



Office of Hon Christopher Finlayson

Attorney-General
Minister for Treaty of Waitangi Negotiations
Minister for Arts, Culture and Heritage

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Tēnā koe Dr Mahuika

In October 2008 the Crown and Ngāti Porou entered into a high-level agreement. That agreement was focused on financial and commercial redress but also contained a number of commitments in respect of the outstanding elements of a redress package to settle the historical Treaty claims of Ngāti Porou. Since then we and our teams have been working towards a second high-level agreement intended to supplement the first and to record the remaining elements of a redress package. The conditions of the negotiations set out in the first agreement still apply and this letter should be read in conjunction with that agreement.

I am writing to record the further progress made in negotiations to date and the next steps towards presenting a complete Crown offer to Ngāti Porou for the settlement of its historical Treaty claims.

If you agree with the contents of this letter I invite you to countersign it in confirmation of its contents as a second high level agreement between us.

PROGRESS TO DATE

The High-Level Agreement signed by Ngāti Porou and the Crown in October 2008 ("the October 2008 High-Level Agreement") recorded the parties' agreement on a cash figure of \$90 million together with interest, undertakings in respect of Tauwhareparae farm and Crown commitments in respect of commercial property redress. It also included a number of commitments to discuss and negotiate elements of the settlement that, at that time, were yet to be agreed.

Since then both parties have been working to articulate Ngati Porou's interests and aspirations in respect of those outstanding elements of the settlement package.

I acknowledge the hard work and commitment of Te Haeata through these discussions. I am aware that Te Haeata has held several wānanga to discuss and define Ngāti Porou's aspirations for settlement. These have enabled Te Haeata to present to the Crown the vision of Ngāti Porou and Te Whare Maire o Ngāti Porou, a framework for the development of Ngāti Porou's Treaty settlement aspirations. I acknowledge that vision and confirm the Crown's commitment to negotiating a redress package within that framework.

THE VISION AND TE WHARE MAIRE O NGĀTI POROU

The vision and Te Whare Maire o Ngāti Porou have been conveyed to the Crown as follows:

Vision

"Kō te Whare Maire ka tū ki roto i te Pā-tūwatawata, he tohu nō te Rangatira"

A carved ancestral house standing within a fortified pā is the sign of a chief"

The vision of Ngāti Porou is to ensure that Ngāti Porou and Ngāti Poroutanga are sustained for current and future generations.

In developing a framework for giving effect to this vision Ngāti Porou have used the metaphor of a carved ancestral house (Whare Maire) standing within a fortified pā (Pā-tūwatawata).

The Whare Maire represents Ngāti Porou, its people, culture, lands and other resources. Because a Whare Maire located within a fortified pā was historically the house of a chief, it also makes reference to the continued exercise of chiefly authority. The palisades (pou tūwatawata) of the pā represent the rights and activities required to sustain Ngāti Porou and Ngāti Poroutanga into the future.

Te Whare Maire o Ngāti Porou

Ngā pou tūwatawata o te whare:

- (a) Te Mana Rangatira - The standing, decision-making powers and influence that enable Ngāti Porou to sustain its collective rights of autonomy;*
- (b) Ngā Rawa mai i te Ao Tūroa o ngā whānau, o ngā hapū o Ngāti Porou - The natural resources that affirm, nurture and sustain the physical, environmental, economic, intellectual, spiritual and cultural well being of Ngāti Porou as tāngata whenua;*
- (c) Te Pou Maire o ngā whānau, o ngā hapū o Ngāti Porou - The knowledge, language, artistic expression and heritage that affirm, nurture and sustain Ngāti Porou as a people distinct from all other cultures;*
- (d) Te Oranga Ngākau o ngā Iwi o Ngāti Porou - The quality of life and opportunity within the rohe of Ngāti Porou needed to ensure the physical, emotional, social and economic well-being of the resident population; and*
- (e) Te Rua Tāhuhu o Ngāti Porou - The Iwi economic and commercial estate through which Ngāti Porou can invest in, and support, realization of its own aims and aspirations as an iwi.*

REDRESS PROPOSALS

Using the framework of Te Whare Maire o Ngāti Porou, Te Haeata has presented a series of redress proposals to the Crown. I understand our negotiations teams have agreed to categorise these under five general headings: commercial redress, cultural redress, a post-settlement governance entity, infrastructure and reparations. It is important to record and acknowledge the progress we have made under these categories.

Commercial Redress

The October 2008 High-Level Agreement recorded undertakings in respect of Tauwhareparae farm and Crown commitments in respect of commercial property redress. Despite the efforts of the Crown and Te Haeata, negotiations to purchase the Tauwhareparae property from the Gisborne District Council have to date been unsuccessful. Ngati Porou wish to continue to explore options in respect of the farm although it is accepted that those options are affected by the Council's ongoing ownership of the farm and the position reached on the farm's transfer. I confirm that the other commitments in relation to commercial redress recorded in the October 2008 agreement still stand.

