

01 August 2018

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations
Parliament Buildings
WELLINGTON

BY EMAIL ONLY: andrew.little@parliament.govt.nz

Tēnā koe e te Minita

Pare Hauraki Collective Redress Deed (the Deed)

Further to your letter dated 26 July 2018 we respond as follows:

1. We have advised the Crown a number of times (most recently in our letter to the then Minister of Treaty of Waitangi Negotiations Chris Finlayson, dated 14 February 2017), that throughout negotiations we were in conflict with Hauraki in respect of claims into Tauranga Moana because we supported Tauranga Moana. To be clear, we were not neutral, we supported Tauranga Moana. As a result:
 - we removed ourselves during Hauraki Collective meetings when Tauranga Moana was discussed and did not receive any Hauraki Collective communications about Tauranga Moana;
 - in negotiations between the Tauanga Moana Iwi Collective (TMIC) and the Hauraki Collective regarding overlapping claims, we participated as part of TMIC; and
 - we supported the Crown and TMIC in Waitangi Tribunal proceedings brought by Hauraki iwi in respect of the Tauranga Moana Framework.

We therefore reject the advice that you were given that we were aware of all redress items in the Deed throughout negotiations as this was not the case.

2. As we noted in our Briefing paper dated 14 June 2018, we are concerned that the settlement redress offered to both the Hauraki Collective and individual Hauraki iwi will create unintended rights which will have the effect of non-Tauranga Moana iwi being treated as if they are mana whenua.

To mitigate that risk we suggested that the interests of Hauraki iwi in Tauranga Moana needed to be clarified, ideally through a tikanga process, and that safeguards should be developed to ensure that the mana whenua of Ngāti Pūkenga, Ngāti Ranginui and Ngāi Te Rangi is protected and upheld.

While we acknowledge your confirmation that provision of redress to Hauraki iwi in Tauranga does not confer mana whenua rights, on its own it is not a sufficient safeguard. What would be helpful is confirmation from the Crown that:

- (a) The Crown recognises the finding of the Waitangi Tribunal that Hauraki iwi are not tangata whenua in Tauranga Moana;

- (b) Redress to Hauraki iwi in Tauranga Moana (whether commercial or cultural) is a recognition that the Crown accepts that some Hauraki iwi have historical interests and is not intended to create contemporary rights for those Hauraki iwi in Tauranga Moana;
- (c) The Crown recognises the findings of the Waitangi Tribunal that these historical interests are confined to the Katikati block and to relatively limited portions of the Te Puna block;
- (d) The Crown recognises that Māori custom provides for a sophisticated hierarchy of interests and settlement redress is not intended to flatten out these interests so that all interests are treated as equal (as noted in *Port Nicholson Block Settlement Trust v Attorney General* [2012] NZHC 3181); and
- (e) Area of Interest maps in Treaty settlements are not intended to, and do not, establish or recognise Iwi boundaries.

As discussed at our meeting with you on 14 June 2018, the overlapping claims process has caused a schism within Ngāti Pūkenga and your decision to sign the Deed has caused anguish for our people in Tauranga Moana particularly, so your prompt response to the above statements would be appreciated. In the meantime, we confirm we will not be signing the Deed tomorrow.

Other matters we wish to bring to your attention are as follows:

- 3. In your letter, you have advised that the boundaries of the Minerals Relationship Agreement area now match the boundaries of the Conservation Framework area. The maps provided seem to show the boundaries are the confiscation line/northern boundary of the Katikati block. Please confirm.
- 4. In the Tauranga Moana drafting you provided, clause 22.1 reads that “the Crown recognises the Iwi of Hauraki have interests in Tauranga Moana, particularly in Te Puna - Katikati”. We acknowledge that this statement is the Crown’s view and that as part of any Collective settlement, the redress is collectivised. However, the interests of the Iwi of Hauraki should not be collectivised. To be clear, not all Iwi of Hauraki have interests in Tauranga Moana.

Furthermore, it is unclear if the Crown is recognising that these interests are throughout Tauranga Moana though particularly in Te Puna – Katikati, or that these interests are in Te Puna – Katikati (which was the finding of the Waitangi Tribunal). Please clarify.

- 5. Although we will not be signing tomorrow, we will be bound by what is signed and therefore note we have concerns about the transparency and robustness leading to the signing tomorrow given the following:
 - (a) Hauraki Collective iwi have not seen either the completed Deed nor the final Limited Partnership documents yet they are supposed to be signed tomorrow;
 - (b) There will no Collective discussion; each iwi will be faced with a sign or do not sign scenario;
 - (c) A number of iwi are unable to attend tomorrow due to other commitments as a result of insufficient notice and lack of consultation.

We consider it is important that we bring your attention to these matters before the signing tomorrow and look forward to your response.

Ngā mihi



Jocelyn Mikaere
Chair
Te Tāwharau o Ngāti Pūkenga Trust