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Ngāti Mutunga o Wharekauri Treaty of Waitangi Claim Negotiations

Tena koe Ben,

Thank you for your comments during and after our hui on 6 April at the Office of Treaty Settlements. I appreciated your clear statement that Ngāti Mutunga o Wharekauri holds mana whenua over Wharekauri. Recognition by the Crown of Ngāti Mutunga o Wharekauri mana whenua is a critical settlement aspiration for us.

Mana whenua, by its nature can only be held by one iwi. Mana whenua means exclusivity of control by a group over all land in a defined area. In the case of the entirety of Wharekauri, the historical record shows that mana whenua was obtained by Ngāti Mutunga o Wharekauri by conquest (raupatu) in 1835, subjection of the entire Moriori population (ringa kaha) and continuous occupation (ahi kaa) for some eight generations. These Ngāti Mutunga o Wharekauri rights were secured and guaranteed by the Treaty of Waitangi upon the annexation of Wharekauri by the Crown on 1 November 1842. In this context, we accept and support Moriori mana tangata.

The fact that Ngāti Mutunga o Wharekauri mana whenua has been rightly recognised is timely given the preparation of advice by the Office of Treaty Settlements to Cabinet on the content of the initial Crown offers to Ngāti Mutunga o Wharekauri and Moriori. That advice cannot include any recommendation or proposal that would have the effect of defeating or undermining the recognised Ngāti Mutunga o Wharekauri mana whenua over the entirety of Wharekauri unless we agree. As set out in our *Cultural Redress Position Paper* of February 2017, allocation of exclusive ownership or control of land over which Ngāti Mutunga o Wharekauri have mana whenua to Moriori as customary redress could proceed subject to three conditions:

- i. The areas would be small and discrete (a few hectares not hundreds or thousands of hectares)
- ii. The areas would not include marginal strips
- iii. The areas would be defined by mutual agreement between the two iwi.

Any advice to Cabinet that departing from the framework above would undermine confidence in the Crown confirmation of Ngāti Mutunga o Wharekauri mana whenua. Our position outlined in this letter reflects the legal advice we have obtained.

Naku noa na,



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