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Tēnā koe

Final decisions on overlapping interests for Moriori settlement package

Thank you for meeting with me on 19 June 2019 in my offices. This meeting was productive, and following our discussion about mana whenua, I am looking to appoint an independent expert to work with you and my officials to explore how this issue can be reflected in your Treaty settlement.

At our meeting I advised you I would shortly be taking final overlapping interests decisions regarding contested redress proposed for inclusion in the Moriori settlement package. These decisions have been delayed for some time as I have sought to work with you personally to address the deeply felt concerns you have expressed on behalf of Ngāti Mutunga o Wharekauri. I want to continue to work with you on a resolution to Ngāti Mutunga o Wharekauri's concerns, but I cannot delay decisions on overlapping interests any further. I write to inform you of my decisions.

Overlapping interests with Moriori

As you know, redress included in the August 2017 Moriori Agreement in Principle (AIP) was offered subject to addressing overlapping interests to the Crown's satisfaction. In the 22-months since the Moriori AIP was signed, my officials have conducted an extensive overlapping interests process between Moriori and Ngāti Mutunga o Wharekauri.

During this process, significant changes to the proposed cultural redress included in the Moriori AIP were made, including Moriori foregoing most exclusive transfers on Chatham Island in exchange for the transfer of land on Pitt Island. My officials consulted with the Pitt Island community about this proposal due to the small, close-knit nature of the community and the potential effects of the proposal on the community. In addition, Crown historians researched customary interests in contested areas, which you provided information for, and offered a tikanga expert to work through overlapping interests, which you did not agree to.

Following this process, it has become evident that Moriori and Ngāti Mutunga o Wharekauri are unable to agree to individual redress offered to the other group. I acknowledge the Ngāti Mutunga o Wharekauri view that:

- cultural redress sites should remain in Crown ownership and be co-managed by the Department of Conservation, Ngāti Mutunga o Wharekauri and Moriori;
- cultural redress sites should only transfer to Moriori if they are small and discrete and with Ngāti Mutunga o Wharekauri agreement; and

- in the absence of agreement between iwi/imi, no cultural redress should be vested exclusively in either Moriori or Ngāti Mutunga o Wharekauri.

While I understand this position, it is not one I can accept. The Crown has two Treaty partners on the Chatham Islands, and is negotiating the settlement of the historical claims of each. The purpose of cultural redress in Treaty settlements is to protect wāhi tapu and provide recognition of the claimant group within their area of interest. Moriori have a legitimate aspiration to receive exclusive cultural redress in their Treaty settlement. To do nothing, as Ngāti Mutunga o Wharekauri suggests, would thwart Moriori aspirations and, in my view, would not be helpful to the reconciliation of Ngāti Mutunga o Wharekauri and Moriori that I truly hope is possible following Treaty settlements.

Consequently, it has been necessary for me to make final overlapping interests decisions on contested redress proposed for inclusion in the Moriori settlement package. I consider overlapping interests have now been addressed to the Crown's satisfaction.

Overlapping interests decisions

In making my final decisions, I have been guided by the Crown's wish to:

- reach a fair and appropriate settlement with every claimant group in negotiations; and
- maintain, as far as possible, its ability to provide appropriate redress to all claimant groups and achieve a fair settlement of their historical claims.

I have also considered information on customary interests provided by Moriori and Ngāti Mutunga o Wharekauri on the sites in question, as well as research undertaken by Crown historians, and the views you have expressed to me in our recent meetings.

My final decisions regarding contested redress proposed for inclusion in the Moriori settlement package are as follows.

I have agreed to maintain the offer to Moriori of:

- the exclusive transfer of the former Owenga School site; and
- the exclusive transfer of the Waihere and Glory blocks, Pitt Island, subject to conditions addressing the concerns of the Pitt Island community and Local Purpose (Ecological Restoration and Community Purposes) Reserve status.

In addition, I have agreed to offer Moriori:

- an overlay classification over Ocean Mail Scenic Reserve instead of a statutory acknowledgement and deed of recognition;
- 5 hectares of the Glory block to transfer to Moriori, subject to a restrictive covenant permitting only low impact housing. This will allow Moriori to use this land for housing development for the benefit of the Pitt Island community; and
- five name changes to public conservation lands on the Chatham Islands, instead of the seven originally proposed, after considering the Ngāti Mutunga o Wharekauri position:
 - from 'JM Barker Historic Reserve' to 'JM Barker (Hāpūpū) Historic Reserve';
 - from 'Waipaua Scenic Reserve' to 'Waipāua Scenic Reserve';

- from 'Canister Cove Scenic Reserve' to 'Waikokopu (Canister Cove) Scenic Reserve';
- from 'Chudleigh Conservation Area' to 'Wi Kura (Chudleigh) Conservation Area'; and
- from 'Ocean Mail Scenic Reserve' to 'Manauera (Ocean Mail) Scenic Reserve'.

I have agreed to maintain the offer to Ngāti Mutunga o Wharekauri of a statutory acknowledgement and deed of recognition over Ocean Mail Scenic Reserve.

I have also agreed to maintain the offer to Ngāti Mutunga o Wharekauri and Moriori of a joint overlay classification over site 100 ex Wharekauri Station (Cape Young portion). In this case, joint redress is appropriate to recognise the high spiritual importance of the site to both groups.

I have been informed Ngāti Mutunga o Wharekauri and Moriori have reached agreement on the exclusive transfer of site 109 ex Wharekauri Station to Moriori.

Next steps

My final decisions on the Moriori settlement package are with Moriori for consideration. Subject to their agreement to my final decisions, I am scheduled to initial a Deed of Settlement with Moriori shortly.

I am aware initialing a Deed of Settlement with Moriori will affect Ngāti Mutunga o Wharekauri. I am available to meet with you to continue our discussion of next steps for Ngāti Mutunga o Wharekauri.

Naku noa, nā



Hon Andrew Little

Minister for Treaty of Waitangi Negotiations

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