

Hon Andrew Little

Minister for Treaty of Waitangi Negotiations

Proactive release – Whanganui Land Settlement Historical On Account Transfer and Values Drafting

Date of issue: 25 October 2019

The following documents are to be proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	Whanganui Land Settlement Historical On Account Transfer and Values Drafting <i>Cabinet minute MCR-19-MIN-0021</i> Office for Māori Crown Relations – Te Arawhiti <i>Meeting date: 27/08/2019</i>	Some information has been withheld in accordance with the following sections of the OIA: <ul style="list-style-type: none">• section 9(2)(h) to maintain legal professional privilege; and• section 9(2)(j) to enable negotiations to continue.
2	Whanganui Land Settlement Historical On Account Transfer and Values Drafting <i>Cabinet paper</i> Office for Māori Crown Relations – Te Arawhiti <i>27/08/2019</i>	Some information has been withheld in accordance with the following sections of the OIA: <ul style="list-style-type: none">• section 9(2)(h) to maintain legal professional privilege; and• section 9(2)(j) to enable negotiations to continue.



Cabinet Māori Crown Relations: Te Arawhiti Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Whanganui Land Settlement Historical On Account Transfer and Values Drafting

Portfolio Treaty of Waitangi Negotiations

On 27 August 2019, the Cabinet Māori Crown Relations: Te Arawhiti Committee (MCR), having been authorised by Cabinet to have Power to Act [CAB-19-MIN-0437]:

Background

1

[REDACTED] S.9(2)(j)

2

[REDACTED] S.9(2)(j)

3

noted that Whanganui Land Settlement are in negotiations with the Crown to settle their historical Treaty of Waitangi land claims; S.9(2)(j)

4

noted that in April 2018, Cabinet agreed to make a Crown offer of up to [REDACTED] total settlement value to Whanganui Land Settlement [CAB-18-MIN-0163];

5

noted that in May 2019, Cabinet:

5.1 agreed to a redress package to form the basis of a Crown offer to Whanganui Land Settlement and authorised the Minister for Treaty of Waitangi Negotiations to present the Crown offer to Whanganui Land Settlement;

5.2 authorised the Minister for Treaty of Waitangi Negotiations to sign an agreement in principle with Whanganui Land Settlement in the second half of 2019 should they accept the Crown offer;

[CAB-19-MIN-0212.01]

6

noted that the Minister for Treaty of Waitangi Negotiations presented the Crown offer to Whanganui Land Settlement on 20 May 2019, which was accepted by Whanganui Land Settlement in principle on 6 June 2019;

Reconciliation of historical Whanganui Courthouse on-account transfer

7 [Redacted] S.9(2) (j)

8 noted that:

8.1 [Redacted] S.9(2)(j)

8.2 [Redacted] S.9(2)(j)

9 [Redacted] S.9(2)(j)

Financial Implications

10 [Redacted] S.9 (2) (j)

11 [Redacted] S.9(2)(j)

12 [Redacted] S.9 (2) (j)

[Redacted]						
[Redacted]						
[Redacted]						
[Redacted]						
[Redacted]						

13 [Redacted] S.9(2)(j)

14 noted that: S.9 (2) (j)

14.1 [Redacted]

[Redacted] S.9(2)(j)

Recognition of Whanganui Land Settlement values

- 15 **noted** that in May 2019, Cabinet: S.9 (2) (h)
- 15.1 agreed to insert a non-operative statement of the Whanganui Land Settlement values [REDACTED] in the agreement in principle, deed of settlement and settlement bill, where appropriate;
- 15.2 agreed to include a statement in the agreement in principle and deed of settlement that the Crown acknowledges the importance of the Whanganui Land Settlement values to iwi/hapū;
- 15.3 directed Te Arawhiti officials to report back to Cabinet with the proposed final text of the statements prior to the Minister for Treaty of Waitangi Negotiations signing an agreement in principle;

[CAB-19-MIN-0212.01]

