

Hon Andrew Little

Minister of Justice

Minister for Courts

Minister for Treaty of Waitangi Negotiations

Minister Responsible for the NZSIS

Minister Responsible for the GCSB

Minister Responsible for Pike River Re-entry



24 AUG 2020

Dame Rangimarie Naida Glavish DNZM JP
Chair
Te Rūnanga o Ngāti Whātua
PO Box 1784
WHANGAREI 0140
By email: nglavish@ngatiwhatua.iwi.nz

Tēnā koe

Development opportunity under the Land for Housing Programme: Triangle and Lincoln Roads, Henderson, as Treaty settlement redress

This letter records agreement between the Crown and Te Rūnanga o Ngāti Whātua (TRoNW), whereby the Crown will offer to TRoNW, as part of the Treaty settlement package for Ngāti Whātua, the opportunity to reach agreement with the Ministry of Housing and Urban Development (HUD) on the terms for the purchase and development of land to be acquired by HUD for state housing purposes from Radio New Zealand, located at Triangle and Lincoln Roads, Henderson (the **Site**).

A map of the Site and its legal description are attached as **Appendix One**.

Background

On 20 February 1993 at a hui-a-iwi Ngāti Whātua gave TRoNW a mandate to negotiate with the Crown a deed of settlement to settle its remaining historical claims. The Crown recognised this mandate on 22 December 2008. The Crown and TRoNW signed an agreement in principle on 18 August 2017.

In 2015, TRoNW was a signatory to the Mahi Ngātahi agreement, which is now administered by HUD, in recognition of a shared commitment to increase the supply of housing in Tāmaki Makaurau, including public and affordable housing.

In November 2019, TRoNW requested the Crown explore further commercial redress opportunities to ensure the settlement maximises the benefits that can be achieved for their people.

Opportunity and conditions

HUD is currently in negotiations to acquire the Site from Radio New Zealand for inclusion in the Land for Housing Programme (the **Programme**).

The Crown has agreed to provide TRoNW with the opportunity to reach agreement with HUD on the terms of a development for the Site in accordance with the Programme. The development opportunity is subject to:

- a) TRoNW and the Crown signing this letter to acknowledge the opportunity as being part of the Ngāti Whātua Treaty settlement;
- b) HUD concluding the acquisition of the Site for the Programme; and
- c) addressing overlapping interests to the satisfaction of the Crown.

Any agreement reached between TRoNW and HUD in relation to the development of the Site will be recorded in a Development Agreement and Sale and Purchase Agreement (the **Development Agreement**) which will include the terms of the sale of the Site to TRoNW and its development.

The Development Agreement will be on similar timeframes and terms to those for other sites under the Programme, including:

- a) Joint Ministerial agreement that the proposed development meets the Crown's minimum requirements for the Site, including with respect to pace, yield and dwelling mix;
- b) TRoNW assuming the development costs and risks, including the sales risks (except to the extent an underwrite may be agreed for KiwiBuild housing within the development); and
- c) Crown contractual provisions to ensure that the land is developed in accordance with an approved scheme of development under the Housing Act 1995.

The opportunity is to be provided to TRoNW as the mandated entity to negotiate the settlement of the remaining Treaty claims of Ngāti Whātua and, once established, to the post-settlement governance entity (**PSGE**) that is to receive and manage the Treaty settlement redress of Ngāti Whātua.

If the Development Agreement is concluded before the PSGE is established, the parties must make provision for the PSGE to inherit the responsibilities of TRoNW under the Development Agreement.

Non-fulfilment

For the avoidance of doubt, in the event any of the above conditions of the redress offer to TRoNW are not met or a Development Agreement is not able to be completed:

- a) the Crown is under no obligation to offer alternative or substitute redress; and
- b) the Crown reserves the right to offer another party the development opportunity for the Site. This development opportunity will not be made on better terms than those offered to TRoNW.

Treaty settlement redress and section 27B memorial

The opportunity to purchase and develop the Site will be treated as Treaty settlement redress provided by the Crown in settling the historical Treaty claims of Ngāti Whātua and is to be recorded in the TRoNW deed of settlement.

The redress may be provided ahead of settlement date. Subject to the successful conclusion of the Development Agreement for the Site between HUD and TRoNW, on settlement date the memorial under section 27B of the State-Owned Enterprises Act 1986 which is recorded on the title for the Site (or titles should the land be subdivided) will be removed.

Disclosure

The Crown may present this document to any court or tribunal which is considering the redress provided by the Crown in relation to the full and final settlement of the historical Treaty of Waitangi claims of Ngāti Whātua.

Effect of this letter

This letter records an agreement in relation to the historical Te Tiriti o Waitangi/Treaty of Waitangi claims of Ngāti Whātua. It does not settle or otherwise affect those claims. Except as provided for in this agreement, the parties' rights and obligations remain unaffected.

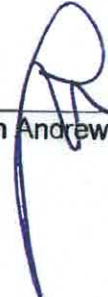
I invite you to counter-sign this letter to record your agreement to its terms.

Nāku noa, nā


Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Development opportunity under the Land for Housing Programme

SIGNED for and on behalf of
THE CROWN by the Minister for
Treaty of Waitangi Negotiations, in the
presence of:



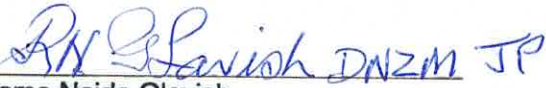
Hon Andrew Little



Signature of Witness

Witness name: Anna Galvin
Occupation: Public Servant
Address: Wellington
Date: 24 August 2020

SIGNED for and on behalf of
TE RŪNANGA O NGĀTI WHĀTUA
in the presence of:



Dame Naida Glavish
Chair

Date: 1st Oct 2020



Signature of Witness

Witness name: Vanessa Watene
Occupation: Executive Assistant
Address: Waitemata & Auckland DHBS
Date: 01/10/2020

Appendix One: Map of the Triangle Road, Henderson site

CFR NA41D/299 comprising 7.4394 hectares more or less and being Parts Lots 4 – 7 DP 1034

