership of the Conservation estate and natural resources.To assert this is to ignore Article II rights guaranteed in the Treaty,so that instead of settling Treaty claims the Government is extinguishing them.

As far as natural resources are concerned there are examples of indigenous ownership in other countries such as oil and gas wells on Canadian Indian Territories which provide a substantial economic base.
The excuse used here is that Maori were not aware of these resources in 1840 when the Treaty was signed but they were certainly well aware for example of geothermal energy and were using it extensively.

Also,the return to iwi does not preclude standard commercial lease arrangements,extraction/use rights etc.,but there needs to be compensation paid for the loss to iwi of benefits resulting from the Crown's monopoly on economic exploitation of the resource.

With regard to conservation lands,there is no reason to imply

that if Maori have management that access will be restricted. Joint DOC/Hapu or iwi management would enable Maori to exercise their proper role of Kaitiakitanga which would still preserve the conservation of the environment and allow access.

The Role of the Settlement Envelope Page 24 & 25

We are very concerned about the fact that in this document the Government seems to be bending over backwards to be fair to all New Zealanders with constant references about this in the documents.In doing so it is being very unfair to the Maori Treaty partners.
There is absolutely no reason why all the claims should be settled in this generation and Maori are not asking for this.They do not want the redress of their grievances to create grievances for others.
If the claims where properly and fairly heard, with the time and resources to allow for this there would be no reason to have the imposition of a fiscal cap.
The idea of settling claims in this way is totally inappropriate and insulting.

We would also like to express our concern that as the non Maori partners to the Treaty and therefore part of Kawanatanga along with the Crown the majority of New Zealanders were also not consulted about this Proposal for the Settlement of Treaty of Waitangi Claims.
We do not think these proposals are an honorable exercise of kawanatanga.

It is our earnest hope that the government or whoever receives and collates these submission will also acknowledge those non Maori who are opposed to these Proposals.

There has already been a clear rejection by Maori.

Fiscal Envelope Draft Submission

21.6.95.

Dear Network Women,

Please find enclosed a draft submission on the Fiscal Envelope, which you requested we produce on behalf of the Women's Network Meeting dated 28/4/95.

We do have a couple of queries:

- Do groups want to be individually named as well as political parties and other organizations?

- Do we feel okay about other groups using this document as the basis of their submissions?

If you wish to add, subtract or comment in any way on this draft, please telephone or fax the numbers supplied below or bring your comments to the next network meeting which is to be held on July 27.

Ann Batten: Tel. 443 3148 Fax. 443 2360
Chris Jenkin: Tel. 634 1548

Thank you for the opportunity to work on this submission.

Ann Batten, Chris Jenkin, Michele Garret.

DRAFT SUBMISSION - FISCAL ENVELOPE

Introduction

The following submission is from a group of women representing various established organisations, religious and interest groups across Auckland.

Whilst recognising the Crown is making a step towards resolving long standing Treaty grievances and claims, and acknowledging past injustices, the fiscal Envelope document is flawed. This is because the methodology was not a consultative process, in authentic partnership with Maori.

Therefore our overall objection to the fiscal envelope is based on the unseemly consultation process used. Furthermore, the concept of the fiscal envelope proposal being a final settlement is impaired. It does not allow for further evidence of additional grievances to be taken into account.

Although the Hon. Mr. Graham has intimated that there will be more money available, there appears to be ambiguity in his statements about capping. The amount proposed therefore appears to be unrealistic in settling not only the claims that are being currently processed, but future settlements as well.

1.1 Historical vs Contemporary Claims

We reject the non-open endedness of the Fiscal Envelope regarding historical claims because there is no mention of missions before 1992. E.G. back rent or the loss of an economic base. This also leaves no room for new evidence to be presented at a future date.

1.2 Costs to be included in Envelope

The amount suggested is insufficient because of insufficient funds to settle claims following, for example, the Sealord and Tainui claim settlement.

1.3 Costs which may be excluded

If the Fiscal Envelope was to be accepted, then Maori costs as well as Government costs should be excluded.

Section 2 - Conservation

The Fiscal Envelope ignores Article 2 of the Treaty which guarantees chieftanship of the land and everything held previously, whilst giving the Crown final say in these matters.

Section 3

We reject the terms of reference as they have not been done as a partnership under the terms of the Treaty. The Crown is still operating under sole management principles.

Section 4

Whilst we commend addressing and redressing the inappropriate use of gifted land, we are against claims for this coming out of the Fiscal Envelope. We would like to see a moratorium on the sale of "excess" Crown lands until claims are settled, as well as the appropriate return of gifted land.

4.3

We question the Crown's right to set criterion for establishing a well founded claim.

4.4

We do not accept the proposal in this section as we reject the Fiscal Envelope. We consider that the Crown should make settlement on a claim to claim basis.

Section 5

It is inappropriate for the Crown to be laying down the agenda in what should be a partnership for the negotiation and acceptance process of a claim, and taking away the right of avenues of redress. We consider this to be a blocking mechanism. There is no recognition that Maori have any say or that they can be trusted to form their own mandates and processes. Maori and Government should be working together to choose the process of negotiations.