- 16 **noted** that Whanganui Land Settlement have requested that the Crown's acknowledgement of the importance of the Whanganui Land Settlement values also be included in the draft settlement bill;
- 17 **agreed** that the Crown's acknowledgment of the importance of the Whanganui Land Settlement values to iwi/hapū also be included in the draft settlement bill in way that is non-operative;
- 18 [REDACTED] S.9(2)9h
- 19 **approved** the proposed final texts attached to the paper under MCR-19-SUB-0021 to be included in the agreement in principle, deed of settlement and settlement bill;

Next steps

- 20 **noted** that in May 2019, Cabinet authorised the Minister for Treaty of Waitangi Negotiations to sign an agreement in principle with Whanganui Land Settlement in the second half of 2019 should they accept the offer [CAB-19-MIN-0212.01];
- 21 **noted** that the Minister for Treaty of Waitangi Negotiations intends to sign an agreement in principle with Whanganui Land Settlement on 30 August 2019;
- 22 **noted** that the Minister for Treaty of Waitangi Negotiations intends to report back to MCR in 2020 with a final settlement package for approval, prior to initialling a deed of settlement with Whanganui Land Settlement.

Rachel Clarke
Committee Secretary

Hard-copy distribution: (see over)

Present:

Hon Kelvin Davis (Chair)
Hon Andrew Little
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Willie Jackson

Officials present from:

Office of the Prime Minister
Officials Committee for MCR

Hard-copy distribution:

Minister for Treaty of Waitangi Negotiations

In Confidence

Office of the Minister for Treaty of Waitangi Negotiations

Chair, Cabinet Māori Crown Relations: Te Arawhiti Committee

WHANGANUI LAND SETTLEMENT: HISTORICAL ON-ACCOUNT TRANSFER AND VALUES DRAFTING

Proposal

- 1 This paper reports back to Cabinet on two matters requested by Cabinet following consideration of the Whanganui Land Settlement Crown Offer on 13 May 2019:
S.9 (2) (j)
 - 1.1 [REDACTED] and
 - 1.2 to seek your approval to the proposed final texts relating to the Whanganui Land Settlement values to be included in the agreement in principle, deed of settlement and settlement bill [CAB-19-MIN-0212.01 refers].

Executive Summary

- 2 Whanganui Land Settlement (WLS) are a large natural grouping whose area of interest is the southern Whanganui District, including Whanganui city.
- 3 On 13 May 2019 Cabinet agreed to a settlement redress offer to WLS and authorised the Minister for Treaty of Waitangi Negotiations to present that offer to WLS [CAB-19-MIN-0212.01 refers].
- 4 When considering the Crown’s settlement offer, Cabinet requested that two matters be reported back to Cabinet:
S.9 (2) (j)
 - 4.1 [REDACTED] and
 - 4.2 to seek approval to the proposed final texts relating to the WLS values to be included in the agreement in principle, deed of settlement and settlement bill [CAB-19-MIN-0212.01 refers].
- 5 This paper reports back on these matters prior to the scheduled agreement in principle signing on 30 August.

- [REDACTED] S.9(2)(j)
- 6 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] S.9(2)(j)

S.9 (2) (j)

7 [Redacted]

8 [Redacted] S.9 (2) (j)

Whanganui Land Settlement values drafting

9 A key settlement aspiration of WLS is for the Crown to provide recognition of their values. To support this aspiration Cabinet agreed to the following redress items as part of the Crown's settlement offer:

S.9 (2) (h)

9.1 to insert a non-operative statement of the WLS values [Redacted] in the agreement in principle, deed of settlement and settlement bill, where appropriate; and

9.2 to include a statement in the agreement in principle and deed of settlement that the Crown acknowledges the importance of the WLS values to iwi/hapū; [CAB-19-MIN-0212.01 refers].

10 Cabinet directed Te Arawhiti officials to report back to Cabinet with the proposed text of the statements referred to in paragraph 9 prior to the Minister for Treaty of Waitangi Negotiations signing an agreement in principle with WLS.

