

Terms of Negotiation between Ngāti Kahu and the Crown

Purpose of these Terms of Negotiation

1. These Terms of Negotiation:
 - a. Set out the scope, objectives, and general procedures for the negotiations between Te Rūnanga-ā-Iwi o Ngāti Kahu ("Te Rūnanga") on behalf of Ngāti Kahu (as defined in clause 3) and the Crown (as defined in clause 5) for the settlement of the Ngāti Kahu Historical Claims against the Crown (as defined in clause 4); and
 - b. Record the stated intentions of Te Rūnanga and the Crown ("the parties"), including the intention to negotiate in good faith, confidentially and without prejudice; and
 - c. Are not legally binding and do not create a legal relationship.

Objectives of the negotiations

2. The Crown and Te Rūnanga agree that the objectives of the negotiations will be to:
 - a. Negotiate in good faith a comprehensive, final and durable settlement of all the Ngāti Kahu Historical Claims, which is fair in all the circumstances; and
 - b. Achieve a settlement which:
 - i. Provides a platform which will assist Ngati Kahu to develop their economic base; and
 - ii. Settles all of Ngāti Kahu's Historical Claims but will not in any way:
 - Diminish or affect any other ongoing rights that Ngāti Kahu has arising from Te Tiriti o Waitangi / The Treaty of Waitangi; or
 - In any way diminish or extinguish any ongoing aboriginal or customary rights that Ngāti Kahu may have; and
 - iii. Recognises and acknowledges the nature and extent of the breaches of the Crown's obligations to Ngāti Kahu under Te Tiriti o Waitangi / the Treaty of Waitangi and its principles; and
 - iv. Will provide the basis for developing an on-going relationship between Ngāti Kahu and the Crown; and
 - v. Demonstrates and records that both parties have acted in good faith and reasonably in negotiating the settlement; and

- vi. Forms the basis from which the Crown's honour may be restored and developed and recognises the mana of Ngāti Kahu in its area of interest.

Definition of Ngāti Kahu

- 3. Ngāti Kahu means uri who whakapapa to Kahutianui and Te Parata as their tupuna. The definition of Ngāti Kahu may be developed further over the course of negotiations for inclusion in any Deed of Settlement that may be agreed between the parties.

Definition of Ngāti Kahu Historical Claims

- 4. Ngāti Kahu Historical Claims means all claims that have been made (whether or not the claims have been researched, registered or notified) by any Ngāti Kahu claimant or anyone representing them that:
 - a. are founded on rights arising from Te Tiriti o Waitangi, the Treaty of Waitangi, and/or the principles of the Treaty of Waitangi, whether based on legislation, common law (including customary law and aboriginal title), fiduciary duty, or otherwise; and
 - b. arise from or relate to acts or omissions before 21 September 1992:
 - i. by or on behalf of the Crown; or
 - ii. by or under legislation; and
 - c. includes the following claims registered at the Waitangi Tribunal, insofar as they relate to Ngāti Kahu and to Crown acts and omissions before 21 September 1992.

Wai number	Claim
Wai 16	Karikari complex
Wai 17	Taipā Sewerage Claim
Wai 45	Muriwhenua land claim
Wai 117	Karikari blocks
Wai 262	Flora and Fauna
Wai 284	Karikari Rating claim
Wai 295	Kohumaru Station
Wai 320	Kohumaru Station
Wai 544	Te Paatū Marae Trustees Takahue School Claim
Wai 548	Takahue Community Marae Trust Takahue No. 1 Block Claim

Wai 590	Descendants of Te Rata Te Ahi, Ngamoko (Mere) Rata & Tutere Rata Whiwhero and Other Blocks Claim
Wai 736	Pikaahu hapu lands/forests and resources
Wai 913	Mei Paerata Coleman

Definition of the Crown

5. The Crown means Her Majesty the Queen in right of New Zealand.
 - a. This includes all Ministers of the Crown and all government departments;
 - b. And does not include:
 - i. All Offices of Parliament; and
 - ii. All Crown entities; and
 - iii. All State Enterprises named in the First Schedule to the State-Owned Enterprises Act 1986.

Mandate to negotiate

Crown

6. The Minister in Charge of Treaty of Waitangi Negotiations (the Minister), as member of Cabinet, has delegated authority from the Prime Minister to negotiate on behalf of the Crown for the settlement of Ngāti Kahu Historical Claims. Attached at Appendix 1 is a copy of the Minister's warrant from the Governor-General confirming that authority. Day to day negotiations will be carried out by the Minister's officials and representatives.
7. Attached at Appendix 2 is information describing the composition of the Crown's negotiating team that will carry out day to day negotiations on behalf of the Minister and the accountabilities of the negotiators who represent the Crown in negotiations with Te Rūnanga for the settlement of Ngāti Kahu's Historical Claims.
8. Attached at Appendix 3 is a letter of Te Rūnanga's recognition of the mandate of the Minister in Charge of Treaty of Waitangi Negotiations for the purpose of the Ngāti Kahu Treaty settlement negotiations with Te Rūnanga.
9. The Office of Treaty Settlements agrees to inform Te Rūnanga about any government agreed public information programme on the Treaty Settlement process.

Te Rūnanga

10. Attached are the Deed of Mandate and associated documents (Appendix 4) which confirm that Te Rūnanga has the mandate to represent Ngāti Kahu in negotiations with the Crown for the settlement of Ngāti Kahu Historical Claims.
11. Attached (Appendix 5) is a copy of the protocol which describes the composition of Te Rūnanga's negotiating team, and the accountability of the negotiators who are representing Ngāti Kahu in negotiations with the Crown for the settlement of Ngāti Kahu Historical Claims.
12. Attached is a letter of the Crown's recognition of the mandate (Appendix 6), which recognises the mandate of Te Rūnanga for the purpose of Ngāti Kahu Treaty settlement negotiations with the Crown. Day to day negotiations will be carried out by Te Runanga's officials and representatives.
13. Te Rūnanga and the Crown agree to regularly exchange information with each other during the course of the negotiations, including:
 - a. Te Rūnanga advising the Office of Treaty Settlements:
 - on the ways it is informing Ngāti Kahu about the negotiations process and progress; and
 - about any mandate issues that may arise; and
 - b. The Office of Treaty Settlements, on behalf of the Crown, informing and consulting with Te Rūnanga about any objections or otherwise to the Rūnanga's mandate that it receives.

