

RELATIONSHIP AGREEMENT BETWEEN THE CROWN, ACTING BY AND THROUGH THE MINISTER OF ENERGY AND RESOURCES, AND TE ATIWA IN RELATION TO PETROLEUM AND MINERALS

AGREEMENT dated 5th August 2017

PARTIES

1. The Crown, acting by and through the Minister of Energy and Resources
2. Te Kotahitanga o Te Atiawa Trust

Each one a Party and together referred to as the Parties.

BACKGROUND

- A. In July 1999, the Wai 796 claim was filed by Tohepakanga Ngatai on behalf of Ngaruahine regarding petroleum resources in the Taranaki region including the rohe of Te Atiawa. Hapu of Te Atiawa participated in the Wai 796 claim. The claim asserted that in the nineteenth century, and up to 1937, the Crown was implicated in many breaches of the Treaty whereby Taranaki lost their land and the petroleum that went with it. The Crown's nationalisation of the petroleum resource through the Petroleum Act 1937 without paying compensation to landowners, and without making provision for royalties, was claimed to be a further breach of the Treaty.
- B. The Waitangi Tribunal held an urgent hearing was held in 2000 to address the claims by Ngaruahine as well as Ngati Kahungunu in relation to their interests in the petroleum resource.
- C. The Waitangi Tribunal issued its report - the *Petroleum Report* - on the petroleum claims in 2003. That report focused on issues of ownership and did not address the management of the resource.
- D. The Crown's management of petroleum formed the subject of a second Tribunal report - the *Report on the Management of the Petroleum Resource* - released in 2010. That report highlighted the 'critical importance' of procedural changes required to the current petroleum regime. Te Atiawa hapu (Otaraua) also participated in that claim (Wai 2262).
- E. In August 2012, Ngaruahine, Taranaki Iwi and Te Atiawa together commenced discussions with the Ministry as part of the Treaty settlement negotiation process. The three iwi worked collectively to negotiate this Agreement with officials from the Ministry of Business, Innovation and Employment. This Agreement will be administered by the Ministry of Business, Innovation and Employment on behalf of the Crown.

AGREEMENT

1. Interpretation

- 1.1 **Definitions:** In this Agreement, the following terms have the following meanings except to the extent that they may be inconsistent with the context:

'**Agreement**' means this agreement and includes any amendments made in accordance with clause 15.2;

'Annual Block Offer Round Meeting' means the meeting held in accordance with clause 7;

'Annual Forum' means the meeting held in accordance with clause 6;

'Crown' means Her Majesty the Queen in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by the terms of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement;

'Crown-owned minerals' means any mineral that is the property of the Crown in accordance with sections 10 and 11 of the Crown Minerals Act 1991 or over which the Crown has jurisdiction in accordance with the Continental Shelf Act 1964;

'Deed of Settlement' means the Deed of Settlement dated 9 August 2014 between the Crown and Te Atiawa;

'Governance Entity' means the trust known as Te Kotahitanga o te Atiawa Trust established by trust deed dated 20 June 2013;

'Mineral' means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water, and includes all metallic minerals, non-metallic minerals, fuel minerals (including coal and petroleum), precious stones, industrial rocks and building stones within the meaning of the Act and a prescribed substance within the meaning of the Atomic Energy Act 1945;

'Minister' means the Minister of Energy and Resources;

'Ministry' means the Ministry of Business, Innovation and Employment;

'Relationship Manager' means the person appointed in accordance with clause 10.1;

'Chief Executive' means the Chief Executive of the Ministry of Business, Innovation and Employment;

'Te Atiawa' has the meaning given to it in the Te Atiawa Deed of Settlement;

'Te Atiawa Area of Interest' has the meaning given to it in the Te Atiawa Deed of Settlement and is the area identified in the map included in Schedule 1 of this Agreement;

'Treaty' means Te Tiriti o Waitangi (the Treaty of Waitangi); and

'Working Day' means the days Monday through Friday exclusive of any public holiday and excluding 24 December to 2 January (inclusive).

