



## Information Sheet

### CENTRAL NORTH ISLAND FORESTS COLLECTIVE SETTLEMENT

Tena koutou

This Information Sheet complements and should be read together with the “*Iwi Endorsement Information Sheet*” prepared by the CNI Forests Iwi Collective. It provides a Ngati Whare perspective to key issues and seeks to answer questions that you may have about the CNI Forests Collective Settlement.

Nga Mihi

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#### Overview – CNI Forests Iwi Collective

##### ***Why did Ngati Whare join the Collective?***

The CNI Collective was first proposed by Tumu Te Heuheu in July 2007. Te Runanga o Ngati Whare Iwi Trust formed the view that a collective approach had the potential to advance the interests of *all* CNI iwi, collectively and individually, so as to achieve a deal that was better in total than a series of individual deals.

Te Runanga o Ngati Whare Iwi Trust consequently endorsed the collective approach from the very outset and has been committed to the kaupapa since that time.

##### ***How does the Collective Run?***

The Collective is governed by a Committee of iwi representatives. Ngati Whare representatives sit as equals on the Committee. The Committee oversees negotiations with the Crown, which are conducted by three negotiation facilitators and a group of specialist advisors. A Secretariat undertakes administration and management responsibilities.

##### ***Does Ngati Whare retain its independence?***

Yes. The Collective does not merge participating iwi into a single entity. Rather, all iwi exist as independent entities around the same table.

As discussed further below, all iwi in the Collective will reach additional *separate* Treaty settlement negotiations with the Crown, with their own cultural redress, historical account, Crown apology and possibly further commercial redress.

#### Overview – CNI Forests

##### ***What is a Crown Forestry Licence (CFL)?***

In the mid-1980s the Crown wanted to turn the New Zealand Forest Service into a State-Owned Enterprise (SOE). Maori expressed concerns about the transfer of Crown land to SOEs, fearing that the land would pass forever from Crown ownership and thus not be available to return to iwi. Various Court actions were fought. These led to negotiations between the Crown and Maori and a settlement which resulted in the Crown Forest Assets Act 1989. Under that Act a “Crown forestry licence” (CFL) was created to allow the Crown to sell cutting rights to the forests on the CFL land, while the enabling the underlying land and rentals to be held for later transfer by the Crown to Maori in settlement of Treaty of Waitangi claims.

##### ***What are Accumulated Rentals?***

The forestry companies which acquired the cutting rights pay rental for the use of the land, which is accumulated annually and held by the Crown Forestry Rental Trust (CFRT). Currently, the total accumulated rentals attached to the CNI Forests amount to approximately \$250 million dollars. This money is held by CFRT. When the CFL land is transferred to Maori (or the Crown) the relevant accumulated rentals also pass with that land.

##### ***Are all Ngati Whare’s CFL interests included?***

Yes. In terms of manawhenua, Ngati Whare’s forestry interests lie in various compartments of the Kaingaroa Forest, including but not limited to the Whirinaki, Flaxy Creek and Wairapukao CFLs.

Kaingaroa is by far the largest of the CNI forests within the Collective Settlement.

The CNI Forests total 176,000 hectares of which 90% by value is to be transferred to the Collective.

## **Ngati Whare's Settlement Negotiations with OTS**

### ***What is the position with Ngati Whare's negotiations with the Office of Treaty Settlements (OTS)?***

Te Runanga o Ngati Whare Iwi Trust's mandate to represent Ngati Whare in Treaty settlement negotiations was recognised by the Crown in December 2003. Terms of negotiation were signed on 7 May 2004.

In 2004 and 2005 Ngati Whare was engaged in the parallel process of Waitangi Tribunal hearings in respect of the Wai 66 (Ngati Whare iwi) and Wai 1038 (Te Whaiti Nui-a-Toi) Treaty claims. Therefore only limited direct negotiations took place in this period. Settlement negotiations with OTS proceeded in full from July 2005 at the conclusion of the Waitangi Tribunal's Urewera Inquiry.

The Crown made a Cultural Redress offer to Ngati Whare in March 2006, and an initial Commercial Redress (ie, quantum) offer in June 2006. While aspects of the Crown's cultural redress offer were positive, the Crown's initial offer on quantum was disappointing. Ngati Whare considered withdrawing from negotiations at this time, but determined to continue in order to demonstrate why the Crown's views on issues such as Ngati Whare's population, the nature of its Treaty grievances and the extent of its land interests were incorrect at a number of levels.

In 2007 the Runanga made submissions to the Crown regarding quantum factors and prepared a response to the Crown's cultural redress offer and. Work was also progressed on Ngati Whare's commercial aspirations, with the contemplation of a new quantum offer from the Crown in late 2007. However, further progress in respect of Ngati Whare's commercial redress package was overtaken by the development of the CNI Forests Collective Initiative in the latter half of 2007. While work has continued in the background, the other aspects of Ngati Whare's settlement negotiations have essentially been on hold in recent months and Ngati Whare has been focused principally on advancing the work of the CNI Forests Collective.