11 The proposed texts are attached to this paper as **Appendices One and Two**.

12 The texts describe the values of WLS and record that the Crown recognises the importance of those values to WLS. [Redacted]

S.9 (2) (h)

S.9(2)(j)

13 [Redacted] S.9 (2) (j)

14 [Redacted] S.9(2)(j)

S.9(2)(j)

15 [Redacted] S.9(2)(j)

16 [Redacted]

[Redacted] S.9(2)(j)

17

[Redacted]

[Redacted] S.9(2)(j)

18

[Redacted]

[Redacted] S.9(2)(j)

[Redacted] S.9 (2) (j)

19

[Redacted]

[Redacted] S.9 (2) (j)

20

[Redacted]

[Redacted] S.9 (2) (j)

21

[Redacted]

[Redacted] S.9 (2) (j)

22

[Redacted]

[Redacted] S.9 (2) (j)

23

[Redacted]

[Redacted] S.9 (2) (j)

24

[Redacted]

S.9 (2) (j)

[Redacted]

24.1 [Redacted]; S.9(2)(j)

24.2 [Redacted] S.9 (2) (j)

24.3 [Redacted] S.9(2)(j)

25

S.9(2)(j)

[Redacted]

26

[Redacted] S.9 (2) (j)

27

[Redacted]
[Redacted] S.9 (2) (j)

28

S.9 (2) (j)

[Redacted]

29

S.9 (2) (j)

[Redacted]

30

[Redacted] S.9(2)(j)

S.9(2)(j)

[Redacted]

32

[Redacted] S.9(2)(j)

S.9(2)(j)

33

S.9(2)(

34

S.9(2)(j)

Whanganui Land Settlement values drafting

Previous Cabinet consideration

35 A key settlement aspiration of WLS is for the Crown to provide recognition of their values (Te Tomokanga ki te Matapihi), which they see as fundamental to re-setting the relationship with the Crown. These values are:

35.1 Toitū te Kupu - innate integrity;

35.2 Toitū te Mana - inherited authority; and

35.3 Toitū te Whenua - physical and metaphysical sustenance.

36 To support this aspiration Cabinet agreed to the following redress items:

S.9(2)(h)

36.1 to insert a non-operative statement of the WLS values [REDACTED] in the agreement in principle, deed of settlement and settlement bill, where appropriate; and

S.9(2)(j)

36.2 to include a statement in the agreement in principle and deed of settlement that the Crown acknowledges the importance of the WLS values to iwi/hapū; [CAB-19-MIN-0212.01 refers].

37 Cabinet further directed Te Arawhiti officials to report back to Cabinet with the proposed text of the statements referred to in paragraph 36 prior to the Minister for Treaty of Waitangi Negotiations signing an agreement in principle with WLS.

38 Subject to final decisions I intend to sign an agreement in principle with WLS on 30 August 2019.

39 WLS have requested that the Crown's acknowledgment of the values also be included in the settlement bill in addition to the deed of settlement and agreement in principle. This request has been reflected in the attached legislation drafting subject to Cabinet's agreement.

Proposed texts

40 The proposed texts for the statements outlined in paragraph 36 have now been developed:

40.1 the proposed final agreement in principle and deed of settlement text is attached as **Appendix One**

40.2 the proposed final non-operative statement for the settlement bill is attached as **Appendix Two**

Analysis

41 The Crown has recognised the importance of iwi values in several previous Treaty settlements such as the Whanganui River, Te Urewera and Whangaehu River (Ngāti Rangī).

42 The proposed texts describe the values of WLS and records that the Crown recognises the importance of those values to WLS.

43 The previous settlements referred to above have required decision makers to give a legal weighting to iwi values in relation to a natural resource (e.g. to recognise and provide for those values when carrying out management functions). [REDACTED]

S.9(2)(h)

44

S.9(2)(h)

45 The most practical relevance of the values will be in the development of relationship agreements where Cabinet has agreed agencies will consider how they can give life to WLS's values through the development of those relationship agreements and other redress instruments [CAB-19-MIN-0212.01 refers].

46 This will be a critical component of negotiations following the agreement in principle, including determining which agencies will be able to deliver this redress and how meaningful it will be for WLS. I will report back to Cabinet on the outcome of this work prior to initialling a deed of settlement.

S.9(2)(j)

47 The texts have been carefully developed to best meet WLS's aspirations [REDACTED]
[REDACTED] WLS have confirmed their support for the proposed texts.