1.2 **General construction:** In interpreting this Agreement, unless the context otherwise requires:

- (a) headings to clauses are for reference only and are not an aid in interpretation;
- (b) references to statutory provisions will be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time;

- (c) references to documents will be construed as references to those documents as they may be amended from time to time;
- (d) references to clauses are to clauses of this Agreement;
- (e) all periods of time include the day on which the period commences and also the day on which the period ends; and
- (f) words importing the plural include the singular and vice versa and words importing gender import all genders.

2. PURPOSE

- 2.1 The purpose of this Agreement is to provide for the development and maintenance of a dynamic, respectful, robust and evolving relationship between the Parties based on the principles of Te Tiriti o Waitangi / the Treaty of Waitangi.

3. SHARED ACKNOWLEDGEMENTS

- 3.1 The Ministry acknowledges that Te Atiawa have developed a deep understanding of the challenges and opportunities that accompany the petroleum industry. This understanding arises from their experiences with petroleum exploration and production over the last century, and their role as kaitiaki. In this role as kaitiaki, the Ministry acknowledges that Te Atiawa have a close understanding of and relationship with their environment, and therefore have relevant information to share with the Ministry and petroleum industry. The Ministry also acknowledges that Te Atiawa have growing experience in relation to the minerals sector.
- 3.2 The Ministry further acknowledges that Te Atiawa have investment and economic development aspirations, and may wish to broaden their participation and investment in the petroleum and minerals sector.
- 3.3 Acknowledging further that both Te Atiawa and the Ministry have limited resources, both Parties commit to implementing this agreement in a way that makes the most efficient use of available resources.
- 3.4 The Parties acknowledge that, while this Agreement relates specifically to engagement over energy and resources portfolio matters, there will be opportunities for engagement on other matters that are administered by the Ministry, such as broader economic development, outside the confines of this Agreement.

4. PRINCIPLES

- 4.1 The Parties agree that in working together under this Agreement, the following high-level principles will apply:
 - (a) **Meaningful engagement and consultation:** This will include annual meetings and opportunities for discussion, with a focus on block offers and other processes;
 - (b) **Respecting information of a confidential nature:** This will include developing processes for the appropriate management of confidential information shared between the Parties;
 - (c) **Reflecting a balance between development and protection:** This will include exploring mechanisms to enhance protection of wahi taonga, while

acknowledging that Te Atiawa may also seek to broaden economic development opportunities in the petroleum sector;

- (d) **Enhancing the capacity of the Parties:** This will include, for example, opportunities for sharing information; and
- (e) **Review and evolution:** This will include the identification of a relationship manager by both Parties to maintain and enhance the relationship, and mechanisms to resolve any issues that arise in the relationship.

5. APPLICATION

- 5.1 **Scope:** This Agreement applies to all functions and responsibilities of the Minister of Energy and Resources and the Chief Executive of the Ministry of Business, Innovation and Employment within the Energy and Resources portfolio.
- 5.2 **Enforcement:** The Parties acknowledge that this Agreement is not intended to be legally enforceable, but that this does not diminish the intention of the Parties to comply with the terms and conditions of this Agreement.
- 5.3 **Agreement subject to rights and obligations:** For the sake of clarity, this Agreement does not override or limit:
 - (a) legislative rights, powers or obligations; or
 - (b) functions, duties and powers of the Minister and any officials under legislation; or
 - (c) the ability of the Crown to introduce legislation and change government policy; or
 - (d) the ability of the Crown to interact or consult with any other person, including any iwi, hapu, marae, whanau or their representative; or
 - (e) the requirement that the Ministry act in accordance with directions from Ministers; or
 - (f) the legal rights and obligations of the hapu of Te Atiawa and Te Kotahitanga o Te Atiawa Trust.