Subject matter for Negotiation

14. The parties will together agree upon subject matters to be negotiated.
15. Te Rūnanga and the Crown acknowledge that while negotiations will not be limited to the subject matter in the following documents, these documents will inform the negotiations:
 - a. The Ngāti Kahu Settlement Package, September 2000, which is currently being revised;
 - b. The Crown guidebook: "Healing the Past, Building a Future: A Guide to Treaty of Waitangi Claims and Direct Negotiations with the Crown".
16. Any additional subject matter may be added by agreement between negotiators for each party.

Stages of Negotiations Process

17. Te Rūnanga and the Crown agree that the general stages of negotiations will include, but not necessarily be limited to:

- a. Agreement in Principle: an outline of the scope of and nature in principle for the settlement of Ngāti Kahu's Historical Claims, which will be recorded in the Deed of Settlement;
- b. Initialled Deed of Settlement: the Deed of Settlement which sets out the terms and conditions of settlement of the Ngāti Kahu Historical Claims which is initialled by the duly appointed representatives of Te Rūnanga and the Crown;
- c. Ratification: A process whereby the initialled Deed of Settlement is presented to Ngāti Kahu for approval. A governance entity structure, either existing or to be constituted, will also be presented to Ngāti Kahu for ratification before the settlement legislation can be introduced but this need not necessarily occur contemporaneously with ratification of the Deed of Settlement;
- d. Deed of Settlement signed if ratified: the Deed of Settlement will then be signed by senior representatives of Ngāti Kahu and the Crown;
- e. Governance Entity and Settlement legislation: settlement of the Ngāti Kahu Historical Claims becomes effective on a suitable governance entity being in place to hold the settlement assets and the required settlement legislation receiving the Royal Assent.

What the settlement of Ngāti Kahu Historical Claims will enable

18. Te Rūnanga and the Crown agree that the settlement of the Ngāti Kahu Historical Claims will enable:
 - a. Final settlement of all the Ngāti Kahu Historical Claims, and release and discharge of all of the Crown's obligations and liabilities in respect of them; and
 - b. The discontinuation of the Office of Treaty Settlements' landbank for the protection of potential settlement properties for Ngāti Kahu; and
 - c. The removal of any resumptive memorials from the titles of land subject to the State Owned Enterprises Act 1986, the Railways Corporation Restructuring Act 1990, the Crown Forest Assets Act 1989 and the Education Act 1989 and for statutory protection for claims against the Crown to be removed; and
 - d. The removal of the jurisdiction of the courts, the Waitangi Tribunal, and any other judicial body or tribunal over Ngāti Kahu Historical Claims, the Deed of Settlement, the redress provided or settlement legislation (but will not enable the removal of such jurisdiction over the implementation or interpretation of terms in any Deed of Settlement or any settlement legislation); and
 - e. Discontinuance of legal proceedings or proceeding before the Waitangi Tribunal in relation to Ngāti Kahu Historical Claims.

Historical Account and Acknowledgements

19. The Crown and Te Rūnanga agree;
 - a. That during the course of historical account negotiations, Te Rūnanga and the Crown will aim to agree on the nature, extent and consequence of Ngāti Kahu's Te Tiriti o Waitangi/the Treaty of Waitangi grievances and any Crown breaches of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles; and
 - b. That in the deed of settlement the Crown will acknowledge and apologise for any agreed Crown breaches of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Communication

20. Te Rūnanga and the Crown through their respective mandated negotiators will each ensure regular and appropriate internal consultation procedures throughout the negotiations.

Overlapping claims

21. Te Rūnanga and the Crown agree that overlapping claim issues over redress will need to be addressed to the satisfaction of both Te Rūnanga and the Crown before a Deed of Settlement can be concluded, and that redress may sometimes be required to reflect the importance of an area or feature to other claimant groups.
22. Te Rūnanga will make reasonable endeavours at an early stage to assist in resolving overlapping claims issues.
23. The Crown will also make enquiries and endeavour to resolve overlapping claims issues.

Settlement conditions

24. Te Rūnanga and the Crown acknowledge that this document does not bind either party to reach a settlement and that any agreement reached in negotiation discussions is confidential to Ngāti Kahu and the Crown, without prejudice and will not be binding until:
 - a. Embodied in a Deed of Settlement; and
 - b. Ratified by Ngāti Kahu and the Crown in an agreed process; and
 - c. A suitable governance entity is in place to receive settlement assets; and
 - d. Settlement legislation comes into force.

Governance entity for settlement assets

25. Te Rūnanga and the Crown agree that:
- a. Te Rūnanga, in consultation with Ngāti Kahu, will confirm or develop an appropriate governance entity to receive settlement assets that Te Rūnanga and the Crown are satisfied is an appropriate legal entity which is representative of Ngāti Kahu, has transparent decision making processes and is fully accountable to Ngāti Kahu; and
 - b. The governance entity will be ratified in a manner to be agreed by Te Rūnanga and the Crown.

Claimant funding

26. Te Rūnanga and the Crown note that the Crown makes a contribution to the negotiations costs of Te Rūnanga, which is paid in instalments when specified milestones in the negotiation process are achieved. The Crown and Te Rūnanga will agree these milestones at the start of the negotiations process.
27. Te Rūnanga will provide the Crown annually with independently audited accounts for the claimant funding that it receives from the Crown, identifying how the funding has been spent on the negotiations.

Waitangi Tribunal and Courts

28. Te Rūnanga and the Crown agree that during the negotiations neither party will pursue nor initiate, before any court or tribunal, any proceedings covering all or part of the same subject matter as these negotiations.

Procedural matters

29. Te Rūnanga and the Crown agree that:
- a. Negotiations will be on a “without prejudice” basis and will be conducted in good faith and in a spirit of co-operation;
 - b. Negotiations will be conducted in private and will remain confidential to Te Rūnanga and the Crown unless agreed otherwise (such as when consultation with third parties is necessary) or when the Crown is required to release information under the Official Information Act 1982;
 - c. Media statements concerning the negotiations will only be made when mutually agreed by both parties;
 - d. Te Rūnanga will report regularly to the Crown on the steps taken to consult with and inform Ngāti Kahu members of the progress of the negotiations; and
 - e. The Office of Treaty Settlements will report regularly to Te Rūnanga on the steps taken to consult with and inform the Crown of the progress of the negotiations; and

- f. Meetings will be held at a location suitable and convenient to Te Rūnanga and the Crown and determined by both parties, taking into account their circumstances and constraints.

Amendments

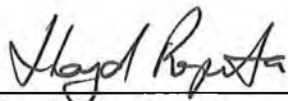
30. Te Rūnanga and the Crown acknowledge that it may be necessary to amend these terms of negotiation from time to time and agree that all amendments must be approved by both parties and recorded in writing.