Section 6

While it may well be an advantage to both parties that procedure is properly mandated, the new initiatives as outlined in 6.3 may not be appropriate or even desirable for Maori to follow. It is inappropriate for the Crown to dictate to Maori their processes of negotiation.

Section 7

7.1

While we can see the need for these issues to be addressed, the question is why does the Crown need to decide who and what is properly defined in the grievance process, once Maori have made these decisions.

7.2. 4

We are wary about applying terms like "principles" of the Treaty rather than the Articles of the Treaty itself.

7.3

We welcome and affirm the sentiments expressed in this section, that the claimant groups can be relied on to look after its own interests.

7.6

The Crown will develop its own ratification procedures. We therefore consider that Maori have the same rights. Both parties are then able to fully state these, before negotiations start. Following this, the agreement reached by the Crown and the claimants, would then be required to be accepted by Parliament.

Section 8

This proposal does not appear to fit with our justice system in which when new evidence becomes available an appeal may be lodged. This section negates this principle. There must be provision made for further negotiations if new evidence is forthcoming.

Conclusion

In closing, we suggest that a moratorium on the sale of "excess" Crown lands halt until claims are settled, and the appropriate return of gifted land is made.

Although the document appears quite thorough, one point has been overlooked: Tino rangatiratanga. This is the wording used in Te Tiriti o Waitangi and is the version recognized by international law. If we are truly looking at past grievances and towards the future of partnership, this key issue must be addressed.

We, as much as the government, would like to see these matters resolved so we can move onto a partnership with a settled future of economic and social harmony for ourselves and our children and their children.

As we note that the Crown document For the Settlement of the Treaty of Waitangi Claims is a proposal only, we expect that public submissions will achieve the Crown's willingness to return to the drawing board, this time in authentic partnership with Maori. This is a necessity because the Treaty of Waitangi was the first Aotearoa/New Zealand bi-lateral agreement. Any settlements should reflect that status.

Finally, we would like to reiterate our total rejection of the fiscal envelope.

Kawanatanga Network

Box 218 Waikato Mail Centre
Hamilton

Fax: T Wright
07 8494481
Phone: Kirton
07 8548997

26 June 1995

Office of Tiriti Settlements
Department of Justice
Private Bag 180
Whanganui a Tara (Wellington)

SUBMISSION ON CROWN PROPOSALS FOR THE SETTLEMENT OF TREATY OF WAITANGI CLAIMS

The Kawanatanga Network commends the present government's intention to accelerate the redressing of historical *Tiriti o Waitangi* injustices.

We submit however, that the Crown's assumptions about the respective roles and statuses of the parties to *Te Tiriti*, while indeed indicative of much of our history since *Te Tiriti's* inception, is so flawed as to render the current proposal similarly and irredeemably flawed in most particulars. Furthermore, we submit this view to have been endorsed by:

- *iwi* responses to the Crown proposal to date, and

- the wide range of Paakeha responses to the proposal since its release.

Despite any negative outcomes attributable to the Crown's Proposal, we believe it also to have promoted awareness of *Te Tiriti* issues and of the urgency for reconciliation in Paakeha arenas. For these reasons, the Kawanatanga Network wishes to support any impetus recent Government actions have generated, so as to achieve mutually acceptable settlement.

Consistent with the foregoing, Kawanatanga Network further submits that:

1. Government set aside the balance of its suggested Settlement Process and Timetable, immediately re-focusing all available resources on providing conditions which:

a. enable *hapu/iwi* to establish their preferences in terms of processes employed to determine settlement

b. urgently ensuring Paakeha/Tauiwi have ready means to inform themselves of the issues by

commissioning television and radio education series covering, for example: Tiriti o Waitangi; our history of colonisation; current proposed parameters, intentions, and rationales for settlement proposals - in order to establish an informed mandate for Crown settlement actions.

Note:1 a. and b. above are necessary pre-cursors to direct negotiation by the Treaty parties of settlement parameters and processes.

A specific failing of the Crown Settlement proposal, one which Kawanatanga Network believes to be entirely unacceptable, is the assumption that *iwi* grievances are all of a past age. In fact, the very circumstances which enabled successive governments to act unjustly over the last one hundred and fifty years, are the circumstances prevailing today. In other words, the political structures and imbalances which - contrary to the guarantees of Te Tiriti o Waitangi - led directly to such historical claims as todays government judges to be undeniable, <u>remain untouched by the Crown's current Settlement Proposal</u>.

The Kawanatanga Network therefore submits:

2. That as the processes commenced in 1 a. and b. progress to the resolving of outstanding and current claims to the mutual satisfaction of the parties involved, so a concommitant process be initiated, in ways determined by both parties, to develop a <u>full written Constitution based irrevocably upon *Te Tiriti o Waitangi*</u>, and aligned to the Declaration of Independence, should specific Iwi see that last necessary.

Members of Kawanatanga Network formally request the opportunity to talk to their submissions in due course.

<u>Submission ends</u>

Submission despatched for Kawanatanga Network

J D Kirton 26 June 1995