



Office of Hon Christopher Finlayson

11 MAY 2015

Lisa Black
fyi-request-2610-f603f66f@requests.fyi.org.nz

Dear Ms Black

Thank you for your email of 15 April 2015. You have requested, under the Official Information Act 1982 (the Act), information on the Government's goal of reaching settlements with all willing iwi by 2017 (as stated in the 12 September 2014 National Party press release). You specifically request:

- the most recent advice I have received on this goal (for example, likelihood and risks) and, if that is not very detailed, the most detailed advice I have received on this goal; and
- information held by the Office of Treaty Settlements – in addition to any of this information contained in the advice to me – which shows its most up to date assessments and alternatives with respect to this goal (for example, graphs, projections and scenarios).

Three documents and a series of weekly reports are captured by your request. The documents and the basis on which information is withheld are listed in the attached table.

The documents being released to you are attached.

You have the right to seek a review of my response by the Ombudsman under section 28(3) of the Act.

Yours sincerely

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

Documents for Release

<u>No. *</u>	<u>Date</u>	<u>Type of Document</u>	<u>From</u>	<u>To</u>	<u>Document</u>	<u>Comment</u>
1	Ongoing	Work programme	Office of Treaty Settlements	For the use of the Office of Treaty Settlements and the Minister for Treaty of Waitangi Negotiations	Office of Treaty Settlements Work Programme	Withheld in full: - to protect the confidentiality of advice under s9(2)(f)(iv) - because of negotiation sensitivity under s9(2)(j)
2	Ongoing	Weekly report	Office of Treaty Settlements	Minister for Treaty of Waitangi Negotiations	Weekly Report	Withheld in full: - to protect the confidentiality of advice under s9(2)(f)(iv) - because of negotiation sensitivity under s9(2)(j)
3	16-Oct-14	Report to the Minister	Office of Treaty Settlements	Minister for Treaty of Waitangi Negotiations	Supplementary Paper to the Vote Treaty Briefing to the incoming Minister: Proposed Treaty settlement work programme	Sections withheld: - to protect the confidentiality of advice under s9(2)(f)(iv) - because of negotiation sensitivity under s9(2)(j)
4	26-Feb-15	Advice	Office of Treaty Settlements	Secretary of Justice and Chief Executive	Advice to the Secretary of Justice and Chief Executive to support his appearance before the Justice and Electoral Committee for the Annual Review	Released in full



PART OF THE MINISTRY OF JUSTICE

Minister for Treaty of Waitangi Negotiations

Subject **Supplementary Paper to the Vote Treaty Briefing to the Incoming Minister:
Proposed Treaty settlement work programme**

Date 16 October 2014 **Priority:** High
Report No. OTS: 2012/2013 – 181 **File ref:** GOV-07-01-14-05
Security Classification: In Confidence

Action sought

Minister for Treaty of Waitangi Negotiations **Consider the proposed Treaty settlement work programme (Appendix 1) that is deliverable based on the profile of remaining claimant groups and the capacity of the Office of Treaty Settlements over the next 3-5 years.** **By 17 October 2014.**
(Hon Christopher Finlayson)

Contact for Telephone Discussion (if required)

Name	Position	Phone	1 st Contact	
Kevin Kelly	Deputy Secretary Treaty and Director	04 494 9851	027 702 5887	✓
Clinton Geeves	Deputy Director, Work Programme	04 894 2997	027 498 8856	

RELEASED UNDER THE OFFICIAL INFORMATION ACT

IN CONFIDENCE

Proposed Treaty settlement work programme

Purpose

1. This briefing is supplementary to the *Vote Treaty* Briefing to the Incoming Minister (BIM) and provides you with information for a discussion with officials about your priorities and expectations for the Treaty settlement work programme.
2. Specifically, this briefing:
 - a. attaches a proposed Treaty settlement work programme and the key principles and assumptions that underpin it; and
 - b. outlines the key challenges and risks with delivery of the proposed work programme.

Executive Summary

3. The Office of Treaty Settlements (OTS) has revised the Treaty settlement work programme to ensure it incorporates timeframes for each negotiation that:
 - a. Are based on the profile of each claimant group (including their capacity for negotiations, internal stability and relationships with neighbours);
 - b. Reflect the operational capacity of OTS over the next 3-5 years; and
 - c. Achieve a balance between pace and the need to produce high quality redress packages and settlement documentation to ensure durability.
4. Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.
5. The key features of the proposed work programme are:
 - a. A focus over the next 12 months on progressing settlement legislation and finishing Agreement in Principle (AIP) and Deed negotiations already underway;

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.

6. The work programme ensures all remaining claimant groups have the opportunity to agree a settlement package with the Crown (AIP or Deed) or achieve a mandate for negotiations by 2017.

7.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

8. Officials recommend that your desired hikoī to visit claimant groups before the end of the year commence with a visit to Taranaki Iwi and Ngati Maru given they are scheduled to come on to the programme in 2015.