SIGNED THIS DAY OF 2003

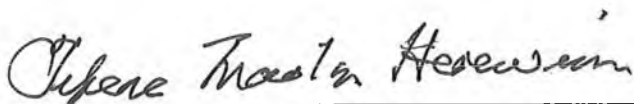
For and on behalf of Te Rūnanga-ā-Iwi o Ngāti Kahu:



Professor Margaret Shirley Mutu
Negotiator
Te Rūnanga-ā-Iwi o Ngāti Kahu



Reverend Lloyd Nau Popata
Negotiator
Te Rūnanga-ā-Iwi o Ngāti Kahu

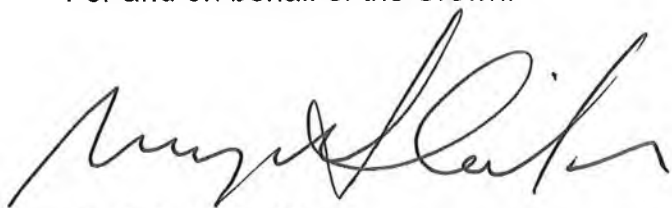


Tipene Martin Herewini
Negotiator
Te Rūnanga-ā-Iwi o Ngāti Kahu



Te Kani Te Auripo Rewita Williams
Negotiator
Te Rūnanga-ā-Iwi o Ngāti Kahu

For and on behalf of the Crown:

A handwritten signature in black ink, appearing to read 'Margaret Wilson', written over a horizontal line.

Hon Margaret Wilson
Minister in Charge of Treaty of Waitangi Negotiations

Appendix 1

Ministerial Warrant

Appendix 2

Crown Negotiating Team

The Office of Treaty Settlements (OTS) was created in January 1995. It is a separate unit within the Ministry of Justice and reports directly to the Minister in Charge of Treaty of Waitangi Negotiations on historical Treaty settlement issues.

What does OTS do?

The main jobs of OTS are to:

- negotiate settlements of historical claims directly with claimant groups, under the guidance and direction of Cabinet
- provide policy advice to the Minister in Charge of Treaty of Waitangi Negotiations and Cabinet on generic Treaty settlements issues and on individual claims
- co-ordinate the government departments that are involved in the negotiation and settlement process
- review and provide advice to the Minister in Charge of Treaty of Waitangi Negotiations about the mandates of claimant groups and their proposed post-settlement governance entities
- oversee the implementation of settlements, and
- acquire, manage, transfer and dispose of Crown-owned land for Treaty settlement purposes.

This means that OTS is the main point of contact for claimant groups seeking resolution of their historical grievances through negotiations with the Crown. OTS works closely with claimant groups through all stages of the negotiations process to make sure that:

- claimant groups are fully informed about the negotiations process
- all agreed milestones along the route to a negotiated settlement are met, within agreed time limits
- the Crown understands the claimant group's grievances and what they want to achieve through settlement
- there is co-ordinated advice and information from all government departments involved in the negotiations
- the Crown and the claimant group work together, as far as possible, to achieve a negotiated settlement, and
- obligations in Deeds of Settlement, once signed, are carried out as intended and within the agreed time limits.

Structure and people

OTS is a relatively small and tightly focused unit headed by a Director. The Director has overall responsibility for OTS and leads the policy and negotiations work. Below the Director are a series of Team Managers.

The Team Managers are each responsible to the Director for a set of specific claims and policy issues. In addition, each team usually contains several policy analysts from OTS and, during negotiations, an OTS historian, and representatives from key government departments such as the Department of Conservation and the Treasury.

For some claims, a specially appointed Chief Crown Negotiator may lead negotiations.

Although teams each have responsibility for a number of claims, each team will usually only conduct active negotiations with one or two claimant groups at a time. This ensures that OTS's resources are used as effectively as possible and that proper care and attention is devoted to each claim.

OTS has also established a Claims Development Team that works closely with claimant groups before they enter the negotiating process. The team's aim is to ensure that claimant groups are well-prepared prior to entering negotiations.

The finance and operations divisions of OTS – headed by an Operations Manager – are made up of three separate teams responsible for corporate services, the implementation of settlements, and the OTS landbank of properties.

Although OTS takes the lead role in negotiations, other departments are involved as follows:

Treasury - advice on overall fiscal management of settlement process, and assessment of fiscal risks to the Crown for settlement redress options.

Te Puni Kōkiri - advice on mandating and governance issues, and also monitors Crown action in response to Waitangi Tribunal recommendations.

Department of Conservation - advice on issues affecting conservation land, plant, animal and freshwater fish species.

Crown Law Office - advice to OTS on legal issues and the drafting of Deeds of Settlement and settlement legislation.

Ministry of Fisheries - advice on non-commercial sea fisheries issues.

Ministry for the Environment - advice on resource management issues.

Land Information New Zealand - advice on Crown landholding issues, including Public Works Act 1981 issues.

Parliamentary Counsel Office - drafting of settlement legislation.

It should be noted at this point that the resources available to the Crown for the negotiation of settlements are, like those of all other Crown agencies, limited. This means that from time to time the Crown must work out which areas of its existing and potential workload have the highest priority. This may mean, for example, that claimant groups that have completed all the necessary research, and resolved all overlapping claims and mandate issues, are given a higher priority in the negotiations process by OTS.

Appendix 3

Te Rūnanga-a-Iwi o Ngāti Kahu's recognition of the Minister in Charge of Treaty of Waitangi Negotiations' mandate

Appendix 4
Ngāti Kahu's Deed of Mandate

APPROVED

**NGATI KAHU
DEED OF MANDATE**

for the Negotiation of the Settlement of the

NGATI KAHU LAND CLAIMS

by

**Te Runanga-a-Iwi o
Ngati Kahu**

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Deed of Mandate Checklist
(as provided by Te Puni Kokiri)

These are essential items – a claimant group can include additional material to reflect its own requirements and circumstances.

1. A statement of *who the claimant group* is (its name and the shared affiliation of its members) and its rohe or the area covered by its claims. Claimants may also include an indication of core areas for the claimant group and other areas in which there may be shared or overlapping interests with other groups.