Consultation

- 48 In preparing this paper, Te Arawhiti has consulted with, and incorporated the views of: The Treasury; Department of Conservation; Land Information New Zealand; Te Puni Kōkiri and Ministry for Culture and Heritage.
- 49 The following agencies were informed of the paper: Department of the Prime Minister and Cabinet; Ministry for the Environment; New Zealand Police; Ministry of Education; Ministry of Business, Innovation and Employment; Ministry for Primary Industries; Department of Internal Affairs (including the National Library and Archives New Zealand); Museum of New Zealand Te Papa Tongarewa; Heritage New Zealand Pouhere Taonga; Ministry for Social Development; Ministry of Justice; Ministry of Health; Ministry of Housing and Urban Development; Housing New Zealand; Department of Corrections; New Zealand Defence Force; Oranga Tamariki–Ministry for Children; and the New Zealand Transport Agency. The Crown Law Office were consulted in the drafting of the proposed WLS values texts for the agreement in principle, deed of settlement and settlement legislation.

Financial Implications

S.9(2)(j)

- 50 [REDACTED]

Human Rights

- 51 The proposals outlined in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

- 52 No legislative implications arise directly as a result of this paper.

Regulatory Impact Analysis

- 53 A regulatory impact statement is not required because the proposal does not amend or affect existing regulatory arrangements.

Publicity

- 54 Te Arawhiti will develop a communications strategy, alongside relevant agencies, to ensure affected and interested parties are informed of the content of the agreement in principle at the time it is signed.
- 55 Te Arawhiti will make the agreement in principle available to the media and public on its website.

Proactive Release

- 56 I intend to proactively release this paper, making any necessary redactions, within 30 business days of Cabinet approval. However, if an agreement in principle with WLS has not been signed within 30 business days of Cabinet's decision, then I intend to defer proactive release of this

paper until after the agreement in principle has been signed, as all of the content will remain negotiations sensitive until that time.

Recommendations

The Minister for Treaty of Waitangi Negotiations recommends that the Committee:

Background

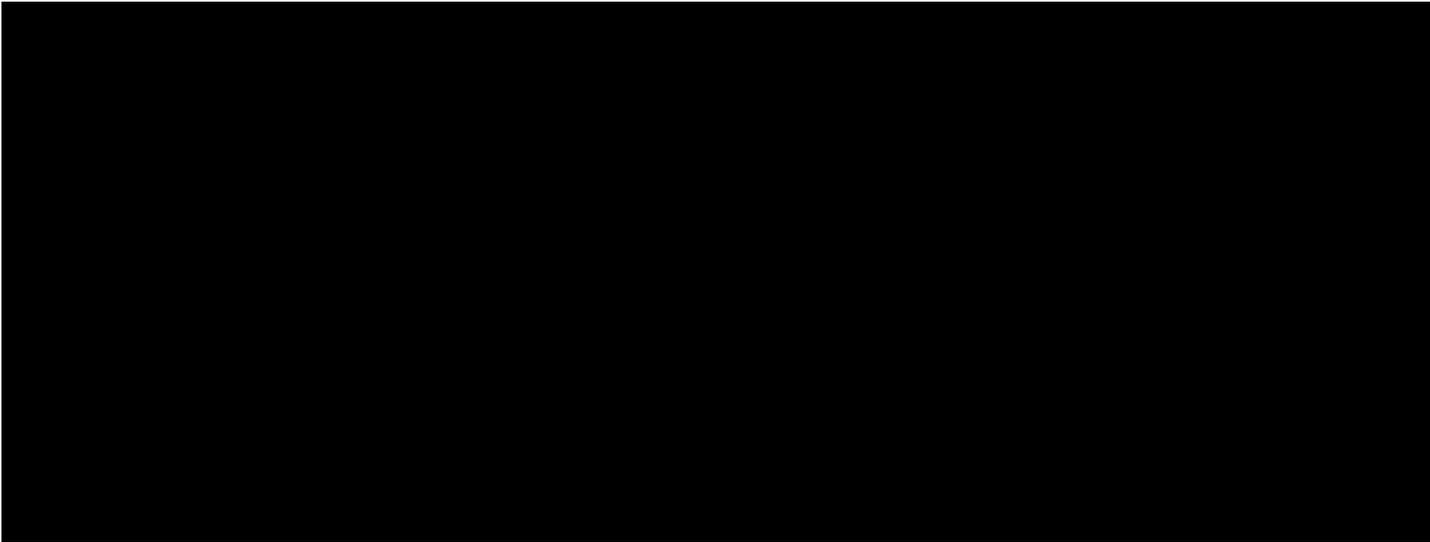
- 1 [REDACTED]
[REDACTED]
[REDACTED] S.9(2)(j)
- 2 [REDACTED]
[REDACTED]
[REDACTED]; S.9(2)(j)
- 3 **note** Whanganui Land Settlement are in negotiations with the Crown to settle their historical Treaty of Waitangi land claims;
S.9(2)(j)
- 4 **note** that in April 2018, Cabinet agreed to make a Crown offer of up to [REDACTED] total settlement value to Whanganui Land Settlement [CAB-18-MIN-0163];
- 5 **note** that in May 2019 Cabinet agreed to a redress package to form the basis of a Crown offer to Whanganui Land Settlement and authorised the Minister for Treaty of Waitangi Negotiations to present the Crown offer to Whanganui Land Settlement [CAB-19-MIN-0212.01 refers];
- 6 **note** that the Minister for Treaty of Waitangi Negotiations presented the Crown offer to Whanganui Land Settlement on 20 May 2019 which was accepted by Whanganui Land Settlement in principle on 6 June 2019;
- 7 **note** Cabinet authorised the Minister for Treaty of Waitangi Negotiations to sign an agreement in principle with Whanganui Land Settlement in the second half of 2019 should they accept the Crown offer [CAB-19-MIN-0212.01 refers];
[REDACTED] S.9(2)(j)
- 8 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] S.9(2)(j)
- 9 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] S.9(2)(j)
- 10 [REDACTED]
[REDACTED] S.9(2)(j)

Financial implications

11 [REDACTED]
[REDACTED] S.9(2)(j)

12 [REDACTED]
[REDACTED] S.9(2)(j)

13 [REDACTED] : S.9(2)(j)



14 [REDACTED]
[REDACTED]
[REDACTED] ; S.9(2)(j)

15 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] S.9(2)(j)

Recognition of Whanganui Land Settlement values S.9(2)(h)

16 **note** that Cabinet agreed to insert a non-operative statement of the Whanganui Land Settlement values [REDACTED] in the agreement in principle, deed of settlement and settlement bill, where appropriate [CAB-19-MIN-0212.01 refers];

17 **note** that Cabinet agreed to include a statement in the agreement in principle and deed of settlement that the Crown acknowledges the importance of the Whanganui Land Settlement values to iwi/hapū [CAB-19-MIN-0212.01 refers];

18 **note** that Cabinet directed Te Arawhiti officials to report back to Cabinet with the proposed final text of the statements referred to in recommendations 16 and 17 above prior to the Minister for Treaty of Waitangi Negotiations signing an agreement in principle;

19 **note** that Whanganui Land Settlement have requested that the Crown's acknowledgement of the importance of the Whanganui Land Settlement values also be included in the draft settlement bill;

S.9(2)(h)

20 **agree** that the Crown's acknowledgment of the importance of the Whanganui Land Settlement values to iwi/hapū also be included in the draft settlement bill [REDACTED]

21 **note** the proposed texts are [REDACTED]

S.9(2)(h)

22 **approve** the proposed final texts attached as Appendices One and Two to be included in the agreement in principle, deed of settlement and settlement bill;

Next steps

23 **note** that Cabinet authorised the Minister for Treaty of Waitangi Negotiations to sign an agreement in principle with Whanganui Land Settlement in the second half of 2019 should they accept the offer [CAB-19-MIN-0212.01 refers];

24 **note** that, subject to Cabinet agreement to this paper, the Minister for Treaty of Waitangi Negotiations intends to sign an agreement in principle with Whanganui Land Settlement on 30 August 2019; and

25 **note** the Minister for Treaty of Waitangi Negotiations intends to report back to the Cabinet Committee on Māori Crown Relations: Te Arawhiti in 2020 with a final settlement package for approval, prior to initialling a deed of settlement with Whanganui Land Settlement.

