



Office of the  
**Minister in Charge of Treaty of Waitangi  
Negotiations**

Te Tari o Te  
**Minita Nōna te Mana Whakarite Take e pā ana ki  
Te Tiriti o Waitangi**

13 MAY 2002

Professor Margaret Mutu  
Secretary  
Te Rūnanga-ā-Iwi o Ngāti Kahu  
21 A Parkdale Crescent  
PO Box 392  
KAITAIA

Tēnā koe Margaret

**Re. Te Rūnanga-ā-Iwi o Ngāti Kahu Deed of Mandate**

As you know, the Office of Treaty Settlements (OTS) publicised Te Rūnanga-ā-Iwi o Ngāti Kahu's Deed of Mandate to negotiate all of Ngāti Kahu's historical claims in December 2001 and January 2002, inviting submissions from interested parties. Subsequent to the receipt of submissions on the Deed of Mandate, OTS, in consultation with Te Puni Kōkiri, undertook a comprehensive review of the Deed of Mandate. This review included an analysis of all the submissions received by OTS, the supporting material provided by Te Rūnanga-ā-Iwi o Ngāti Kahu (the Rūnanga) and the background information the Crown holds on file in relation to Ngāti Kahu mandate issues.

It is up to claimant communities to determine who represents them in negotiations. As Minister of Māori Affairs and Minister in Charge of Treaty of Waitangi Negotiations, we have responsibility for assessing whether or not there is sufficient support from the claimant community for the Crown to recognise a Deed of Mandate. We have given careful consideration to the review of the Rūnanga's mandate prepared by officials. We have concluded that the Rūnanga has considerable support from the Ngāti Kahu claimant community and is an appropriate structure to represent all hapū and marae in the negotiation of Ngāti Kahu's historical Treaty claims (that is, all claims relating to Crown acts or omissions prior to 21 September 1992). However, we consider there are several issues in relation to representation and accountability that the Rūnanga will need to address prior to entering into negotiations.

First, we note that two marae, Te Paatu and Te Kauhanga, do not have delegates on the Rūnanga. We encourage the Rūnanga to invite these two marae to elect delegates, and require that places are maintained on the Rūnanga's executive so that those affiliated to the marae continue to have the opportunity for input into the negotiations process.

Second, we note that the process for appointing and removing negotiators is not clearly set out in the mandate documents. In particular, the Negotiations Protocols referred to in the Deed of Mandate appear to have been drafted under circumstances relating to Muriwhenua-wide negotiations rather than to Ngāti Kahu-specific negotiations. They do not provide detail on the way in which the negotiators will be appointed and removed, and how they will be accountable to Te Rūnanga-ā-Iwi o Ngāti Kahu. In addition, we understand that the Rūnanga's current negotiators remain those who were confirmed at the November 2000 hui, when the Ngāti Kahu Trust Board held a concurrent hui to elect their own negotiators. As a consequence, some members of Ngāti Kahu have not had the opportunity to participate in the decision-making process around the issue of selecting a negotiating team for Ngāti Kahu. This is an important matter that we would also like to see addressed.

Therefore, in order to allow for full participation in the appointment of a Ngāti Kahu negotiating team, and to ensure the on-going involvement of all marae in the negotiations, the Crown will recognise the Rūnanga's Deed of Mandate, subject to the conditions that the Rūnanga:

- i. maintain current provision for representation of all marae;
- ii. develop and agree an inclusive process for the appointment and removal of negotiators; and
- iii. appoint negotiators, in accordance with the agreed process.

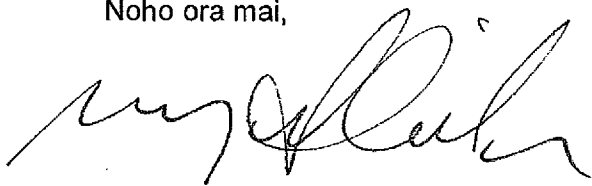
We believe that this conditional recognition will enhance the Rūnanga's mandate while acknowledging the Rūnanga's strong support from the Ngāti Kahu claimant community. OTS officials will be in contact with you to discuss the timeframe for addressing and meeting these conditions. Following this last phase of the mandating process, discussions on Terms of Negotiation can begin, between Crown officials and the duly appointed Ngāti Kahu negotiators.

As you will be aware, the Rūnanga's mandate is only for the representation of the Ngāti Kahu people in negotiations for the settlement of all their historical Treaty claims. During the negotiations process, it will be incumbent on Ngāti Kahu to develop a representative, transparent and accountable governance entity to hold and administer the settlement assets. Along with the ratification of any settlement package that is negotiated between the Crown and the Rūnanga, the people of Ngāti Kahu will also have the opportunity to vote for or against the proposed governance entity as part of the negotiations process.

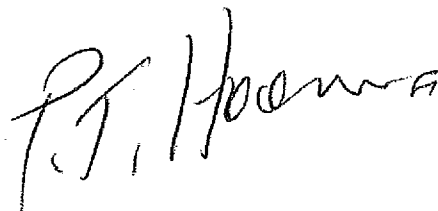
Finally, we wish to congratulate the Rūnanga on all the work that has gone into the achievement of this very important milestone, and acknowledge your perseverance over the years in advancing the Treaty claims of Ngāti Kahu. It is regrettable that the late Ngāti Kahu kaumatua, Makari Matiu, is not with you to share this accomplishment.