Ngati Kahu are defined as

Ko Maungataniwha te maunga	<i>Maungataniwha is the mountain</i>
Ko Tokerau te moana	<i>Tokerau (Doubtless Bay) is the sea</i>
Ko Kahutianui ¹ te tupuna	<i>Kahutianui is the ancestor</i>
Ko Te Parata te tangata	<i>Te Parata is the man</i>
Ko Mamaru te waka	<i>Mamaru is the canoe</i>
Ko Ngati Kahu te iwi	<i>The tribe is Ngati Kahu</i>

The land and sea territories over which Ngati Kahu holds *mana whenua* and *mana moana* (traditional spiritual and physical power and authority for tribal lands and seas) are as follows: Maungataniwha range is the southern boundary of Ngati Kahu's *rohe* (traditional territory) and the most prominent land feature associated with Ngati Kahu as a tribe. The *rohe* extends to Takou Bay south of Whangaroa Harbour (although some kaumatua maintain that the true Ngati Kahu boundary is Te Ti which is further south) north to Rangaunu Harbour, inland through Kaitaia and to the top of the Maungataniwha Range taking in Panapurua, Takahue and Mangataiore (Victoria Valley). Ngati Kahu's *takutai moana* (territorial seas) extend out to sea as far out as has been traditionally fished which is at least two hundred miles. However the main sea body associated exclusively with Ngati Kahu is Tokerau (Doubtless Bay - including Karikari) and the open seas beyond that. Ngati Kahu's *rohe* and *takutai moana* cannot be depicted by lines on a map. There is considerable flexibility and overlap with neighbouring tribes (Ngapuhi on the south east, Ngai Takoto on the north west and Te Rarawa on the west and south west) in a manner which is well understood and accepted, mainly because of the extensive intermarriage that is particularly evident in the *hapū* living at the boundaries².

Rohe of Te Runanga-a-Iwi o Ngati Kahu

For some time now, Ngati Kahu has been administered in two parts: those hapu and marae of the north-western sector, who are still only known as Ngati Kahu (and will be referred to as such throughout this document) but have been referred to as "western Ngati Kahu"; and Ngati Kahu ki Whangaroa who are based generally around the Whangaroa Harbour. Te Runanga-a-Iwi o Ngati Kahu administers the north-western sector and holds

¹ Kahutianui is the ancestress named by western Ngati Kahu. However some Ngati Kahu ki Whangaroa name Kahukuraariki, mother of Kahutianui, as their ancestress.

² Depiction of Ngati Kahu's territory by lines on maps has caused (unnecessary) disputes in hui in the past.

the mandate to represent the *whānau*, *hapū* and *marae* of that sector in the settlement of their land claims against the Crown. Ngati Kahu ki Whangaroa are administered by other bodies, including Te Runanga o Whaingaroa.

The Whangaroa *hapū* of Ngati Kahu take responsibility for the area south of the Whakaangi range. At the boundary between Ngati Kahu and Ngati Kahu ki Whangaroa, Te Runanga-a-Iwi o Ngati Kahu's *rohe* takes in the *rohe* of Ngati Ruaiti *hapū* of Waitetoki and Hihi and the *rohe* of Matarahurahu *hapū* of Kenana. The lands of these *hapū* include the Whakaangi Range, Waitetoki, Kaiwhetu, "Butler's Point", Mangonui (including the Harbour), Hihi, Te Akeake, Paewhenua Is., Oparihi, Pukenui, Waipumahu, Kaiwaka, Rangitoto, Tipatipa (Kohumarū), Takakuri and the surrounding lands (see map for very approximate area and boundaries and schedules in settlement package).

The *rohe* of Te Runanga-a-Iwi o Ngati Kahu then takes in the lands of all other *hapū* listed below, taking in the seas and coast as far north as the Rangaunu Harbour, before heading inland through Awanui into Kaitaia and heading on to the Maungataniwha Range taking in Pamapurua, Takahue and Mangataiore (Victoria Valley). The *rohe* includes the Maungataniwha Range and proceeds east to the lands of Matarahurahu and Ruaiti *hapū* as listed above.

THE REMAINING PĀPĀKĀINGA OF NGATI KAHU AND THEIR ASSOCIATED HAPŪ AND MARAE

As a result of extensive land purchasing and other land acquisition policies of the Crown both last century³ and this, the *whānau* and *hapū* of Ngati Kahu now legally own less than 6% of their original lands⁴. *Hapū* still able to live on their ancestral lands reside on these remnants and most (but not all) *hapū* have *marae* located on their lands as well. However, economic reality has forced most of Ngati Kahu to live outside their *rohe*, with the vast majority residing in Auckland in a predominantly European cultural environment. Some Ngati Kahu *whānau* have also established traditional communities in other Taitokerau districts, maintaining Ngati Kahu (and Te Rarawa) *mana whenua* in these areas as a result of past agreements with the tribes of those areas and long established residence there. These communities maintain active links with their Ngati Kahu relations making frequent visits to *marae* functions and in some cases, re-establishing *papakāinga* within Ngati Kahu's *rohe*.

The following table lists the location of the remaining *papakāinga*, along with the *hapū* and *marae* names associated with those locations.

Table 1: (Western) Ngati Kahu Papakāinga, Marae and Hapū

Papakāinga	Marae	Hapū
Whatuwhiwhi, Karikari, Merita and Tokerau	Haititaimarangai	Te Whanau Moana and Te Rorohuri
Parapara and Aurere	Parapara	Ngati Tara
Lake Ohia	Werowero	Ngati Tara

³ See 1997 *Muriwhenua Land Report* by the Waitangi Tribunal.

⁴ Ngati Kahu is claiming back all its ancestral lands from the Crown.

Toatoa and Paranui	Te Ahua	Pikaahu, Paatu
Taipa	Karipori	Pikaahu
Watetoki	Waiaua	Ngati Ruaiti
Kenana and Mangonui	Ngati Kahu/Ranginui	Matarahurahu
Aputerewa		Te Whanau Pani, Ngai
		Taurutakaware
Peria	Kauhanga	Te Paatu
Managataiore	Mangataiore	Ngati Taranga
Oturu	Oturu	Ngai Tohianga
Kareponia	Kareponia	Patukoraha
Takahue ✓		Tahāwai
Pamapurua	Te Paatu	Te Paatu

2. A statement that the group intends to seek a **comprehensive** settlement of all its **historical claims** (including all "Wai" numbers and any unregistered claims)

Te Runanga-a-Iwi o Ngati Kahu intends to seek a comprehensive settlement of all Ngati Kahu historical claims which the Crown is able to settle at this time. These claims are included in both claims formally lodged with the Waitangi Tribunal and in informal claims not yet formally lodged. Those formally lodged with and accepted by the Tribunal are

1. WAI 16 Karikari, Puheke (determined in the Court of Appeal and settled)
2. WAI 17 Taipa and Ngati Kahu-wide
3. WAI 117 Karikari, Waikura, Merita, Paraoanui, Whangatupere, Kauhoehoe, Rangiawhiao, Taumatawiwi, Parakerake, Puheke, Whatuwhiwhi, Waiari.
4. WAI 284 Rating of Māori land
5. WAI 295 Kohumaru, Waihapa 2D, Kaingapipiwai 1H, Omaunu 1A, Patupukapuka, Ranfurly Bay
6. WAI 320 Kohumaru and other lands
7. WAI 5⁴/₄ Takahue School and other lands
8. WAI 548 Takahue School, Takahue Domain and Takahue Cemetery
9. WAI 590 Konoti, Whiwhero, Oturu and other blocks
10. WAI 736 Pikaahu hapu lands, Taipa and surrounding lands (Maheatai, Waipuna, Otako, Otengi, Taurangawaka, Taurangatira, Herewaka, Ikateretere, Waimutu, Whatianga, Waipapa), Whakapapa, Omatai, Opouturi (includes Paranui) and Tuanaki) forests and resources.