6. ANNUAL FORUM

- 6.1 **Annual Forum:** The Parties agree to meet on an annual basis in a meeting to be known as the Annual Forum.
- 6.2 **Timing:** The Annual Forum will be timed to coincide with the Ministry's business planning process and the beginning of the annual block offer cycle (usually in May of each year).
- 6.3 **Agenda:** The Annual Forum will include the following agenda items:

The Annual Forum will include the following agenda items:

- (a) a discussion of policy, regulatory and work plan developments envisaged for the forthcoming year across both petroleum and minerals development;

- (b) broad aspects of permit operations within the Taranaki region, including any compliance and relevant operational matters;
- (c) review of past year's engagement and future opportunities to develop mutual understandings and relationships;
- (d) review of early engagement, as outlined in clause 7 below, on block offers and any other competitive tenders; and
- (e) a broad indication of the Ministry's future strategy for block offer areas.

6.4 Participants

The parties agree that:

- (a) the Annual Forum will involve senior managers from both Parties; and
- (b) the best endeavours of both Parties will be made to include the eight iwi of Taranaki in the Annual Forum.

The Ministry will endeavour to facilitate participation by other regulatory bodies with a role in petroleum and minerals regulation in the Annual Forum.

6.5 Economic development

The Parties agree to discuss at the first Annual Forum, the nature of any assistance that the Ministry may be able to provide to Te Atiawa to broaden their participation and investment in the petroleum and minerals sector, and thereby benefit from the economic development opportunities that the sector can offer.

7. ANNUAL BLOCK OFFER ROUND MEETING

7.1 Annual Block Offer Round Meeting

The Parties agree to meet at an early stage of the annual block offer cycle (or other competitive tendering) and prior to formal consultation. This meeting shall be known as the Annual Block Offer Round Meeting.

7.2 Timing

The Annual Block Offer Round Meeting will take place after the process by which industry express interest in particular blocks has closed (usually in August of each year).

The meeting will be scheduled so as to allow Te Atiawa as much time as possible, taking into account the statutory timeframe, to plan their response and/or submission for the formal consultation stage. This may include, for example, planning hui, identifying issues, undertaking research and commissioning advice.

7.3 Agenda

The Annual Block Offer Round Meeting will include the following agenda items:

- (a) Ministry information about the next planning year's petroleum block offer proposals (or any minerals competitive tendering) to enable the iwi to plan for any formal engagement ahead of the formal process;

- (b) sharing of information by the Parties about local issues and opportunities and an explanation by the Ministry of the potential prospectivity of the area to be covered by the block offer or competitive tender for consideration; and
- (c) if either party considers it necessary, exploration of mechanisms to enhance the Ministry's understanding of iwi issues and wahi taonga.

7.4 **Participants**

The Parties agree that the Annual Block Offer Round Meeting will involve senior managers from both Parties.

8. **FORMAL CONSULTATION**

8.1 **Permit applications**

The Parties agree that in respect of any minerals permit applications, the Ministry will consult with Te Atiawa in the following circumstances:

- (a) **Petroleum permit applications:** when any application for a petroleum permit is received, which relates, whether wholly or in part, to the Te Atiawa Area of Interest, except where the Parties agree the application relates to a block offer over which consultation has already taken place under clause 7;
- (b) **Amendments to petroleum permits:** when any application to amend a petroleum permit, by extending the land to which the permit relates, is received where the application relates, wholly or in part, to the Te Atiawa Area of Interest;
- (c) **Permit applications for Crown-owned minerals other than petroleum:** when any application for a permit in respect of Crown-owned minerals other than petroleum is received, which relates, whether wholly or in part, to the Te Atiawa Area of Interest, except where the Parties agree the application relates to a block offer over which consultation has already taken place under clause 7 or where the application relates to newly available acreage;
- (d) **Newly available acreage:** when the Chief Executive proposes to recommend that the Minister grant an application for a permit for newly available acreage in respect of minerals other than petroleum, which relates, whether wholly or in part, to the Te Atiawa Area of Interest;
- (e) **Amendments to permits for Crown-owned minerals other than petroleum:** when any application to amend a permit in respect of Crown owned minerals other than petroleum, by extending the land or minerals covered by an existing permit is received, where the application relates, wholly or in part, to the Te Atiawa Area of Interest; and
- (f) **Gold fossicking areas:** when any request is received or proposal is made to designate lands as a gold fossicking area, which relates, whether wholly or in part, to the Te Atiawa Area of Interest.