9.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

10.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Information released under
section 9(2)(f)(iv) of the
Official Information Act 1982.

Information released under
section 9(2)(f)(iv) of the
Official Information Act 1982.

Recommendations

11. We recommend you:
- a. note OTS has revised the Treaty settlements work programme to:
 - i. incorporate timeframes for negotiations that are based on the profile of claimant groups and balance pace with the need for high quality redress packages and settlement documentation; and

b.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.

d.

e.

Geeves

Clinton Geeves
Deputy Director, Work Programme

NOTED / APPROVED / NOT APPROVED
<i>C. Finlayson</i>
Hon Christopher Finlayson Minister for Treaty of Waitangi Negotiations
Date: 16/10/2014

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Progress with Treaty settlements

12. Between 2009 and 2011 the number of settlement milestones achieved increased by 200% on previous years. This level of momentum has been sustained since 2011. Over the last 3 years several complex and long running Treaty settlement negotiations reached conclusion including Te Hiku, Tuhoë and the Whanganui River.
13. 72 Deeds of Settlements have now been signed which equates to approximately 53% of the total number likely to be required. Depending on the configuration of groups for negotiations it is likely that another 52 deeds of settlements will be required. Of these:
- 27 (52%) are mandated and in active negotiations toward an AIP or Deed of Settlement. Some of these groups (such as Ngati Whakapu and Ngati Whatua) have already been part of a settlement.
 - 17 (37%) remain to achieve a mandate for negotiations. Ten of these groups are in different stages of the mandate phase. Four have indicated a desire to participate in Waitangi Tribunal hearings in 2016 prior to negotiating with the Crown.
 -
 -
14. Other ways to measure progress with Treaty settlements include coverage of the land area of New Zealand and Maori population. At present approximately:
- 70% of New Zealand's land area is covered by a Treaty settlement (including the entire South Island). A number of regions (including the East Coast, central North Island, Far North and Taranaki) are close to being settled entirely; and
 - 51% of the Maori population is covered by Treaty settlements in terms of iwi/hapu affiliation. The lower percentage with this measure reflects the fact that some very large iwi by population (such as Ngapuhi, Maniapoto and parts of Ngati Kahungunu) have not yet signed a Deed of Settlement.
- 15.

Withheld under section
9(2)(f) of the Official
Information Act 1982.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

Goal for the completion of all Treaty settlements

16. Over the last 6 years the Government has set clear goals for the completion of Treaty settlements.
17. In 2012 the goal of completing Treaty settlements by 2014 was refined to the completion of AIPs with all willing and able claimant groups by June 2015 and all deeds of settlement within 18 months of that (end of 2017).
- 18.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

b.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

c.

19. In the lead up to the 2014 General Election you communicated the goal of all willing claimant groups having a Deed of Settlement by 2017.

Experience over the last 3 years

20. As noted above, momentum with Treaty settlements has been maintained since 2011 and several significant settlements have been concluded after lengthy and complex negotiations. OTS has worked at full capacity to engage with approximately 50 claimant groups across all phases of the settlement process. This has included a large programme of settlement legislation with 24 settlement bills enacted since 2011.
- 21.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

Approach to revising the Treaty settlement work programme

22. We have revised the forward work programme based on a number of key principles and assumptions that reflect our experience over the last 3 years.

Principles underpinning the work programme – profiling and emphasis on durability

23.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.

24.

Key assumptions – no change to policy parameters and departmental funding for OTS

25.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.

26.

27.

Withheld under section
9(2)(j) of the Official
Information Act 1982.

Strategic approach – momentum across all regions

28. In revising the work programme we have also ensured it continues to achieve settlement milestones across all phases and regions. The benefits of this approach are that it:
- a. Spreads risk and gives OTS flexibility to move resources between negotiations to match the readiness of groups and likelihood of agreement;
 - b. Ensures that we are regularly achieving settlement milestones; and
 - c. Provides fair and consistent treatment of iwi across the country by continuing negotiations where progress is being made.

29.

30.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

31.

Outline of proposed work programme

32. Attached as Appendix 1 is a proposed Treaty settlement work programme that has been developed on the basis of the principles, assumptions and strategic approach outlined above. It includes negotiations with all remaining claimant groups through to completion.

33.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

c.
34. The work programme ensures all remaining claimant groups have the opportunity to agree a settlement package with the Crown (AIP or Deed) or achieve a mandate for negotiations by 2017. Attached as Appendix 2 is a map demonstrating forecast progress with Treaty settlement in 2017 should the proposed work programme be delivered.

35.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

Activity on the work programme by phase

Sequencing of mandates

36.

37.

38.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

39.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

40.

Negotiations in the AIP phase

41.

42.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

Withheld under section
9(2)(j) of the Official
Information Act 1982.

