

## **PARAMETERS FOR TREATY SETTLEMENT NEGOTIATIONS OVER HARBOURS AND OTHER PARTS OF THE COAST**

### **Cabinet proposals**

The Government has been working on an approach to fairly and consistently look at the claims of iwi and hapū in relation to harbours and other parts of the coast in their historical Treaty of Waitangi negotiations. Cabinet has recently agreed parameters to guide those negotiations.

### **Background**

The Crown has agreed an arrangement for Tauranga Moana and is working to resolve some remaining matters. It has also commenced negotiations over Kaipara Harbour. A number of other harbours will be subject to negotiations in the future. The Crown is also committed to negotiations on Hauraki Gulf / Tīkapa Moana and other limited parts of the coast could also be subject to negotiations.

In some of the negotiations a harbour will be the sole focus but in other situations redress for the harbours will be considered through comprehensive negotiations.

The Government has given close scrutiny to the overlaps between the Marine and Coastal Area (Takutai Moana) Act 2011 and redress that could be offered in negotiations involving harbours. The Crown needs to ensure any rights under that legislation are not undermined.

The Government's approach balances needs to achieve enduring settlements, protect existing rights and local democracy and ensure effective resource management.

### **The parameters**

#### **1. *Geographical scope***

The scope of negotiations over a particular harbour will generally not extend past the mouth although exceptions may be made on a case-by-case basis. Decisions about the seaward scope of negotiations on other parts of the coast will be made by Cabinet.

Negotiations could encompass just the waters of the harbour but could also cover the catchments. Cabinet will assess the appropriate scope under existing natural resource guidelines and guiding considerations.

#### **2. *Consistency with existing legislation***

Redress must be consistent with existing legislation e.g. the provisions of the Marine and Coastal Area (Takutai Moana) Act 2011, the Resource Management Act 1991, the Fisheries Act 1986 and the Conservation Act 1986.

#### **3. *Maintaining the integrity of the Marine and Coastal Area (Takutai Moana) Act 2011***

No redress will be offered that is equal to or greater than the following rights granted for customary marine title holders under sections subsections (a)-(f) of section 62 of the Act:

- a. a permission right under the Resource Management Act 1991;

- b. a conservation permission right;
- c. rights to protect wāhi tapu and wāhi tapu areas;
- d. rights in relation to marine mammal watching permits and the New Zealand Coastal Policy Statement;
- e. prima facie ownership of taonga tūturu; or
- f. ownership of certain minerals.

Redress may include provision for a document to be prepared by an entity established through the settlement (e.g. a joint committee) provided appropriate measures are included in settlement legislation to ensure the primacy of an existing or future planning document prepared by a customary marine title holder. A maximum weighting of “recognise and provide for” will apply to that document in relation to obligations by a local authority under the Resource Management Act 1991.

#### ***4. Potential redress providing for involvement of groups in decision making***

Subject to approval by Cabinet under the existing natural resource guidelines and guiding considerations claimants may be offered an arrangement to give them input into decision making involving the harbour or part of coast.

In determining representation of multiple groups on an entity established through a settlement to provide for involvement in decision making the following matters will be taken into account: areas of interest, what other redress is available to each group, the nature of historical grievances, the strength and nature of associations of each group, communities of interest and the extent to which multiple membership is important for ensuring integrated management.

#### ***5. Involving all groups with interests***

All groups with known associations and interests in a harbour (including groups that have comprehensive settlements) should have the opportunity to be involved at an early stage in negotiations about resource management arrangements, except that where groups are not mandated provision should be made for them to be involved in the arrangement once they are mandated. This is to ensure good contemporary governance.

#### ***6. Range of redress available***

A full range of standard redress can be considered in negotiations where the harbour or part of the coast is being dealt with as part of comprehensive negotiations.

Where negotiations are dealing discretely with a harbour or part of the coast, redress may be limited to cultural redress without financial implications. Cabinet must agree in advance if cultural redress with fiscal implications is to be offered.

#### ***7. Potential funding for good governance (agreed in parallel with settlement)***

Funding may be provided on a case-by-case basis, subject to Cabinet pre-approval for good governance initiatives. The potential funding is not redress and is negotiated in parallel with the settlement of historical claims.