The informal claims include^{5,6}

- Karikari 2C (Te Whanau Moana *hapū*)
- Parakerake, Kauhoehoe (Brodis), Whangatupere, Paraoanui, Puwheke, Rangiputa blocks and Waiporohita and the adjacent waahi tapu (Te Whanau Moana and Te Rorohuri *hapū*);
- the Matthews farm at Aurere and ex-Lands and Surveys Lands (Ngati Tara *hapū*);
- Whakaangi range, Waitetoki, Waiaua, Hibi camping ground and surrounding lands, Butlers Point (Ngati Ruaiti *hapū*).
- Tipatipa (Kohumaru), Waipumahu, Kaiwaka, Rangitoto, Mangonui (including the Harbour), Rangikapiti, Taumarumaru, Te Akeake (Paewhenua Is.), Oparihi and Pukenui (Matarahurahu *hapū*)
- Berghan *whānau wāhi tapu* in Mill Bay (Berghan *whānau*);
- Flavell Old Land Claim at Mangonui to Flavell *whānau*;
- Lake Waiporohita (Te Whanau Moana and Te Rorohuri *hapū*);
- Oruru River (Pikaahu *hapū*);
- Takahue School, Domain and Cemetery (Tahaawai *hapū* for the benefit of the descendants of all residents of Takahue);
- Kaipaua, Pukemiro, Tutaha, Tuai and Raetea forest (Tahaawai *hapū*);
- Okahu block (Walker *whānau*);
- Mangataiore block, Victoria Valley School site and Mangataiore Marae site (Ngati Taranga *hapū*)
- Mangataiore River (Ngati Taranga)
- Te Onepu (the airport) to Ngai Tohianga/Patukoraha
- Kawakawa, Waingakau, Karaka, Mangatete (OLC of James Davis which includes Toanga, Pukewhau, Pakaretu, Ngakuraiti and Mangatete), Mangatakouere, Matakou, Pungaungau and Tutarakihi (Patukoraha *hapū*)
- Aputerewa (which includes several Te Aupouri forest blocks) (Ngai Tauurutakaware/Te Whanau Pani *hapū*)

⁵ All of these can be subsumed under one or more of the formally lodged claims, particularly the claim of McCully Matiu (WAI 17) to all Ngati Kahu lands and resources.

- Lake Ohia to Ngati Kahu (on behalf of the Ngati Tara whanau of Werowero)
- Parapara farmlands (Ngati Tara *hapū*)
- Waikura (the Hetaraka whanau);
- Rangiawhia school site and adjacent block (Dick and Simon Urlich);
- Konoti (the Nopera/Popata whanau);
- compensation for ill treatment through consolidation and land development schemes to the Raharuhi (Merita), Reihana (Merita), Poharama (Merita), Reihana (Wairahoraho), Rupapera (Whakapouaka), Rupapera (Whatuwhiwhi), Matiu (Waiari), Matiu (Karikari), Manuera (Taumatawiwi), Matiu (Ahipara), Manuera (Toatoa), Phillips (Okokori), Nopera/Popata (Konoti), Ngai Tohianga hapu (Oturū) and many other whanau still to be identified;
- Taumatawiwi D (interest and compensation sought by the named shareholders);
- all other lands lost to consolidation and farm development schemes, public works, education and health purposes, rehabilitation schemes, rates and all other types of legalised confiscation, returned to owners who lost them or their descendants and pay compensation for the years of deprivation.
- all Ngati Kahu's natural resources including all waterways, seas, the seabed, air and airwaves, minerals and other subterranean resources within Ngati Kahu's rohe.
- deprivation suffered as a result of non-delivery of Article III rights and
* immediate and unconditional reinstatement of those rights.

3. A definition of **who the members of the claimant group are**. For example this may be all the descendants of a particular tupuna.

Ngati Kahu, that is, the descendants of Kahutianui and Te Parata (see 1 above).

4. The names and addresses of *the body or group, and its representatives*, mandated by the claimant group to represent them (and authorised to appoint negotiators on their behalf).

Te Runanga-a-Iwi o Ngati Kahu, 21A Parkdale Cres, KAITAIA
(Postal Address: PO Box 392 KAITAIA)

⁶ For further (but not yet fully complete) details, see schedules in Ngati Kahu Settlement package.

Phone: 64 9 408 3013
Fax: 64 9 408 3093
Email: ngatikahu@xtra.co.nz

Representatives: Makari (McCully) Matiu
Dr Margaret Mutu
Rev. Lloyd Popata
Tipene (Steve) Herewini

**Update as at 8 November 2001 of
Section 5
of the
Deed of Mandate of Ngāti Kahu
for the Negotiation and Settlement of the Ngāti
Kahu Land Claims
by Te Runanga-a-Iwi o Ngāti Kahu
(N.B.Amendments are underlined)**

5. A description of *how the mandate was obtained*, with all supporting evidence, including:
- advertisements or panui, agendas and minutes of hui
 - numbers or lists of those attending clearly linked to the hui agenda
 - other methods used (eg, mailouts to beneficiaries and responses received)

Mandate Confirmed by Series of Hui-a-iwi in 1996

See attached (at "A") mandating documentation for a series of hui-a-iwi called in Ngati Kahu in 1996 specifically to determine who would hold the mandate to represent Ngati Kahu in all its land and fisheries claims against the Crown. The original mandate to represent Ngati Kahu in all dealings with the Crown was given to Te Runanga-a-Iwi o Ngati Kahu when it was originally set up in 1990. The hui-a-iwi in 1996 confirmed that mandate by an overwhelming majority of 61 votes (for Te Runanga-a-Iwi o Ngati Kahu chaired by Makari Matiu) to 4 votes (for the Ngati Kahu Trust Board as chaired by Graham Latimer) taken on a secret ballot. Subsequently 13 of the 14 marae that Te Runanga-a-Iwi o Ngati Kahu represents signed statements confirming that mandate (see attached at "B"). It has also been confirmed at the 1997 and 1998 AGMs of Te Runanga-a-Iwi o Ngati Kahu (see attached at "C"). Ngati Kahu has reconfirmed both the mandate of Te Runanga-a-Iwi o Ngati Kahu and the four chosen representatives at several hui-a-iwi and other gatherings of Ngati Kahu whanau, hapu and iwi since 1996, including hui held on 30 September 2000 at Karipori Marae, Taipa (see attached at "E") and in Auckland on 25 November 2000 (see attached at "F"). The Crown already has documentation relating to previous confirmations of the mandate. The marae have also confirmed the mandate of Te Runanga-a-Iwi o Ngati Kahu during preparation for the September 2000 hearing of the High Court challenge by the Ngati Kahu Trust Board (and Te Runanga o Muriwhenua) which was withdrawn prior to being heard (see below). During 2001 there have been a further 8 meetings with individual marae to confirm that mandate and 11 marae plus Te Iwi o Ngati Kahu ki Tamaki (Ngati Kahu's committee in Auckland) have written letters of confirmation once more (see attached at "G").

