

NGĀTI AWA

and

HER MAJESTY THE QUEEN

in right of New Zealand

SUPPLEMENTARY DEED TO
DEED OF SETTLEMENT TO
SETTLE NGĀTI AWA
HISTORICAL CLAIMS

27 March 2003

THIS DEED is made on the 27th of March 2003

BETWEEN

(1) **NGĀTI AWA**

(2) **HER MAJESTY THE QUEEN** in right of New Zealand acting by the Minister in Charge of Treaty of Waitangi Negotiations

BACKGROUND

- A Immediately after this Supplementary Deed is signed, the Crown and Ngāti Awa intend to sign a Deed of Settlement to Settle Ngāti Awa Historical Claims, in a form agreed by the Crown and Ngāti Awa at the date of this Supplementary Deed.
- B The Crown and Ngāti Awa have agreed to set out the basis on which the Deed of Settlement will be signed in order to address the effect of proceedings before the Court of Appeal relating to the subject-matter of the Deed of Settlement.
- C This Supplementary Deed is supplementary to, and to be read in conjunction with, the Deed of Settlement.

BY THIS DEED the parties agree as follows:

1 DEFINITIONS AND CONSTRUCTION

1.1 Terms defined in this Deed

In this deed, unless the context requires otherwise:

date of this Supplementary Deed means the date this Supplementary Deed is signed by the Parties;

Deed of Settlement means the Deed of Settlement described in Background A above;

Effective Date means the date which is 10 Business Days after:

- (a) the date on which the Court of Appeal delivers a judgment dismissing the Proceedings; or
- (b) the date on which the Proceedings are abandoned;

Proceedings means the appeal proceedings filed in the Court of Appeal under reference CA197/02 of the judgment in *Milroy and Others v Attorney-General and Others* delivered by the High Court on 30 August 2002.

1.2 Definitions and Interpretation from Deed of Settlement

Unless the context requires otherwise, the terms defined in the Deed of Settlement have the same meaning in this Supplementary Deed and the rules of interpretation set out in the Deed of Settlement apply to the interpretation of this supplementary Deed.

1.3 Supplementary nature of this Deed

The Parties record their intention that, despite clause 14.4 of the Deed of Settlement, this Supplementary Deed does not merge in, but is supplementary to, the Deed of Settlement.

2 DEED OF SETTLEMENT CONDITIONAL

2.1 Further condition of the Deed of Settlement

- (a) The signing of the Deed of Settlement is conditional on the Proceedings being dismissed or abandoned. If the Proceedings are dismissed or abandoned the Deed of Settlement will be deemed to have been signed on the Effective Date.
- (b) All references in the Deed of Settlement to the “date of this Deed” shall be taken to be references to the Effective Date and not to the date the Deed of Settlement is signed by the Parties.
- (c) Despite *clauses 2.1(a) and (b)* of this Supplementary Deed, and anything to the contrary in the Deed of Settlement:
 - (i) any portion of the further amount referred to in clause 6.1.2(b) of the Deed of Settlement that has not yet been paid shall be paid on the date of this Supplementary Deed;
 - (ii) clause 8.4.1(a) of the Deed of Settlement has effect from the date of this Supplementary Deed and all information provided under clause 8.4.1(a) is Disclosure Information;
 - (iii) clause 8.4.2 of the Deed of Settlement has effect from the date of this Supplementary Deed;
 - (iv) references to “the date of this Deed” in clauses 14.1 and 14.6 of the Deed of Settlement shall be references to 20 March 2003;
 - (v) reference to “the date of this Deed” in clause 15.2(y) of the Deed of Settlement shall be a reference to the date of this Supplementary Deed; and

- (vi) reference to “the date of this Deed” in clause 12.1.1 of the Deed of Settlement shall be a reference to the date of this Supplementary Deed but if the Effective Date does not occur prior to the date on which the Crown is required to introduce legislation in accordance with clause 12.3.1 of the Deed of Settlement, then the Crown will introduce settlement legislation as soon as reasonably practicable following the Effective Date, and in any event within three months of the Effective Date. In that circumstance, clause 12.1.1(b) of the Deed of Settlement is to be read as a reference to the passing of the Settlement Legislation and the coming into force of those provisions of the Settlement Legislation which are required to give effect to the Deed of Settlement within 12 months of the Effective Date.

2.2 If further condition is not satisfied

If the Court of Appeal delivers a judgment upholding the Proceedings, in whole or in part, the signing of the Deed will have no effect, however, the Crown and Ngāti Awa undertake to renegotiate for a period of 20 Business Days from the date the Court of Appeal delivers its judgment (or for such an extended period as Ngāti Awa and the Crown agree), in good faith, those aspects of the Deed of Settlement affected by the Court of Appeal’s judgment.

3 CONTRACTS (PRIVITY) ACT 1982

The Parties acknowledge that the conditions contained in this Supplementary Deed are also for the benefit of the appellants in the Proceedings and will be enforceable by them in accordance with section 4 of the Contracts (Privity) Act 1982.

EXECUTED as a Deed on the 27th of March 2003

SIGNED for and on behalf of
NGĀTI AWA by the Mandated
Negotiators

Dr Sidney Moko Mead

John Mahiti Wilson

Bernard Paul Quinn

Joseph Mason

Pouroto Nicholas Hamilton Ngaropo

In the presence of:

Name:

Occupation:

Address:

SIGNED for and on behalf of)
HER MAJESTY THE QUEEN in right)
of New Zealand by the Minister in Charge)
of Treaty of Waitangi Negotiations)
in the presence of:)

Honourable Margaret Wilson

Witness:

Signature

Occupation

Address