



Office of Hon Christopher Finlayson

Attorney-General
Minister for Treaty of Waitangi Negotiations
Minister for Arts, Culture and Heritage
Associate Minister of Māori Affairs

31 JAN 2013

Raniera (Sonny) Tau
Interim Chairperson
Te Rōpū o Tūhoronuku
PO Box 263
KAIKOHE 0440

Pita Tipene and Rudy Taylor
Co-chairs
Te Kōtahitanga o Nga Hapū Ngāpuhi
PO Box 36
KAWAKAWA 0243

Tēnā koutou

Thank you once again for your responses to our letter of 28 November 2012 setting out a proposed approach to progressing a Ngāpuhi deed of mandate.

We have considered your comments carefully and in particular whether any matters need to be reflected in the proposed approach. We are encouraged by the fact that your written responses and discussions with officials indicate agreement on the following four key areas:

- the mandated body being a separate legal entity to Te Rūnanga A Iwi o Ngāpuhi;
- hapū representation increasing and being elected on a regional basis;
- the election process for appointing hapū representatives to the mandated entity; and
- an independent returning officer overseeing the election processes for the appointment of representatives to the mandated entity.

Representative structure

In our letter of 28 November 2012 we set out the below proposal for an amended representative structure:

Membership		Total
Hapū-based	3 x positions per region (x 5 hapu-based regions)	15
Urban	1 x positions per region (x 4 urban regions)	4
Rūnanga	1 x independent (non-regional) positions	1
Kuia/kaumātua	2 x independent (non-regional) positions	2
	Maximum of	22

Kōtahitanga have raised concern through this consultation with the proposed structure. They would like to see Rūnanga representation removed entirely and kuia/kaumātua and

urban representation coming up through the five hapū-based regions. We understand representatives of Kōtahitanga elaborated on these concerns, and the reasoning for them, at a meeting with officials on 11 December 2011.

Although we acknowledge these concerns, we are confident the changes to the original Tūhoronuku structure we have proposed go far enough and adequately address the concerns raised with the initial Tūhoronuku model. Our proposed changes include:

- increased hapū seats from seven (on a board of 15) to 15 representatives (on a board of 22), appointed on a regional basis; and
- reduced Rūnanga representation from two seats (on a board of 15) to one (on a board of 22).

These proposed changes will be accompanied by strengthened election processes.

Election processes

A positive outcome of the consultation is the clear consensus around the election process for hapū seats.

Although it differs from the process officials proposed, we consider your approach is workable. We maintain our requirement for an Independent Returning Officer to administer and oversee the process, which we understand both groups agree to. This will ensure representatives are appointed through transparent processes.

We consider the detail of the election process will need to be clearly established through the deed of mandate amendments. Your proposals go some way to achieving this, however, further work is required. To assist with this officials have prepared the enclosed revised outline of a model for appointing representatives to the mandated authority. It draws on the consistencies between your respective proposals, while also identifying areas where further discussion is required.

We are confident that, should a mandate be recognised, the approach we have arrived at would guarantee the ensuing process of appointing representatives to the mandated authority would be fair, transparent and durable as well as providing all Ngāpuhi with a reasonable opportunity to participate.

Withdrawal mechanism

Kōtahitanga seek the inclusion of a mechanism for withdrawal of groups who do not wish to be included in the deed of mandate. Firstly, we wish to confirm it is not a general Crown requirement for a deed of mandate to include such a mechanism.

You have indicated to us that you seek a comprehensive settlement of all Ngāpuhi claims and that is the basis upon which the deed of mandate will be assessed. The process to date has been a significant one both in terms of time and resources. A considerable amount of work has been undertaken by all parties to find an agreed approach and resolve concerns hapū have raised along the way.

If a mandate is recognised for a comprehensive settlement of all Ngāpuhi claims, the mandate authority would be required to demonstrate throughout the negotiations process

that it is maintaining that mandate. However, we consider the inclusion of a mechanism to allow certain hapū or groupings who do not wish to be included in the deed of mandate to withdraw at any stage in the process would fundamentally destabilise Ngāpuhi's mandate authority and settlement negotiations. We all need certainty that if we embark on a negotiation that it will be for a comprehensive settlement of all Ngāpuhi claims. The settlement itself must strengthen the ties that bind the hapū of Ngāpuhi. Allowing hapū to withdraw from negotiations is contrary to these goals.

For these reasons, we consider it unacceptable for a Ngāpuhi deed of mandate to include a mechanism that enables withdrawal of individual hapū or groupings.

Next steps

There is still some work to be done to develop and finalise the detail of the changes, as well as the claimant definition and regional boundaries. We would like to reiterate that officials are available to engage with you on this detail, and answer any questions you may have about the process and our expectations. Officials will also be able to assist you around any additional matters raised in your responses.