### ***What comes next for Ngati Whare with its OTS negotiations?***

Under the CNI Forests Collective Settlement each iwi still has to reach its own comprehensive Treaty settlement with the Crown. Accordingly, if the Collective Settlement is supported by the participating CNI iwi, Ngati Whare will still need to continue its settlement negotiations with OTS in respect of other specific redress.

While some other CNI iwi have not been in negotiations with OTS outside the Collective, Ngati Whare has made significant progress in its direct negotiations with the Crown at a number of levels. The "commercial" side of those negotiations is now essentially covered through the CNI Forests Collective Settlement, but it remains for Ngati Whare to conclude the negotiations that are already well-advanced in respect of cultural redress, a Crown apology and an agreed historical account.

In particular, Ngati Whare is keen to reach agreement with the Crown over a cultural redress package that focuses strongly on the Whirinaki Conservation Park, for which Ngati Whare are kaitiaki. In addition, there may be other commercial issues and matters connected to Minginui that Ngati Whare wishes to address beyond the commercial matters that are the subject of CNI Forests Collective Settlement.

Once agreement over these other matters is reached, the Runanga will again come back to the iwi of Ngati Whare to seek ratification of the settlement of those matters, in a process similar to the present one.

## **Collective Settlement - "Commercial Interest" and "Manawhenua"**

Under the CNI Forests Collective Settlement the CNI Forests land will be held by a Trust Holding Company for up to 35 years. All iwi in the Collective will be shareholders in that company in agreed proportions and will receive accumulated rentals together with ongoing annual rentals for the first 35 year period in accordance with that shareholding. After 35 years (or less if agreed), the land and future rentals for that land will be allocated to the CNI iwi in proportion to their manawhenua interests.

This arrangement is effectively a compromise by which all participating CNI iwi benefit. It allows the larger iwi (by population) to participate as economic partners at a greater level than their manawhenua in forest lands might have allowed through the initial shareholding arrangement.

However, it equally allows smaller iwi like Ngati Whare, who have strong manawhenua in the Kaingaroa Forest, to not only receive an initial commercial benefit through a shareholding in the Trust Holding Company, but also to ultimately regain all their customary land within the CNI Forests. They would have been unlikely to achieve this through individual negotiations with OTS as the Crown's policy approach was likely to see considerable CNI Forest land either remain in Crown hands or pass to iwi who had only minor customary interests, which would also have caused considerable friction among CNI iwi.

Working together, CNI iwi have been able to combine and increase their collective strength so as to justify a return by the Crown of all CNI Forest lands.

## Determination of Shareholding

### ***How was the shareholding determined between the CNI Iwi?***

Various proposals and models were considered for the shareholding in the Trust Holding Company. The Collective identified a number of relevant factors to assess the respective positions of the CNI iwi including manawhenua, population and likely settlement quantum. In the end, and following agreement that manawhenua would determine the ultimate allocation of the land in 35 years, the Collective resolved to use the Crown's indicative quantum figures (ie, what the Crown considered that it might offer individual iwi) as a starting point. Negotiations within the Collective then saw various adjustments determined leading to the final agreement on the respective shareholding for each CNI iwi.

### ***What is Ngati Whare's Shareholding?***

Ngati Whare's shareholding in the Trust Holding Company is 4.7125%. As noted, the agreed distribution has entailed a number of compromises from all iwi in the Collective. Being one of the smaller iwi, Ngati Whare could not reasonably expect to obtain the same shareholding as, for example, Tuhoe or Tuwharetoa.

### ***Is the Ngati Whare shareholding fair?***

The Ngati Whare negotiators have never considered the Crown's settlement framework to be fair, for any iwi. Accordingly, Treaty settlements necessarily only compensate for a small portion of the actual financial and social loss and prejudice that has been suffered by iwi, including Ngati Whare, over the past 168 years. The political reality faced by all iwi is that the Crown is not going to markedly change its settlement framework.

However, taking into account that context, the Runanga and its advisors consider that the Ngati Whare shareholding and the financial benefit that it represents is a fair outcome for Ngati Whare. The Runanga and its advisors consider that the Collective Settlement will place Ngati Whare in an improved position from that which it would have achieved in an ordinary individual settlement with the Crown. The long-term opportunity for Ngati Whare to secure a greater proportion of the CNI Forest land on the basis of its manawhenua interests after 35 years is also a considerable benefit of the Collective Settlement. *"I iro whenua atu, me hoki whenua mai"*.

## 35 Year Timeframe

### ***What is the 35 year timeframe?***

As part of the Collective Settlement it has been agreed that after 35 years (or an earlier period if agreed), the CNI Forest land held collectively by the Trust Holding Company will be returned to the CNI iwi in accordance with their individual manawhenua interests. From that time, future rentals on the land will be received by CNI iwi in accordance with their manawhenua landholding in the CNI Forests, not their initial shareholding in the Trust Holding Company.

