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6 December 2018

Hon. Andrew Little, Minister for Treaty Negotiations
Parliament
Wellington 6140

Ngāti Mutunga o Wharekauri Settlement

Tena koe e te Minita,

Your revised initial settlement offer delivered to us today is a small step in the right direction but regrettably fails to address the main issue that lies at the heart of our Treaty claim. Any offer that does not properly acknowledge and appropriately redress the harm deriving from the unique process by which the Crown extended sovereign powers over Wharekauri in November 1842 cannot establish the Treaty partnership between Ngāti Mutunga o Wharekauri and the Crown we want. Your revised initial offer falls short of providing this foundation and cannot be accepted.

We have shown the historical evidence that Ngāti Mutunga o Wharekauri is the only iwi subject to the unilateral extension of Crown sovereignty powers over our sovereign territory and lands after the Treaty of Waitangi had been signed. The process of annexation employed was, in itself, a serious breach of the Treaty of Waitangi. In that drawn out process of annexation, Ngāti Mutunga o Wharekauri were not offered, and did not receive, the benefits of the Treaty partnership particularly the obligation to find an appropriate balance between rangatiratanga and kawanatanga rights.

This is a category of Treaty grievance that is unique to Ngāti Mutunga o Wharekauri. It requires a unique set of acknowledgements and associated redress to settle. Your revised initial offer indicates to us that Cabinet have not been advised of the special nature of our grievance and have inappropriately attempted to benchmark our redress against non-comparable settlements. We ask that you personally take the time to fully understand the history of the annexation of Wharekauri and its negative impacts on Ngāti Mutunga o Wharekauri.

These settlement negotiations have been prolonged and frustrated by a marked reluctance by your officials to engage on a serious intellectual level with this unique Treaty issue. If the reason for this reluctance is a fear of creating a precedent for other settlements, then you may put your mind at rest. By definition, recognising our unique Treaty grievance does not create a benchmark

for any other iwi, including Moriori. It is true that this then obliges us to agree a suitable redress package in the absence of the usual settlement benchmarking. Our view on how to reach a determination without benchmarking is pragmatic and shaped largely by our desire that the dual settlement processes with Moriori and Ngāti Mutunga o Wharekauri should not add to tensions within the Chatham Island community but should promote better relations between iwi and imi.

A good result for the Chathams will not be achieved through the approach you have been pursuing to date. Given the closely entwined nature of Chatham Islands whakapapa, it is simply inequitable to provide far greater redress to Moriori than to Ngāti Mutunga o Wharekauri. If you proceed on this basis you will be responsible for adding to the injury already done by the Crown to the Chathams community rather than relieving that harm. By the same token, we recognise that problems will also arise within that community if the redress offered in the Ngāti Mutunga o Wharekauri settlement is greater than that on offer to Moriori.

The respective grievances of iwi/imi cannot be weighed objectively. Like all settlements, iwi/imi no doubt both feel that the redress offered is a tiny proportion of what has been lost. The principles set out in "*Healing the Past, Building a Future*" of:

- good faith,
- restoration of relationship,
- just redress,
- fairness between claims,

have a special meaning in the unique the circumstances of Wharekauri. The four principles are best met by the Crown offering equal financial redress to both iwi and imi. We understand that Moriori redress comprises $18m of financial redress above the customary revitalisation funding of $6m already received (i.e. $24m).

On that basis, our counter-offer to you is consistent with our long standing position that we should not receive less than Moriori:
$18m of financial redress, plus;
$6m of cultural revitalisation funding (i.e. total of $24m).

Officials have explained to us that the Moriori cultural revitalisation funding is outside of (additional to) their financial redress. Our cultural revitalisation funding must therefore be on the same basis if an obvious and inexplicable inconsistency is to be avoided. If the redress offered to either iwi/imi changes for any reason then the appropriate response would be an equivalent adjustment to the other.

Naku noa na,

Ngāti Mutunga o Wharekauri Iwi Trust.