Mandate Also Conferred by Individual Claimants

Of the 9 current and formally lodged claims in Ngati Kahu, eight have been authorised by the registered and named claimant to be settled by Te Runanga-a-Iwi o Ngati Kahu. The remaining claimant (WAI 590) has indicated that she wishes to settle her own claim herself. Claimants bringing each and every one of

the informal claims listed above have authorised Te Runanga-a-Iwi o Ngati Kahu to settle them on their behalf.

Maintaining Te Runanga-a-Iwi o Ngati Kahu's Mandate

Te Runanga-a-Iwi o Ngati Kahu holds open meetings of all whanau, hapu and marae representatives on the last Saturday of every month at different marae around Ngati Kahu and once or twice a year in Auckland. At these hui land claims reports are delivered and approved and directions on future progress recorded. In November 1999 Te Runanga-a-Iwi o Ngati Kahu published a compilation of these reports covering the period from 1989 up to October 1999 under the title *Kia Mōhio, Kia Mārama*.

All reports and information relating to Ngati Kahu's land claims are freely available to all Ngati Kahu descendants and Te Runanga-a-Iwi o Ngati Kahu regularly sends out such additional information and reports in answer to requests from beneficiaries. Numerous hui (in excess of 70 since 1986) have been held with individual marae and whanau to consult and take direction on their specific claims. All these hui are on-going. As funding becomes available to do so, consultation hui will also be conducted in other New Zealand and Australian centres where Ngati Kahu are currently residing.

Te Runanga-a-Iwi o Ngati Kahu has demonstrated an unparalleled ability and track record to conduct the claims of Ngati Kahu. Its chairman was, for several years, the sole surviving head claimant of the five iwi claims and the undisputed kaumatua rangatira of Ngati Kahu. Its secretary, being a senior university lecturer with a PhD in Maori Studies, has conducted and coordinated the research for the claims since 1986, prepared and presented the numerous necessary reports and affidavits not only for the Waitangi Tribunal and Ngati Kahu, but also for the High Court. Both have extensive and detailed knowledge of Ngati Kahu's claims as do the two other Ngati Kahu representatives for the land claims.

MAILOUTS

Since obtaining the mandate to represent Ngati Kahu in its land claims, monthly reports on progress have been mailed out to all marae, marae officers, delegates and all others on Te Runanga-a-Iwi o Ngati Kahu's mailing list. Between March 1996 and January 1999 that included every person who had attended any hui in Ngati Kahu relating to the land claims. The mailing list reached 375 individuals. In 1999, as funding ran out, the mailing list was reduced to all marae, all marae officers, all delegates, all kuia and kaumatua and those who paid a subscription of \$25 per year for the mailout. This mailing list had an average of 100 individuals and families on it. When funding was made available by OTS in September 2000 the mailout list was being expanded to all those now registered with Te Runanga-a-Iwi o Ngati Kahu, some 1500 individuals. However that money was exhausted fairly quickly and the mailing list is currently back to an average of 100. N.B. Once assistance promised in 1998 by Te Puni Kokiri is provided to allow a proper registration process to take place, this number will increase three or four fold.

HUI-A-IWI OF THE FIVE IWI OF TE HIKU O TE IKA

The mandate given to Te Runanga-a-Iwi o Ngati Kahu required that in the matter of land claims, Ngati Kahu is to work with the other iwi of Te Hiku o te Ika. As

such we have collaborated with the four other iwi through Te Whakakotahitanga o nga Iwi o Te Hiku o te Ika (the Treaty Claims Alliance). This group has conducted several hui-a-iwi both in the Far North and in Auckland in order to keep as many beneficiaries as possible fully informed, to confirm mandate and to take their instructions. Written reports and information packages have been compiled for and distributed at all these hui-a-iwi. Ngati Kahu has compiled five such packages to date.

At the request of the current Minister in Charge of Treaty of Waitangi Negotiations, the Te Whakakotahitanga o nga Iwi o te Hiku o te Ika stepped aside on 28 October 2000 in order to allow the representatives of each of the five iwi to take responsibility for each iwi's own claims. Te Runanga o Muriwhenua also stepped aside to allow the five iwi to negotiate the settlement of their claims.

Challenge to Te Runanga-a-Iwi o Ngati Kahu's Mandate by Ngati Kahu Trust Board and Te Runanga o Muriwhenua

It is noted that when the Treaty of Waitangi Fisheries Commission recognised the mandate given to Te Runanga-a-Iwi o Ngati Kahu, the Ngati Kahu Trust Board filed an ex parte injunction in the High Court in Wellington against the Commission and Te Runanga-a-Iwi o Ngati Kahu. Te Runanga o Muriwhenua sought to join the action in support of the Ngati Kahu Trust Board but was unsuccessful. The injunction sought to prevent the Commission from distributing any proceeds to Te Runanga-a-Iwi o Ngati Kahu and challenged the process by which it had reached its decision. Although the matter was filed ex parte, the Board held up the hearing of the matter for over two years. When it finally did come up for hearing in September 2000, the Board withdrew its challenge on the morning it was due to be heard (see Notice of Discontinuance attached at "D"). Evidence before the Court demonstrated clearly that not only did Te Runanga-a-Iwi o Ngati Kahu have and continue to hold the mandate, the Board's chairman and various of its officers including their legal advisors, had acknowledged that fact several times.