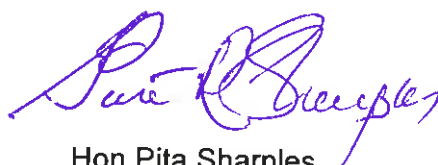
Once we receive an amended deed of mandate we will review the document to determine whether it both meets general Crown requirements and addresses concerns raised in the deed of mandate process. If we are satisfied it does, we will advertise and call for public submissions on it over a six week period. Through this process wider Ngāpuhi will have an opportunity to comment on the representation structure, election processes and the deed of mandate in general. Comments received will inform any final decision on whether to recognise the deed of mandate. Enclosed is a diagram setting out these next steps and possible timeframes.

We look forward to receiving a revised deed of mandate in the near future.

Nā maua noa, nā



Hon Christopher Finlayson
**Minister for Treaty of
Waitangi Negotiations**



Hon Pita Sharples
Minister of Māori Affairs

PROPOSED ELECTION PROCESS OUTLINE

The following election process outline was prepared by OTS and TPK officials. It draws on consistencies between the proposals of Tūhoronuku and Kōtahitanga. It also identifies areas requiring further discussion.

In response to concerns around clarity of process and transparency, the Crown requires all processes to be administered and overseen by an Independent Returning Officer. It also requires the detail of the election process to be clearly established in the deed of mandate changes. This detail should ensure the process is fair, durable, transparent and provides reasonable opportunity for Ngāpuhi to participate

HAPU SEATS (X15)
STEP 1: Hapū appoint their representative
<ul style="list-style-type: none"> ▪ By way of consensus at hui held in hapū rohe. ▪ Written confirmation of hui notification, hui date, attendance and resolution. ▪ If no consensus, vote taken (ballot or show of hands). <p>DISCUSSION POINTS</p> <ul style="list-style-type: none"> ▪ <i>Tūhoronuku allow members to vote in more than one hapū representative election process if they whakapapa to multiple hapū. Kōtahitanga do not specify.</i> ▪ <i>Tūhoronuku specify a hapū representative replacement process (by support of 75% of hapū representatives in the region). Kōtahitanga do not specify.</i>
STEP 2: Hapū representatives nominate regional representatives
<ul style="list-style-type: none"> ▪ By way of a hui of hapū representatives held in each region. ▪ Any hapū representative can nominate candidates for their region's 3 representatives. ▪ Written confirmation of hui notification, hui date, attendance and resolution. <p>DISCUSSION POINTS</p> <ul style="list-style-type: none"> ▪ <i>Tūhoronuku restrict nominees to hapū representatives appointed in step 1 whereas Kōtahitanga open nominees beyond hapū representatives.</i> <i>Tūhoronuku require nominees to demonstrate cultural leadership and commercial experience, while Kōtahitanga require nominees to understand the WAI claims of the region. Crown view: The eligibility criteria for nominees needs to be open and fair – neither of these requirements are grounds for ineligibility.</i>
<i>If 4 or more nominated candidates in a region</i>
STEP 3: Hapū representatives vote on regional representatives
<ul style="list-style-type: none"> ▪ Hapū representatives participate in a ballot process to vote on nominated candidates to determine which 3 are appointed as the region's representative on the mandated authority.

URBAN-BASED POSITIONS (X4)

STEP 1: Call for nominations

- Call for nominations in each of the four urban regions (South Auckland, West/Central Auckland, Wellington and South Island).
- Any adult Ngāpuhi member can nominate an urban representative and any adult Ngāpuhi member residing in the given urban region can be nominated.

If more than one nominated candidate in an urban region

STEP 2: Vote on nominated candidates

- Hui convened in the urban region at which a ballot is run to elect representative from nominated candidates.
- Any adult Ngāpuhi member can vote, one vote per adult Ngāpuhi member.

KUIA/KAUMATUA POSITIONS (X2)

STEP 1: Ngāpuhi kuia and kaumatua nominate candidates

- Hui of Ngāpuhi members 55 years and over convened by Independent Returning Officer.
- Any member of Ngāpuhi 55 years or over can nominate or be nominated.
- Written confirmation of hui notification, hui date, attendance and resolution.

If more than one kuia and one kaumatua nominated

STEP 2: Ngāpuhi kuia and kaumātua vote on nominated candidates

- Ballot process for selecting which nominated candidates are the kuia and kaumātua representatives on the mandated authority.
- Any member of Ngāpuhi 55 years or over has one vote (for the two positions).

NEXT STEPS & POSSIBLE TIMEFRAMES