8.2 **Matters to be given regard to**

Each decision on an application referred to in clause 8.1 will be made having regard to any matters raised as a result of consultation with the Governance Entity and having regard to the principles of the Treaty.

9. OTHER ENGAGEMENT

9.1 Maori land and significant sites (Wahi taonga)

The Parties agree, consistent with provisions and responsibilities within the Crown Minerals Act 1991 regime:

- (a) to enhance iwi engagement mechanisms to better provide for the protection of areas of particular importance to Te Atiawa, by means such as access by the Ministry to Te Atiawa sites of significance registers if iwi agree;
- (b) where Te Atiawa are requested to identify areas of particular importance to them, to provide greater guidance to the Ministry and Te Atiawa, the Parties will discuss:
 - (i) the characteristics and nature of significant sites, including wahi taonga;
 - (ii) the nature and size of the area that could reasonably be expected to be excluded or amended; and
 - (iii) the nature and quality of information required in order for an application for exclusion or amendment to be adequately considered by the Ministry;
- (c) to explore mechanisms for improving notice to Maori land owners of activities which will impact on Maori land (as defined by Te Ture Whenua Maori Act 1993).

9.2 Review of Minerals Programmes

The Parties agree that in respect of any minerals programme review, the Ministry will:

- (a) consider any proposals made by Te Atiawa as to the scope of any review of minerals programmes;
- (b) provide an early opportunity, before any public consultation process, for discussion with Te Atiawa of those parts of new draft minerals programmes that either party identifies as affecting Te Atiawa interests; and
- (c) meet with Te Atiawa during the public consultation phase of any minerals programme review or the minerals regime generally if the review may affect iwi interests and the governance entity requests a meeting.

The Parties will work together to identify opportunities for improving engagement by the Ministry with Te Atiawa in relation to the management of minerals.

9.3 Working Groups

Where both Parties agree, they may establish working groups to examine particular issues. This may include matters such as the identification of circumstances in which a cultural impact assessment may be useful, and the development of processes for better coordination between regulatory authorities.

9.4 Facilitating constructive engagement with industry

The Ministry will:

- (a) review information provided by the Ministry to industry on Te Atiawa and their concerns, if any, and provide assistance to industry on how to build and maintain good relationships with Te Atiawa;
- (b) require permit holders to report on the engagement they have undertaken with Te Atiawa, as required by legislation, minerals programmes and/or block offer notices;
- (c) provide Te Atiawa opportunity to comment to the Ministry on a permit holders' engagement with Te Atiawa;
- (d) facilitate introductions of Te Atiawa representatives to permit holder/s as early as feasible after the allocation of a permit;
- (e) facilitate the development of industry best practice guidelines for engagement with iwi; and
- (f) where requested by Te Atiawa, endeavour to facilitate meetings with relevant permit holders.

10. RELATIONSHIP MANAGEMENT

10.1 Relationship manager

Each party will appoint a senior representative to be their respective Relationship Manager and who will:

- (a) be the key point of contact for any matters relating to this Agreement;
- (b) oversee the implementation of this Agreement; and
- (c) be responsible for coordinating the Annual Forum in a timely manner.

10.2 Facilitating relationships outside of this Agreement

The Ministry's Relationship Manager will endeavour to facilitate introductions to other parts of the Ministry if requested to do so by Te Atiawa.

10.3 Other meetings

Outside of the annual meetings provided for under this Agreement, relevant representatives of the Parties will meet as required.

10.4 Restructuring changes in Ministry

The Ministry will notify the Governance Entity of any re-structuring or re-organising of the Ministry which might affect the operation of this Agreement.

11. INFORMATION PROVISION AND BUILDING MUTUAL CAPACITY

11.1 Information resources

The Parties agree that the Governance Entity will assist the Ministry with the development of information resources (if any) about activities relating to petroleum and minerals for use in discussion with other iwi and communities in other parts of Aotearoa/New Zealand.