Over the years it has become very clear that this small but very persistent group of individuals with allegiance to both the Board and to Te Runanga o Muriwhenua will go to extraordinary lengths to gain total and unquestioned control over all Ngati Kahu's claims and assets. Ngati Kahu has repeatedly and resoundingly rejected their attempts to dictate not only to the individual whanau and marae but also to their representative iwi authority, Te Runanga-a-Iwi o Ngati Kahu. Ngati Kahu whanau, hapu and marae representatives have attended the few open meetings that each of these bodies has held and told them specifically that they may not represent or claim to represent any Ngati Kahu land claim, and that the mandate to represent Ngati Kahu is held by Te Runanga-a-Iwi o Ngati Kahu. History and whakapapa, and our own kuia and kaumatua tell us that these individuals are unlikely to allow Ngati Kahu to get on with settling our claims in a united fashion.

Despite this attitude on the part of the Ngati Kahu Trust Board and Te Runanga o Muriwhenua, Te Runanga-a-Iwi o Ngati Kahu has attempted to include them in the process by inviting them to all meetings at which the land claims are discussed and ensuring that they are provided with all information distributed to all Ngati

Kahu beneficiaries. However, both the Ngati Kahu Trust Board and Te Runanga o Muriwhenua have chosen not to participate in this or any other open and accountable process. During 2000 they began calling their own hui-a-iwi at the same time and date but at a different venue as soon as Te Runanga-a-Iwi o Ngati Kahu publicly notified hui-a-iwi to discuss the land claims.

During 2001, and in respect of the commercial fisheries dispute, mediation took place between Te Runanga-a-Iwi o Ngati Kahu and the Ngati Kahu Trust Board. This resulted in an agreement that two representatives from each body would visit each Ngati Kahu marae and taura here residing in Whangarei and Auckland, to make presentations on how they saw both the fisheries and land claims being sorted out and then let the marae and taura here decide what is to happen and to notify both bodies in writing.

The marae set down the times and venues for the meetings and eight meetings were held. Four marae and the Auckland taura here instructed they did not want to meet because they'd already made up their minds anyway. Many expressed exasperation at having to say yet again what they have said so many times already. Ngati Kahu living in Whangarei chose to go back to their marae and didn't want a separate meeting in Whangarei. Two marae (Te Paatu and Te Kauhanga) have yet to meet although have promised to let both bodies know when they want to meet.

While Runanga representatives turned up to every meeting called by the marae, the Trust Board representatives, in keeping with past practice, did not attend a single meeting despite being notified by the marae and then being chased up by the Runanga representatives. Some marae tried to chase them up after the meetings but without success. We have assumed that the Board, because of its on-going financial difficulties, is no longer operational.

The result of this latest round of meetings is, as already stated above, that 11 marae and the Auckland taura here have written letters confirming Te Runanga-a-Iwi o Ngati Kahu as their mandated representative for both fisheries and the land claims (see attached at "G").

We are given to believe that the Ngati Kahu Trust Board and Te Runanga o Muriwhenua have chosen instead to approach the Crown with evidence and documentation on a strictly confidential basis. Access by beneficiaries to any and all information and documentation held or produced by Te Runanga o Muriwhenua has been forbidden and the Crown also denied us access under the Official Information Act to materials lodged by these bodies about our claims. Ngati Kahu therefore has no idea what the nature of the Board's claim is nor whom they are claiming to represent. We sent representatives of marae and hapu to a hui-a-iwi of the Board on 25 November 2000 to find this out but no written material about their claim was available and the Board refused to answer questions asked in the hui.

6. A statement outlining the way the body seeking mandate runs itself, in particular:
- a description of the body's decision-making processes
 - its rules on eligibility for membership of the claimant group

As outlined above, Te Runanga-a-Iwi o Ngati Kahu meets once a month with the representatives of marae, whanau and hapu in order to report and take instructions on a wide range of matters it is mandated to deal with, including Ngati Kahu's land claims. These meetings are all open to all Ngati Kahu and held on different marae throughout the rohe and once or twice a year in Auckland (where 80% of Ngati Kahu lives according to the last census). Decisions are recorded in the form of resolutions which are then implemented by the relevant authorised officers of the Runanga. Written reports are for the different portfolios, including the land claims, are provided for the meetings and detailed minutes are kept and circulated with the agenda for the subsequent meeting. The executive has authority to take urgent decisions but these are subject to ratification at the next Runanga meeting.

Eligibility for membership of Ngati Kahu is determined by whakapapa. All those who can demonstrate that they are descendants of Kahutianui and Te Parata are Ngati Kahu. Whakapapa are checked in the first instance by the kuia and kaumatua of the relevant marae. Where insufficient information is provided for eligibility to be determined by a marae, it is referred to our kaumatua, Makari Matiu. In some cases, further information has had to be searched for in order to determine eligibility.

7. A statement outlining the *accountabilities of the mandated representatives*, in particular:
- the right of the members of the claimant group, or the mandated body and its representatives, to take away authority from negotiators, or replace them
 - the duty of the negotiators, or the mandated body and its representatives, to present the draft terms of settlement to the members of the claimant group for them to consider before entering into any binding agreements with the Crown

Representatives must report to each monthly meeting of Te Runanga-a-Iwi o Ngati Kahu. If their work or conduct is considered unsatisfactory, their authority to negotiate can be removed or they can be replaced only after the Runanga's intention to do so is properly notified in the agenda of a meeting and the affected party has been notified in writing and given the opportunity to speak for themselves in a properly notified meeting. Te Runanga-a-Iwi o Ngati Kahu strongly prefers to make such decisions in the presence of the affected person, but will do so in their absence if the person chooses not to attend two meetings for which the matter has been advertised and has not given good reason for not attending.

The negotiations protocols for settling Ngati Kahu's claims are set out in the Ngati Kahu Settlement Package. The specifically require that "Negotiators may not enter into any decision-making or make any undertakings without first going back to the whanau, hapu, marae and/or iwi for them to give their full and thoroughly informed consent" and "no Deed of Settlement will be entered into without the full and informed consent of all affected whanau, hapu, marae and iwi (that is, they will have to see it and agree to it before it can be signed by either side)."

8. An agreement that *the Crown may make the mandate known, and give the details of the Deed* to any member of the claimant group if asked to.

Te Runanga-a-Iwi o Ngati Kahu agrees to this condition.

9. The names of *those signing* the Deed of Mandate, their power to sign, and the *date* of each signing, with *witnesses*. Each witness should also include his or her occupation and address.