### ***How did the 35 year timeframe get negotiated?***

Once the Collective decided to create a single joint commercial entity and only "return" land to individual iwi after a period of time, the issue became "for how long?" Certain iwi including Ngati Whare supported a shorter period. Other iwi desired a longer period, up to 90 years. Agreement was ultimately reached that a period of 35 years was a reasonable compromise and Te Runanga o Ngati Whare Iwi Trust supports that.

The 35 year timeframe is sufficiently long for all iwi in the Collective to benefit from rental revenue from the Forests based on their commercial shareholdings, while also not being too long for those iwi who hold strong manawhenua to receive full ownership of their lands. While it is too far in the future to predict, the CNI iwi may still decide following land allocation that it is advantageous for them to continue to work together.

### ***How will the Collective Entity be run?***

The operations of the Trust Holding Company will be the subject of a shareholders agreement between the relevant CNI iwi. While all the details are yet to be fully determined, the long term goal is to establish a Forest Management Company to collectively manage and expand the valuable and large scale forestry interests of CNI iwi. Ngati Whare, like all iwi in the Collective, wishes to ensure the effective management of its assets and will participate in the Collective governance structure in an appropriate way.

## Determination of Manawhenua

The CNI Iwi Collective has agreed to establish a two-year dispute resolution process to reach agreement over the post-35 year manawhenua allocation of land. If kano ki kano discussions between iwi do not result in agreement there will be provision for disputes to be referred to an expert arbitration panel, most likely headed by a Maori Land Court Judge, for determination. The arbitration panel will be given powers necessary to rule on issues of manawhenua allocation. The details of this process are still being finalised by the Collective, but will be incorporated into the final Deed of Settlement for the CNI Forests Collective Settlement.

## Value of the CNI Forests Collective Settlement for Ngati Whare

The value of any Treaty settlement for Ngati Whare falls to be considered in a number of ways, including:

- the overall quantum or financial value of the settlement;
- the cash payment that is received;
- the land interests that are acquired;
- the annual income that will be generated;
- the cultural redress that will be provided;
- the present and future needs of Ngati Whare as an iwi.

Negotiations in respect of cultural redress will be completed following the conclusion of the CNI Forests Collective Settlement. However, based on current indicative values (with final valuations still to be completed), the CNI Forests Collective Settlement realises for Ngati Whare:

- 1. Accumulated Rentals:** Ngati Whare's share of the total accumulated rentals of \$250 million would amount to approximately \$11.7 million.
- 2. Interest:** Interest earned on Ngati Whare's share of the accumulated rentals, if invested at 8%, would amount to approximately \$900,000 per annum before tax.
- 3. CNI Forests:** Ngati Whare's shareholding in the CNI Forests to be transferred to the Collective, which have a present value of about \$200 million, would be worth approximately \$9.4 million.
- 4. Rental Income:** Ngati Whare's shareholding in the CNI Forests to be transferred to the Collective would provide Ngati Whare with an annual pre-tax income of approximately \$700,000 (based on the total annual current rental for those Forests of approximately \$15 million).
- 5. Carbon Credits:** While negotiations between the CNI Iwi Collective and the Crown on this matter have not been entirely concluded, NZ Units (Carbon Credits) are to be transferred from the Crown to the Collective and it is presently anticipated that Ngati Whare will receive a share of NZUs in proportion to its shareholding in the Trust Holding Company. The value of this is presently uncertain.
- 6. Post 35 years:** After 35 years (or earlier if agreed) the CNI Forest land will be distributed to CNI iwi, including Ngati Whare, based on their manawhenua interests. While the precise outcome for Ngati Whare cannot presently be determined, it is hoped that Ngati Whare will receive a greater proportion of the CNI Forest land at this time than its present shareholding in the Trust Holding Company. The rentals or income from the land after 35 years will also be based upon the manawhenua distribution.
- 7. Annual Income:** The combined annual income for Ngati Whare from interest and rentals noted above would be approximately \$1.6 million before tax. Even allowing for taxation and inflation, this would represent a significant amount for Ngati Whare to commit to administration, education scholarships, cultural development, commercial ventures and other initiatives for the benefit of all members of Ngati Whare now and into the future.

**The Runanga and its advisors consider that the value of the CNI Forests Collective Settlement for Ngati Whare represents a considerable improvement on the value that Ngati Whare would have been able to derive from an individual settlement alone.**

### Ngati Whare Iwi Ratification

The Trustees of Te Runanga o Ngati Whare Iwi Trust and their advisors believe that the CNI Forests Collective Settlement is a very good settlement for Ngati Whare. Accordingly, the Runanga seeks your support either by way of vote at the forthcoming Ngati Whare Information Hui and Hui-a-Iwi or by postal ballot.

### Next Steps for the Collective Settlement

If the CNI iwi, including Ngati Whare, support the CNI Forests Collective Settlement, a Deed of Settlement will be prepared and signed by the members of the CNI Iwi Collective and the Crown. Legislation will then be introduced to implement the Settlement.

**Please exercise your right to vote**