We look forward to moving to the first stage of negotiations.

Noho ora mai,



Hon Margaret Wilson  
Minister in Charge of Treaty of Waitangi Negotiations



Hon Parekura Horomia  
Minister of Māori Affairs



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26 FEB 2003

Professor Margaret Mutu  
Chairperson  
Te Rūnanga-ā-Iwi o Ngāti Kahu  
PO Box 392  
KAITAIA

Tēnā koe Margaret

Thank you for your letter of 18 December 2002, concerning the conditions placed on the Crown's recognition of the mandate of Te Rūnanga-ā-Iwi o Ngāti Kahu (the Rūnanga). In particular I note your comments about Te Paatu and Te Kauhanga marae, and the appointment of Te Kani Williams as a negotiator for the Rūnanga.

I apologise for the delay in response. However, I felt it was appropriate to respond to the matters outlined in your letter together with advising the Rūnanga about the outcome of the Crown's review of the mandate conditions, which the Crown has now had an opportunity to complete.

First let me acknowledge the considerable work undertaken by the Rūnanga over the last nine months in addressing the mandate conditions. I am sorry that you have found communications with the Crown about mandate issues to be frustrating and time consuming. I did not intend to convey an impression that the Rūnanga had been remiss in the way it was addressing mandate matters. As I indicated in my previous correspondence, I am aware that the Rūnanga has been carrying out the work required to address the outstanding mandate conditions. However, notwithstanding your view that the Rūnanga had addressed the mandate conditions shortly after the Crown's conditional mandate recognition in May 2002, it was not clear to the Crown precisely how the Rūnanga had met these conditions on the basis of the documentation received by officials. I understand that Te Pūni Kōkiri's letter to you of 27 November 2002 was intended to resolve any misunderstanding between the Crown and the Rūnanga about what was required in order to demonstrate how the outstanding mandate conditions had been addressed.

I am aware there is a perception among some claimants that the Crown's mandating requirements are cumbersome and time consuming. I assure you that it is not the Crown's intention to create unwieldy and unnecessary work for claimants. Rather, the requirements are to ensure that all affected parties have an opportunity to say who they want to represent them and to participate in the negotiations process. The Crown's approach to encourage good processes is based on a Treaty duty to ensure that it negotiates only with people who have been properly mandated. Because of this responsibility, if the Crown fails to ensure that it is negotiating with properly mandated representatives it will be exposed to considerable judicial and political risk. Therefore it must make decisions on mandating matters based on a clear rationale that will stand up to judicial and public scrutiny if challenged. In short, the requirements ensure that all parties to the settlement process are protected.

In this regard, thank you for the information provided to the Crown between June 2002 and January 2003 in relation to mandate matters. This has enabled us to gain a clearer picture of the Ngāti Kahu mandate context and the process undertaken by the Rūnanga since the Crown's conditional recognition of the Rūnanga's mandate in May 2002. I am pleased to advise on behalf of the Minister of Māori Affairs and myself that the Crown is satisfied that the Rūnanga has addressed the conditions placed on its mandate to negotiate the historical Treaty claims on behalf of Ngāti Kahu.

I note the view expressed in your letter of 18 December 2002 that the accountability requirements between the Crown and the Rūnanga should be reciprocal. I agree that the Treaty partnership requires equal respect between the Crown and Ngāti Kahu, and, where appropriate, this should be reflected in the reciprocity of obligations on both sides. Accordingly, I understand that officials have provided the Rūnanga with information about the Crown's mandate at a meeting with you in September 2002 and in the follow-up correspondence in October 2002.

It will not always be possible or appropriate to provide the Rūnanga with all Ministerial reports and Cabinet papers, where to do so would affect the free and frank exchange of advice and information within and between departmental officials and Ministers of the Crown. Similarly, it would be inappropriate for the Crown to request information from the Rūnanga about its free and frank discussions with the people of Ngāti Kahu in relation to the detail of the negotiations process. However, I am confident that the different circumstances of our respective parties can be reflected in a meaningful way in the Terms of Negotiation.

I am concerned that you are "starting to question the existence of good faith" and, by implication, the integrity of Crown officials. The Crown has entered negotiations with the Rūnanga on the basis of good faith, reasonableness and co-operation and I have the utmost confidence in the ability and intentions of my officials. Now that issues pertaining to the mandate conditions are resolved, I hope that negotiations towards the agreement of Terms of Negotiation between the Crown and Ngāti Kahu may resume in a constructive manner and in the spirit of good faith. I understand that Rūnanga negotiators are meeting with Crown officials later this month to discuss Terms and I look forward to hearing about the resulting progress.

Finally, I am travelling to the Far North to meet with claimant group representatives on 13 and 14 March to discuss negotiations progress. If convenient with your team, I would like to meet with the Ngāti Kahu negotiators while I am in the region during that time.

If you think such a meeting would be of value, my officials are available to discuss arrangements with you. In the meantime, please contact me should you wish to discuss any of the matters outlined in this letter further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Margaret Wilson', written in a cursive style.

Hon Margaret Wilson  
Minister in Charge of Treaty of Waitangi Negotiations

CC: Minister of Maori Affairs