Negotiations in the Deed phase

43.

44.

45.

Withheld under section
9(2)(j) of the Official
Information Act 1982.

46.

47.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Withheld under section
9(2)(j) of the Official
Information Act 1982.

Legislation programme

- 48. The proposed work programme includes a consistently large volume of settlement legislation over the next 3 years aligning with the number of Deeds signed.
- 49. Immediate priorities for the legislative programme include third reading of the Ngati Koroki Kahukura and Ngati Haa settlement Bills and first reading of the Te Hiku Bill (given the length of time since the Te Hiku Deeds were signed and the termination clauses they contain that are linked to legislation). Following these Bills we propose priority be given to first reading of the Hawke's Bay Regional Planning Committee and Te Kawerau a Maki Bills.

50.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

Key risks and challenges with the programme

51.

52.

53.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

54.

55.

56.

57.

58.

59.

60.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

61.

62.

63.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

64. Withheld under section 9(2)(f)(iv) of the Official Information Act 1982

Goal of all 'willing' groups having a Deed by 2017

65.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.

66.

Departmental funding for OTS

67.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

68.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.

69.

Next steps

70.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.

Regional hikoi

71. Previously you have undertaken a regional hikoi at the beginning of the Parliamentary term to meet with claimant groups in the early stages of the settlement process or where the progress of negotiations has been limited.

72.

73.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982.

74.

75.

76.

77.

78.

79.

Withheld under section
9(2)(f)(iv) of the Official
Information Act 1982.

80.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

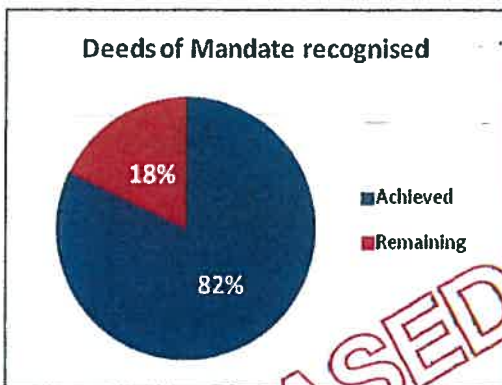
The approach to completing historical Treaty settlements

When will historical Treaty settlements be completed?

1. The Crown's goal in settling Treaty claims is to achieve fair and durable settlements that contribute to the cultural, social and economic development of Māori and enhance the Crown-iwi relationship.
2. The Office is tasked with completing Treaty settlements with all willing and able claimant groups by 2017, however, there will inevitably be some who will not be willing nor able to settle by that date.

What has been the progress to date?

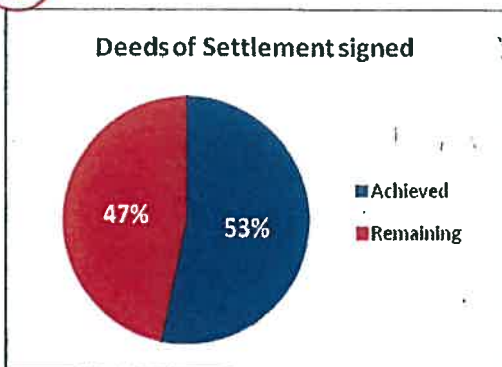
3. To date 82% of all Iwi groups have a recognised Mandate.



4. 72 deeds of settlement have been signed to date representing over 70 percent of New Zealand's land mass. Of the deeds signed so far, 46 have been signed since 2009.
5. 45 settlements have had legislation enacted. There are currently 6 settlements with legislation in the House.

How many settlements are there to go?

6. I expect approximately another 63 deeds to be signed. This will, however, depend on the final configurations of negotiating groups.



What has been implemented to increase momentum?

7. Since 2009 momentum on settlement progress reflects important changes to the way historical Treaty settlements are achieved including:
 - a. the re-establishment of the Cabinet Committee on Treaty of Waitangi Negotiations in 2009 and the cross party support Treaty settlement legislation has generally received in the House;
 - b. an established framework for Treaty settlement redress policy that provides clear parameters, certainty for negotiating parties and equally allows the Crown and iwi to explore bespoke arrangements where appropriate;
 - c. increased resourcing for the Office of Treaty Settlements enabling more negotiations to be conducted at the same time;
 - d. good support from key stakeholders in Treaty sector agencies;
 - e. consolidation of the knowledge the Crown and iwi have about how to conduct successful negotiations;
 - f. a streamlined process for drafting deeds of settlement and bills, including the parallel process of drafting a bill in tandem with the deed of settlement, the use of standard clause templates for standard redress and other standard parts of a bill; and an instructions template for instructing the Parliamentary Counsel Office; and
 - g. streamlining the Parliamentary process through the ability to propose a group of settlement bills as an omnibus bill and to treat bills as cognate bills, together with the willingness of Parliament to extend sitting hours to accommodate the passage of settlement legislation.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT