HOKOTEHI

MORIORI UNITY AND DEVELOPMENT

28 May 2020

Tom McCLurg and Fellow Negotiators
Lead Negotiator
Ngati Mutunga o Wharekauri Treaty Claims

Tena ko Tom,

LANDS IN WAITEKI – HOSPITAL BLOCK

I respond to your letter of 18 May 2020 re the above.

In short, your proposal is rejected for the reasons outlined below.

You have asked that our negotiators step back from claiming any interest in the formerly Moriori/Hospital block lands on the basis that it was claimed by Ngawhata Page and Honey Thomas in the Waitangi Tribunal and that the Tribunal recommended that it be returned to them. The important part of the Tribunal recommendation is the words "…***to the extent that the law allows***" As you are well aware, *the law does not allow* the land to be returned and LINZ have followed a robust process in this regard as you are also well aware.

LINZ has advised both Moriori and yourself, (in an email letter from Stephanie Forrest, Group Property Manager at LINZ to us both dated 29 July 2019), the law only permits the land to be offered back to the "*immediate successors*" of Mitai Pupu. As noted by Ms Forrest in her letter:

"The main issue that is still pertinent today is the decision by LINZ not to offer the land back to the former owner or to his successors under the provisions of the PWA. This was not a decision made in error and there is case law which supports the LINZ reasons for not carrying out the offer-back process. The Courts have clarified that for the purposes of Section 40 "successor" is interpreted as the "immediate successor" of the former owner.

As there are no immediate successors to Mitai Pupu the land does not require to be offered back and hence the qualifier that the Waitangi Tribunal placed on its recommendation takes effect – "*to the extent that the law allows*" – in this case it doesn't allow.

As an alternative you have also argued that Section 41 of the Public Works Act should apply to the land and be offered back to Ngati Mutunga as exclusive redress but s41 does not

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apply in this case either. Section 41 provides that this section will only apply where the land in question was "*beneficially owned by more than 4 persons*" (s.41(b)), *immediately before it's taking or acquisition*. As Mitai Pupu (Tini) was the *sole owner* of the land in question, section 41 does not apply. In short, the law does not permit the land to be offered back to any of the successors of Mitai Pupu.

There is no legal mystery involved or further analysis, legal or otherwise, required. In summary, LINZ has correctly applied the law and their decision is also consistent with the findings of the Tribunal that the land could be only returned "*to the extent the law allows*."

Moreover, Mitai Tini (Pupu) was paid 355 pounds, 10 shillings for his land so was compensated for it at the time.

Moriori had extensive settlements and urupā all over Waiteki/Waitangi so this land has great cultural and spiritual significance to our people. In our view the land should be returned to Moriori exclusively. The fact that our people (men, women and children), who were living in Waiteki in 1835 were mercilessly exterminated, only strengthens that claim.

You may start your clock at 1870, Tom, when the Native Land Court (wrongly and unjustly in our view and that of the Waitangi Tribunal) gave all the land to Ngati Mutunga – Moriori received not one acre. However, the Morori clock starts many centuries earlier when our karapuna first settled these Islands upwards of 1000 years ago.

You state in your letter:

"Note that the Hospital Block is the only piece of Crown land on Wharekauri that is being sought by Ngati Mutunga o Wharekauri as exclusive customary redress. Following the signing of the Moriori Deed of Settlement, it is now the only remaining piece of land currently available for that purpose. …..I ask for your assistance so that this Tribunal recommendation can be properly implemented by withdrawing any Moriori claim over the Hospital Block. In doing so, I hope that you might recall the similar consideration provided by Ngati Mutunga o Wharekauri in acknowledging and supporting the special interests of Moriori in lands at Rangiauria Scenic Reserve and at Waipaua Stream on Pitt Island in the form of exclusive Moriori customary redress"

You incorrectly state that Hospital Block is the only piece of land available for exclusive redress for NMOW. It is in fact included in our DOS that was signed on 14 February instant so is not available for exclusive redress as you claim.

In previous correspondence with the Crown you have (wrongly) argued that as the Crown has "favoured Moriori" with the exclusive vesting of Ouenga School and Rangihaute lands then the previous Moriori/Hospital lands should be exclusively vested in NMOW as an iwi. This is at least the *fourth* different angle you have taken on this piece of land.

By way of response we say that the vesting of Ōuenga School and the Rangihaute lands to Moriori as exclusive cultural redress is entirely consistent with the Waitangi Tribunal's finding that "*the main relief by far is due to Moriori*" (the main finding in the Rēkohu Report). With regard to the Waitangi Tribunal finding that *at least half of all lands* should have been

awarded to Moriori in 1870, all we can say is that the offering of the Ōuenga School and Rangihaute lands to Moriori, is the very least that should be offered by the Crown.

And to claim that you supported this vesting is an insult to our intelligence. You have made every effort to oppose us at every stage of the proposed exclusive vesting of land in Moriori on the claimed basis that only NMOW has 'mana whenua' on Rekohu. What utter nonsense.

As regards the "*consideration*" you say you have provided to Moriori regarding "*supporting our special interests*" is equally ridiculous. You and your fellow negotiators have done everything you can to prevent Moriori getting a reasonable settlement including taking three claims to the Courts in the past 3 years. All of which you have lost with costs awarded against you. Costs we are still waiting to be paid by the way. What does that tell you? Moriori (and Ngati Mutunga people) have had to waste our precious time and resources on futile legal action due to your arrogance and delusional belief that Moriori are and remain a "conquered people" without mana on our own Island. Time to get real Tom.

Your behaviour has been reprehensible throughout these negotiations. The principles of good faith, full disclosure and honour that we mutually agreed back in 2016 that would guide us during our negotiations, have been violated by you and your negotiators at every opportunity. You talk about a time to show leadership Tom; then I suggest you take a long hard look at yourself in the mirror.

Over the past few years you have made repeated and bullying threats to the Crown (for example your letter to the Minister dated 23 December 2019) (and implicitly against Moriori), that there will be "*social discord on Wharekauri*" and "*deep resentment*" if you and your fellow negotiators do not get your own way and land is exclusively vested in Moriori. On previous occasions you haves alluded to "*unrest*" on the Island if the Crown persist in adopting (as you falsely claim) a "*Moriori first approach*". Neither the Crown nor Moriori can be held hostage to implied (false) threats and bullying tactics on your part. Those days are long gone Tom as much as you might want to hark back to them. These statements and actions by you in your communications with the Crown and to Moriori demonstrate how out of touch you are with the reality of life here on Rekohu/Wharekauri/Chatham Islands.

We put it to you Tom that you might want to reconsider many of the actions that you have taken and withdraw your claims to Tikitiki Hill lands and Kaingaroa School, both of which should be vested exclusively in Moriori.

Tau atu ra,

Maui Solomon
Chief Negotiator for Moriori on behalf of Tom Lanauze, Grace Le Gros, Paul Solomon.

Copy to: Sam Ritchie, Te Arawhiti