11.2 Building mutual capacity

The Parties agree to work together to develop measures to enhance the capacity of both the Ministry and Te Atiawa to engage constructively with each other including:

- (a) facilitating a better understanding by Ministry staff dealing with petroleum and minerals development of issues of importance to Te Atiawa;
- (b) to the extent that resources allow, providing opportunities (such as workshops and seminars) for information sharing and expertise enhancement; and
- (c) the Ministry providing information through websites and other media as appropriate to make transparent any agreements and protocols in place between the Crown and Te Atiawa, where both Parties support such publication.

12. CONFIDENTIALITY

12.1 The Parties agree that:

- (a) subject to clause 12.3, the Ministry will ensure appropriate arrangements are in place to provide for confidentiality of material provided by the Governance Entity and Te Atiawa, and identified by either the Governance Entity or Te Atiawa as requiring such confidentiality; and
- (b) the Governance Entity will ensure appropriate arrangements are in place to provide for confidentiality of material provided by the Ministry and identified by the Ministry as requiring such confidentiality.

12.2 Subject to clause 12.3, with regard to information sharing and confidential information, the Ministry will, on request, make available to Te Atiawa existing information held by, and reasonably accessible to, the Ministry that is directly relevant to Te Atiawa with regard to this Agreement.

12.3 Clauses 12.1 and 12.2 do not apply to information either:

- (a) that the Ministry is legally prevented from providing (for example, information that is subject to an obligation of confidentiality or non-disclosure); or
- (b) that the Ministry is legally required to provide, for example under the Official Information Act 1982.

13. COMPLIANCE

If it becomes apparent that elements of this Agreement may not be achievable, the Parties will raise this with each other as soon as possible and work towards a common understanding of the issues and a positive way to address those elements.

14. DISPUTE RESOLUTION (ESCALATION OF MATTERS)

14.1 Dispute resolution process

The dispute resolution process is as follows:

- (a) If one party considers that there has been a breach of this Agreement, then that party may give written notice to the other that they are in dispute.
- (b) As soon as practicable upon receipt of the notice referred to in clause 14.1, the Parties' representative(s) will meet to work in good faith to resolve the issue.
- (c) If the dispute has not been resolved within 20 Working Days of receipt of the notice, the Chief Executive of the Ministry and the Chief Executive Officer/General Manager of the Governance Entity will meet in good faith to resolve the issue.
- (d) If the dispute has not been resolved within 20 Working Days of the meeting set out in clause 14.1(c), the Chair of the Governance Entity or nominee will meet in good faith with the Minister to resolve the issue.

15. REVIEW AND AMENDMENT

15.1 Review

The Parties agree that this Agreement is a living document which can be updated and adapted to take account of future developments and additional relationship opportunities.

This Agreement will be reviewed within three years of the date on which it is entered and thereafter every three years. The matters to be covered by the review will be agreed between the Parties.


Where the Parties cannot reach agreement on any review or variation proposal they will use the escalation processes contained in clause 14 above.

15.2 Amendment

The Parties may vary or cancel this Agreement at any time by agreement in writing.

EXECUTION

SIGNED for and on behalf of the
Crown in right of New Zealand by
the Minister of Energy and Resources.



Hon Judith Collins

Witnessed by:

SIGNED for and on behalf of the
Te Kotahitanga o Te Atiawa Trust



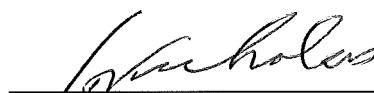
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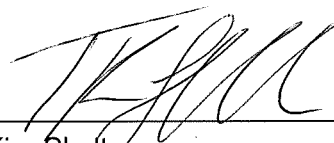
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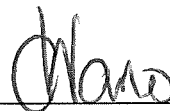
William Gary Nicholas



Liana Huia Poutu



Tanya Kim Skelton



Wharehoka Craig Robert Wano

Schedule 1: Te Atiawa Area of Interest