Cultural Redress

Te Haeata has presented proposals to the Crown that can be categorised as cultural redress. These include, but are not limited to, the transfer of public conservation lands in the Ngāti Porou rohe, honouring the military service of Ngāti Porou, marae development, establishment of a Whare Maire – a multidimensional wananga, archive and creative heritage centre; Ngati Porou comprehensive History; access to Ngati Porou related research and data, support for Te Reo Māori within Ngāti Porou, wāhi tapu recognition and protection, Crown acknowledgment and apology, and an independent hearing and record of Ngāti Porou grievances against the Crown.

Te Haeata has requested that the Crown transfer public conservation lands to Ngāti Porou within its area of interest subject to continuing management of conservation values, such as public access to conservation lands and protection of biodiversity, as well as the satisfactory resolution of issues relating to cross-claims. I am considering a range of options with my colleague the Minister of Conservation. There are a number of interests the Crown must weigh up in relation to this request in addition to those identified by Te Haeata. These include the impact of Te Haeata's request on the fairness and durability of past and future settlements. I am confident we will continue to negotiate in good faith on these issues.

Several cultural redress proposals Te Haeata has presented to the Crown seek payments in support of different initiatives. The Crown will need to work through these on a case-by-case basis. As set out in the October 2008 High-Level Agreement, there are items that will incur a cost to the Crown in addition to the cash sum of \$90 million. The Crown will be guided in its response to these proposals by an overall assessment of the total value of the Ngāti Porou settlement package. Again, I am confident we will continue to negotiate in good faith on these issues.

Post Settlement Governance Entity

The October 2008 High-Level Agreement provided that the Deed of Settlement will be conditional on the establishment of a governance entity in accordance with the conditions set out in that agreement. I understand Ngāti Porou wish to establish a post settlement governance entity through private legislation and I am comfortable with proceeding with the negotiations on that basis.

Infrastructure

Te Haeata has sought the Crown's consideration of its concerns in respect of erosion, roading, telecommunications and other capital works together with social infrastructure including health and education within the Ngāti Porou rohe. These issues do not fall within the Crown's Treaty settlement framework and from the Crown's point of view cannot be included as part of the Treaty settlement process. I acknowledge, however, that Te Haeata regards these infrastructure issues as central to the Treaty relationship and you want to see these issues addressed contemporaneously with the Treaty negotiations process.

At our meeting on 7 May 2009, we discussed the idea of undertaking a review of government policies and work programmes that affect Ngāti Porou, within their rohe, which may assist in addressing the issues raised by Te Haeata. This government is concerned about infrastructure investment issues in general. I have written to my ministerial colleagues with responsibility for these various issues advising that the Office of Treaty Settlements is in the process of contacting their respective government agencies regarding the desirability of carrying out such a review in the Ngati Porou rohe. We will provide you with a summary of this information once it has been compiled and proposals for taking these issues forward.

In the meantime, I encourage you to identify and prioritise the wide range of infrastructure and social service issues you have listed as a starting point for further discussions on how these issues might be addressed.

Reparation

As is noted above, in the October 2008 High-Level Agreement the parties agreed to a cash sum of \$90 million together with interest. The provisions of that agreement stand.

Further Redress Proposals

There are several proposals Te Haeata have put to me that I am not prepared to progress as part of this negotiation. This is because those proposals either involve assets over which the Crown is not prepared to provide Treaty settlement redress (ownership of minerals and petroleum) or the Crown is awaiting a Waitangi Tribunal report before it discusses redress with iwi (flora and fauna) or because there is another process currently in operation in respect of those interests (ownership of water, transfer of carbon credits, and future resource interests).

PROCESS

In order to facilitate a clear and prompt way forward, I understand a process has been agreed to manage the negotiations for a timely outcome.

Joint meetings will be required to progress the negotiations and resolve differences. I understand new meeting protocols have been agreed between Te Haeata and my officials that should facilitate and expedite progress.

I want to be in a position to present to Te Haeata a full Crown offer, approved by my Cabinet colleagues, within the next two to three months. I understand that, if the offer is acceptable to Te Haeata, it would then consult widely with the people of Ngāti Porou seeking feedback and endorsement of the Crown's offer. I anticipate the response to this will enable us to move together towards a deed of settlement.

I trust this letter enables us to work towards that goal.

I look forward to the Crown and Ngāti Porou continuing the negotiations towards a fair, durable and comprehensive settlement of Ngāti Porou's historical Treaty of Waitangi claims.

Nāku noa, nā



Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

Acknowledged by:



Dr Apirana Mahuika
Chairman of the
Ngāti Porou Negotiations Subcommittee (Te Haeata)

On 03 04 09

2009