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Minister of Justice
Minister of Local Government
Minister in Charge of Treaty of Waitangi Negotiations
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18 Dec 2006

Apirana Mahuika
Chairperson
Te Rūnanga o Ngāti Porou
PO Box 226
RUATORIA

Settling the historical Treaty claims of Ngāti Porou

Tēnā koe Apirana

I am writing to confirm the nature and extent of the exploratory discussions we have held over the past few months regarding the possibility of Ngāti Porou entering Treaty settlement negotiations in 2007. As we agreed, these discussions have been exploratory to enable us to share information on a without prejudice basis and in good faith.

Achieving a Treaty settlement with Ngāti Porou is important for the Crown. Ngāti Porou is a significant iwi, both in terms of size and stature, with whom the Crown has long had a close relationship. I acknowledge that Ngāti Porou has sought to fulfil its obligations to the Crown under the Treaty of Waitangi, but feels that this has not been adequately reciprocated by the Crown. While Ngāti Porou may have retained a higher proportion of their lands than other iwi, I also recognise that, like many Māori communities, a large number of Ngāti Porou continue to suffer socio-economic deprivation. Addressing the grievances of Ngāti Porou and its hapū is long overdue.

Beginning negotiations in 2007 would result in a timely Treaty settlement between Ngāti Porou and the Crown, which would not only address the outstanding historical grievances of a significant proportion of Māori, but also restore and enhance the relationship between the Crown and Ngāti Porou into the future.

I would, therefore, like to reiterate the government's commitment to negotiating with Te Rūnanga o Ngāti Porou ("Te Rūnanga") to settle Ngāti Porou's historical Treaty claims, should Te Rūnanga gain a mandate from the Ngāti Porou claimant community for this purpose.

Nature of exploratory discussions

We embarked upon these exploratory discussions to allow Te Rūnanga and the Crown to make an informed decision about whether to enter Treaty settlement negotiations at this time. I consider that our discussions have been successful in this regard. I am also of the strong view that, should Ngāti Porou and the Crown enter negotiations in 2007, these exploratory discussions will ensure that the negotiations are focused from the beginning and proceed as rapidly as possible.

I should note that these exploratory discussions have been a new approach for the Crown. In the past such discussions have only occurred with an entity that has a mandate from its claimant community to negotiate with the Crown. However, I was comfortable holding exploratory discussions with Te Rūnanga at a pre-mandate stage because Te Rūnanga is the representative body for Ngāti Porou for a number of purposes, and holds a mandate from Ngāti Porou to receive fisheries assets under the Māori Fisheries Act 2004 and to negotiate with the Crown over the foreshore and seabed. Te Rūnanga is also the only entity which represents Ngāti Porou at a tribal level.

I understand that, throughout the exploratory discussions, you have been working with officials to agree a proposal to obtain the mandate of the people of Ngāti Porou for Treaty settlement negotiations. Officials inform me that you recently submitted a draft mandating strategy to the Crown for consideration. Officials will review the strategy over the coming weeks and provide you with feedback shortly.

Waitangi Tribunal's East Coast inquiry

I recognise that one of the key reasons Te Rūnanga wished to undertake these discussions is to enable Ngāti Porou to make an informed decision about whether to proceed through the Waitangi Tribunal's East Coast inquiry, or forgo the Tribunal process in favour of entering direct negotiations with the Crown.

If Ngāti Porou does wish to forgo a Tribunal inquiry in favour of entering direct negotiations, the Crown is willing to accord priority to those negotiations and commit the necessary resources to achieve a timely settlement with Ngāti Porou. If Ngāti Porou decides to continue through the Waitangi Tribunal process, negotiations will not begin until the Tribunal process is completed (which I understand is unlikely to be until at least 2009). Furthermore, there can be no certainty about whether or not the Crown will be in a position to commit priority to negotiations with Ngāti Porou so far in the future. If Ngāti Porou decides to continue through a full Tribunal inquiry, a settlement is unlikely until 2011 at the earliest.

I am aware that the Tribunal hearing process would provide an opportunity for Ngāti Porou claimants to have their grievances heard and recorded. I believe that the direct negotiation process can also incorporate many of these important aspects of the Treaty settlement process, and would be happy to discuss this further. The Crown is confident that adequate historical research exists to enable settlement negotiations to begin. I understand that further research, which is targeted for the Tribunal hearings, is currently being undertaken or has been identified for commission. This research could also be of assistance in any settlement negotiations. Importantly, any Treaty settlement would facilitate historical research and provide Ngāti Porou with the opportunity to give voice to its own history.

It is also important to recognise that completing a Tribunal process will not increase the amount of redress the Crown offers to Ngāti Porou through a Treaty settlement. The Crown must be consistent in its treatment of similar types of claims, regardless of whether or not a claimant group has completed a Tribunal inquiry. Maintaining fairness between claimant groups is essential to ensure Treaty settlements are durable.

Key elements of a possible Ngāti Porou settlement package

The exploratory discussions have been useful for highlighting Ngāti Porou's key aspirations for a settlement, as well as the parameters within which the Crown is likely to negotiate. Should Ngāti Porou decide to enter negotiations in 2007, the Crown is willing to commit to negotiating a settlement package with Ngāti Porou that contains:

- a quantum which reflects the extent of land loss and relative seriousness of Ngāti Porou's grievances, benchmarks set by existing settlements for similar grievances, and factors such as the population size of Ngāti Porou today;
- provision of commercial redress over the Tokomaru and Ruatoria forests, as well as over the Mangatu Forest (to extent that Ngāti Porou have interests in this forest), and Hoia Station;
- provision of cultural redress, including redress over important wahi tapu sites such as the guardians of Hikurangi (Aorangi, Whanokao, Taitai and Wharekia where they are in Crown ownership), and other conservation lands in Ngāti Porou's rohe, and relationship redress; and
- Crown acknowledgement of Ngāti Porou's service to New Zealand in fulfilment of its obligations under the Treaty of Waitangi.

The Crown is also willing to explore redress involving certain memorialised lands (for example, Tauwhareparae). I also consider it important that any settlement package includes a Crown apology, the details and process for which we could discuss during negotiations.

I also note that Ngāti Porou is currently in negotiations with the Crown regarding its interests in the foreshore and seabed. In the past, Treaty settlements have provided redress over the foreshore and seabed. The Crown considers that the foreshore and seabed negotiations can complement any Treaty settlement negotiations. Subject to the outcome of the foreshore and seabed negotiations, the Crown would be willing to discuss whether any other Ngāti Porou interests in the foreshore and seabed can be addressed through a Treaty settlement.

The Crown recognises the importance of developing a settlement package that makes provision for the breadth of Ngāti Porou's historical claims and the spread of Ngāti Porou hapū. The Crown will also support the restructuring of Te Rūnanga to enable it to become a suitable post-settlement governance entity for Ngāti Porou and its hapū.

During our discussions you have raised concerns about the state of infrastructure on the East Cape and the impact this is having on the development of Ngāti Porou and the resources within its rohe. As we have discussed, these are hard issues for the Crown to address through a Treaty settlement. However, the Crown recognises the importance of the issues for Ngāti Porou and its hapū. I wish to reiterate that if there are avenues for addressing infrastructure issues through a Treaty settlement, the Crown will endeavour to do so.

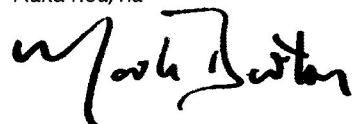
Timeframes

I understand that if Ngāti Porou decides to enter direct negotiations, Te Rūnanga is keen to undertake a mandating process in early 2007 and proceed rapidly to signing a Deed of Settlement in mid-2008 (subject to the settlement being ratified by the people of Ngāti Porou). This is an ambitious timeframe, but one that I am willing to commit to working towards.

The first critical step in the process is, of course, mandating. The completion of a mandating process will obviously dictate our timeframes for beginning negotiations.

I look forward to hearing from you soon.

Nāku noa, nā



Hon Mark Burton

Minister in Charge of Treaty of Waitangi Negotiations