Authorised for lodgement

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

APPENDIX ONE: PROPOSED FINAL AGREEMENT IN PRINCIPLE AND DEED OF SETTLEMENT TEXT

Te Tomokanga ki te Matapihi

Te Tomokanga ki te Matapihi:

Te Tomokanga is a ceremonial gateway that leads onto the main courtyard of a marae. Manuhiri (visitors) must traverse this pathway in order to fulfil the formal ritual of encounter, the pōwhiri.

Te Tomokanga symbolises the values (Ngā Matapono) carved into the entranceway.

Te Matapihi, a significant landmark, is a window for Whanganui Land Settlement to look out to the external world, though their tribal lens.

For Whanganui Land Settlement, it is the entrance into the Whanganui tribal domain.

Te Uku and Te Rino*

Te Uku represents Whanganui Land Settlement and their rights and responsibilities, as tangata whenua within their tribal domain, to ensure that their relationship with the Crown endures for the benefit of future generations.

Te Rino represents the Crown in its relationship with Whanganui Land Settlement under Te Tiriti o Waitangi.

Ngā Mātāpono: Toituu te Kupu, Toituu te Mana, Toituu te Whenua

Ngā Mātāpono are the intrinsic values of Whanganui Land Settlement

Toituu te Kupu: Integrity

Integrity is founded on the intent of one's word and the truth of its expression.

Toituu te Mana: Inherited authority

Inherited authority is founded on the recognition of the permanence of iwi mana and on the sharing of responsibility to uphold that mana. Mana stems from maintaining the relationship between humanity and the natural world, and people with one another, through appropriate tikanga.

Toituu te Whenua: Physical and metaphysical sustenance

Physical and metaphysical sustenance is founded on the connection, through appropriate tikanga, of humanity with the natural world, and the duty of care of humanity towards the natural world.

*Ko Matua Te Mana te pou tuarongo
Ko Te Awa Tupua te tāhuhu ki te pou mua
Ko Ruatipua rāua ko Paerangi ngā maihi
Nei ra te whare kāho o Whanganui*

*Ko te rangawhenua te mātāpuna o te ora
Mai te whare toka ki te tokatū
He matapihi ki uta, ki tai, ki te ao
He ao āpōpō, he ao tea*

Crown Acknowledgments

- 1.1. The Crown acknowledges and respects the importance of Te Tomokanga ki te Matapihi to Whanganui Land Settlement.
- 1.2. The Crown acknowledges that Whanganui Land Settlement—
 - 1.2.1. has a desire to have a relationship with the Crown based on Te Tomokanga ki te Matapihi; and
 - 1.2.2. regards Te Tomokanga ki te Matapihi—
 - (a) as underpinning the settlement of their claims against the Crown; and
 - (b) as the basis for resetting the relationship between Whanganui Land Settlement and the Crown.

Draft settlement bill

- 1.3. The draft settlement bill will –
 - 1.3.1. include Te Tomokanga ki te Matapihi in Subpart 1 of Part 1 of the bill, on the terms set out in the draft settlement bill; and
 - 1.3.2. record that:
 - (a) the purpose of the settlement legislation includes to give effect to certain provisions of this deed of settlement; and
 - (b) the intention of Parliament is that the provisions of the settlement legislation are interpreted in a manner that best further the agreements expressed in this deed of settlement.

* the translation of 'rino' is 'iron and 'uku' is 'clay'

APPENDIX TWO: PROPOSED FINAL SETTLEMENT LEGISLATION TEXT

[Redacted]

S.9(2)(h)

S.9(2)(h)

[Redacted]

Clause by clause analysis

Clause

[REDACTED]

[REDACTED]

S.9(2)(h)

[REDACTED]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

[REDACTED]

[REDACTED]

S.9(2)(h)

[REDACTED]

[REDACTED]

[REDACTED]