

Te Rūnanga-ā-Iwi o Ngāti Kahu

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KO MĀMARU TE WAKA

2 May 2017

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Te Ururoa Flavell
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Tēnā kōrua,

Thank you for your correspondence dated 7 April 2017 regarding the proposed mandate reconfirmation plan for negotiation purposes.

In that correspondence you indicate concerns that have been raised about the mandate held by Te Rūnanga ā Iwi o Ngāti Kahu and your view that mandate and representation issues need to be addressed whether Ngāti Kahu seek to progress their binding recommendation application or not. As such you provide two options for Ngāti Kahu to consider.

The first option, which as you note is the expected option, is to pursue the remedies hearing with the Tribunal. You have stated that if Ngāti Kahu decided to proceed with this avenue, that you will suspend the Crown recognition of the Ngāti Kahu mandate. You state that, *it would not be appropriate as matters presently stand for the Rūnanga to be held out as the Crown recognised representative for all of Ngāti Kahu.*

We note that you selectively rely on sections of the Tribunal report that questioned the Rūnanga mandate. What we find problematic in your approach is that you refer to a Tribunal report that the Court of Appeal itself has found to be flawed. You note yourselves in your letter that the Court of Appeal found that the Tribunal made errors in its inquiry. In this respect, we would caution making any decisions based on a report or inquiry that has been found to be in error. This would not be fair to the people of Ngāti Kahu. Further, and if you are to rely on the Tribunal Report, you appear to have ignored what the Tribunal said at page 95 of the decision where it stated;

“There are clearly outstanding mandate issues among Ngāti Tara, Te Paatu and Ngāti Kahu Rūnanga. This is not unusual, and it would not be reasonable to expect 100 percent support”.

Further the Tribunal also stated;

“It is clear that Te Rūnanga ā Iwi o Ngāti Kahu enjoys extensive support. Of the 15 marae that comprise Ngāti Kahu, just two oppose the Rūnanga”

Therefore what appears clear from the Tribunal report is that 86% of the marae and hapū that comprise Ngāti Kahu support the Rūnanga and its representative capacity. This is a substantially higher percentage of support than those mandates that the Crown have recently recognised in favour of the Whakatōhea Pre-Settlement Claims Trust and the Maniapoto Māori Trust Board.

The second option you have provided is to re-enter negotiations with the Crown for a comprehensive settlement. In that respect you have provided feedback on the draft project plan we provided to your office on 28 February 2017. You have advised that if Ngāti Kahu chose this option, that the Crown will make \$94,400 available for that mandate re-confirmation as opposed to progressing the binding recommendation process.

The Ngāti Kahu Position

You will be aware that on 16 April 2017 Ngāti Kahu filed a memorandum with the Tribunal confirming that Ngāti Kahu wish to proceed with the application for binding recommendations for the return of all Crown Forest License lands and former State-owned Enterprise lands in the rohe of Ngāti Kahu. Therefore, we confirm that we will be pursuing the remedies option outlined above as we believe this will provide the best outcome for Ngāti Kahu. As you would expect, the future success of Ngāti Kahu and our descendants is at the forefront of our minds when making decisions for our people.

However, the Rūnanga remains committed to maintaining its mandate and as such, will address that issue in accordance with the tikanga of Ngāti Kahu. Ngāti Kahu do not believe that a “black and white” approach, as outlined in your letter, ought to be taken and believe that both pathways can be addressed in parallel. We note the suggestions and comments you have made at page 2 of your letter and will take those into consideration moving forward.

As you note yourself in your letter, *it is a key objective of the Crown to ensure any settlement redress is provided to an entity that has the confidence of those it seeks to represent.* We consider that the Rūnanga has that confidence and we are committed to re-confirming that confidence which has existed since 1997 which was belatedly recognised by the Crown in 2003.

We see no reason why the Crown needs to delay a Remedies process in order to have clarity and confidence in the Rūnanga’s mandate, or why the Crown’s recognition of the Rūnanga’s current mandate needs to be suspended.

Finally, you will be aware that the Rūnanga does not need Crown recognition of a mandate, to progress the binding recommendation application. The Rūnanga has been asked to support those Ngāti Kahu claimants, who have well founded claims in the Wai 45 Inquiry to seek the resumption of resumable lands.

In our view, the appropriate action of an honourable Tiriti partner would be to support that action and in accordance with section 6 of the Treaty of Waitangi Act, assist Ngāti Kahu in finding an outcome to remove the prejudice suffered by Ngāti Kahu, in this Tribunal process, rather than be obstructive.

As such, Ngāti Kahu invite you to reconsider your approach, particularly if the Crown sincerely wish to rebuild its relationship with the whanau, hapū and iwi of Ngāti Kahu.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Margaret Mutu', written in a cursive style.

Professor Margaret Mutu
Chairperson