

## Request for information about Hauraki Treaty negotiations

<b>Legislation</b>	Official Information Act 1982, s 9(2)(j)
<b>Agency</b>	Office of Treaty Settlements
<b>Ombudsman</b>	Peter Boshier
<b>Case number(s)</b>	424906
<b>Date</b>	February 2017

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*Release would prejudice the goodwill of the parties and the progress of the negotiations—s 9(2)(j) applies*

An iwi trust board asked the Office of Treaty Settlements (OTS) for information relating to the Crown's negotiations with the Hauraki Collective. OTS withheld some information under section 9(2)(j), and the trust complained to the Ombudsman.

OTS explained that the Hauraki Treaty negotiations involved 12 individual iwi and two collective negotiations. The Hauraki Collective Framework Agreement recorded the intentions of the Crown and the Hauraki Collective to undertake the negotiation process confidentially and in good faith. Confidentiality was an important principle in this process, and possible redress was a very sensitive issue.

OTS also explained that the passage of time during Treaty negotiations will often mean that information previously withheld can be disclosed. This is generally where a milestone has been reached, such as a Deed of Mandate, Agreement in Principle, or Deed of Settlement. However, such milestones had not yet occurred in the Hauraki negotiations.

The Ombudsman accepted that disclosure of information which might:

- show the Crown's negotiation position;
- reveal redress or possible redress options;
- reveal correspondence on negotiation terms with mandated iwi representatives;

- reveal officials' assessment of situations which have arisen and possible strategies to resolve those situations; or
- reveal officials' discussions on issues of concern;

would jeopardise the negotiation to the extent that settlement would stall.

The concern was less about the Crown's ability to achieve favourable settlement terms, and more about the likely damage to negotiating relationships. Disclosure would cause real prejudice to the goodwill of parties and the progress of negotiations.

In addition, disclosing information about redress options could impact on the expectations and demands of parties with whom OTS was negotiating, or be detrimental to negotiating positions with other parties.

The Chief Ombudsman was satisfied that this would disadvantage the Crown's negotiations with the Hauraki Collective. He did not consider that the need to withhold the information was outweighed by the public interest in release.

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