Rutherford McCully Matiu, Chairman and elected and authorised representative
of Ngati Kahu

Signed:

R. M. Matiu

Date:

18/12/2000

Witness:

Tepere Kerewini

Occupation: Office Manager

Dr Margaret Mutu, Secretary and elected and authorised representative of Ngati

Kahu

Signed: Margaret Mutu

Date: 12 December 2000

Witness: [Signature]

Occupation: Student / Research Assistant

Rev. Lloyd Popata, elected and authorised representative of Ngati Kahu

Signed: Lloyd Popata

Date: 13 December 2000

Witness: [Signature]

Occupation: Hone Executive

Tipene Herewini, elected and authorised representative of Ngati Kahu

Signed: Tipene Herewini

Date: 18 December 2000

Witness: Mr. Harris

Occupation: Receptionist

Appendix 5
Ngāti Kahu's Negotiating Team

Protocols for Ngāti Kahu Negotiators

Appointment of Negotiators

- 1 Te Rūnanga-ā-Iwi o Ngāti Kahu (Te Rūnanga – see schedule 1) has the authority to appoint negotiators to represent Te Rūnanga as the mandated body for the iwi of Ngāti Kahu in discussions and negotiations with the Crown.
- 2 A Negotiator is appointed according to Ngāti Kahu tikanga whereby the traditional process of consensus (ma te Iwi e kōrero) applies.
- 3 Qualities and skills of negotiators should possess the following:
 - Mahia ngā mahi i runga i te tika me te pono
 - Have a sound knowledge of tikanga, and whakapapa
 - Proven skills in negotiation protocols
 - Accountability to the Te Rūnanga
- 4 Te Rūnanga shall have the sole authority to remove, replace or add negotiators at either their ordinary monthly meetings or AGM.
- 5 Any matter pertaining to the appointment, removal or adding of negotiators is to be fully discussed and debated by Te Rūnanga as a specifically notified agenda item of an ordinary meeting of Te Rūnanga.
- 6 The duly mandated negotiators for Te Rūnanga are recorded here;
Professor Margaret Mutu
Steve Herewini
Rev. Lloyd Popata
Te Kani Williams

Responsibilities and Duties of Negotiators

- 7 Te Rūnanga will ensure that the Negotiators negotiate in accordance with the tikanga as determined and interpreted by Te Rūnanga. The whakatauki, “Ko te Amorangi ki mua, ko te Hāpai ā ki muri” to be foremost in the scope of negotiations.
- 8 Upon appointment the Negotiators through Te Rūnanga are representative of all whānau and hapū of Ngāti Kahu, are mandated by Te Rūnanga, and responsible to Te Rūnanga.

- 9 The Negotiators are authorised to negotiate the settlement of Ngāti Kahu's Historical Claims and will commence negotiations using the settlement package entitled *Finalising the Settlement Package for the Ngāti Kahu Land Claims within the Muriwhenua Land Claims: Information Package 5* (September 2000) as the starting point, and any subsequently approved updates of that settlement package.
- 10 The Negotiators are to consult, take direction from and report back to Te Rūnanga on all aspects of the negotiations.
- 11 The Negotiators are to lead negotiations on behalf of Te Rūnanga and to keep Te Rūnanga fully informed of progress.
- 12 The Negotiators are not to enter into any binding agreement with the Crown without the fully informed authorization of Ngāti Kahu whānau, hapū and marae as represented by Te Rūnanga.

Withdrawing Negotiators Authority

- 13 Te Rūnanga shall have complete authority through its decision making process to withdraw the mandate of a Negotiator and therefore remove that person as a Negotiator.
- 14 Any concerns pertaining to the activities of the Negotiators can be brought via the agreed processes of Te Rūnanga, which include:
 - (a) An individual of Ngāti Kahu descent presents concerns about the Negotiator(s) to their own marae for consideration.
 - (b) The marae, if satisfied with concerns, refers matters on to Te Rūnanga via their marae representatives.
 - (c) The concerns as expressed by the individual and brought by the marae are discussed by Te Rūnanga. Te Rūnanga effect a decision by way of consensus.

Appendix 6

Crown's recognition of Ngāti Kahu's mandate



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 the 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



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**

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

RECEIVED

- 7 MAY 2003

Minister's Office

Te Runanga-ā-Iwi o Ngāti Kahu

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Email: ngatikahu@xtra.co.nz

30 April 2003

Dame Silvia Cartwright
Governor General of New Zealand

Rt. Hon. Helen Clark
Prime Minister

Hon. Margaret Wilson
Minister in Charge of Treaty of Waitangi Negotiations

Parliament Buildings
Wellington

Tēnā koutou,

I write to you as representatives of the British Crown in New Zealand on behalf of Ngāti Kahu iwi of Te Hiku o te Ika (the Far North). Your government has agreed to enter into negotiations with Ngāti Kahu to settle our claims against the British Crown relating to a large number of serious breaches of the Treaty of Waitangi. We write to you now to set out the conditions under which we will recognise your government's mandate to negotiate and possibly settle our claims.

A number of our ancestors signed He Whakaputanga o te Rangatiratanga o nga hapu o Nu Tireni (the Declaration of Independence) which defined and confirmed the nature of the sovereignty and independence (mana and rangatiratanga) of the hapu north of Hauraki. That Declaration was formally acknowledged by the British Crown. Many more of our ancestors later signed Te Tiriti o Waitangi (the Treaty of Waitangi) which confirmed He Whakaputanga o te Rangatiratanga, and went on to record the solemn agreement entered into between our hapū and the Queen's representative on the conditions upon which the Queen could exercise powers of governance over her recently arrived British subjects residing in this country as well as those yet to come. The conditions set out in that agreement not only ensured that our sovereignty and independence would be recognised and respected, but guaranteed to us, in addition, full protection along with all the rights and privileges of British citizens.

Our ancestors never resiled from either the Declaration or the Treaty. They passed on to us the responsibility to ensure that both are respected and upheld and that the promises entered into are implemented. This, as far as we of Ngāti Kahu are concerned, necessarily includes requiring governments to remedy the affects of breaches of the Treaty committed against Ngāti Kahu by the Crown and ensuring that the prejudice it has caused is removed. Our generation aims to bring Ngāti Kahu to a point where the generations that follow us no longer have to fight the injustices that have been visited upon the last five generations of Ngāti Kahu. We look forward to the next generation being able to consign these conditions to our history.

It is therefore vitally important that the Crown enter into negotiations to settle our claims in the utmost good faith and that any attempts to undermine the mana and rights of Ngāti Kahu in that process are totally avoided. Our recognition of the current government's mandate to enter negotiations with us on behalf of the Crown to settle our claims under the Te Tiriti o Waitangi, is based therefore upon the government upholding Te Tiriti o Waitangi and in particular, ensuring that our access to British justice, be it through the Waitangi Tribunal or the courts, is not be removed and that we are accorded all and the same rights and privileges of British citizens that are available to non-Māori in this country. Provided these conditions are satisfied and maintained at all times, we will recognise the present government's mandate to enter negotiations on your behalf.

No reira ngā mihi anō



Professor Margaret Mutu
Chairperson