

30 Poutu-te-Rangi (March) 2015



**Ngāti Kahungunu Iwi**  
INCORPORATED

Ministry of Business Innovation and Employment  
PO Box 1473  
**WELLINGTON 6140**  
E: [tpp.ip.policy@mbie.govt.nz](mailto:tpp.ip.policy@mbie.govt.nz)

Tēnā koutou katoa

**RE: NGĀTI KAHUNGUNU IWI INCORPORATED SUBMISSION REGARDING THE TRANS-PACIFIC PARTNERSHIP (TPP) AGREEMENT**

- 1) Ngāti Kahungunu is the Mandated Iwi Organisation and has the third largest iwi population (62,000<sup>1</sup>). Geographically, the tribe has the second longest coastline in the country, from Paritū in the North to Turakirae in the South Wairarapa.
- 2) Ngāti Kahungunu maintains an independent position to protect and advocate for the interests, rights, values, beliefs and practices of Ngāti Kahungunu whānau, hapū and iwi. This includes a responsibility and obligation as kaitiaki, to care and protect the taiao for future generations.
- 3) Ngāti Kahungunu Iwi Incorporated has received fisheries settlement assets as a result of the Treaty of Waitangi Fisheries Settlement of 1992, the Māori Commercial Aquaculture Settlement Act 2004, and the implementation of the Māori Fisheries Act 2004. These settlements provide significant opportunities for our economic development aspirations, which we continue to balance against our obligations as kaitiaki. Ngāti Kahungunu views these commercial fishing assets as an integral part of a successful seafood industry.
- 4) Ngāti Kahungunu Iwi, hapū, Taiwhenua and Settlement Groups have a range of rights and interests including, but not limited to:
  - a) Rights and interests arising from existing and proposed Settlement Acts;
  - b) Rights and interests according to tikanga and customary law;
  - c) Rights and interests arising from the common law (including the common law relating to aboriginal title and customary law); and,
  - d) Rights and interests guaranteed under the Treaty of Waitangi.
- 5) Ngāti Kahungunu seeks to ensure that these rights and interests are recognised and protected following the Government's adoption and implementation of the Trans-Pacific Partnership Agreement (TPPA).
- 6) Ngāti Kahungunu are concerned that the intellectual property elements of the TPPA:
  - a) Does not adversely affect the rights, interests and opportunities of Ngāti Kahungunu Iwi;
  - b) Does not adversely affect the findings of the Waitangi Tribunal Report "Wai 262", particularly the recommendations relating to indigenous intellectual property rights; and,
  - c) If ratified, Ngāti Kahungunu is able to work closely with the Crown to ensure that any benefits from the TPPA are fully realised within our region.

<sup>1</sup> 2013 Census of Population and Dwellings, New Zealand Kahungunu population only.

- 7) Ngāti Kahungunu is aware that there are likely to be some national benefits arising from the adoption and implementation of the TPPA. However, having regard to the information that is currently available and noting the absence of any direct engagement with Ngāti Kahungunu regarding the TPPA, Ngāti Kahungunu seeks to ensure that:
- a) Ngāti Kahungunu has the opportunity to actively engage with the Crown in respect of the implementation of the TPPA and the potential affects and opportunities that it may have for Ngāti Kahungunu;
  - b) The Crown's ability to regulate and develop domestic laws and policies that uphold the rights and interests of Ngāti Kahungunu is maintained and not compromised or otherwise inhibited by the terms of the TPPA;
  - c) The Treaty of Waitangi exception provisions in the TPPA protect the relationship that the Crown has with Ngāti Kahungunu and the rights guaranteed to Ngāti Kahungunu under the Treaty of Waitangi and its principles;
  - d) The investor state dispute settlement provisions will not impinge the Crown's ability to regulate for the purpose of protecting and advancing the rights and interests of Ngāti Kahungunu; and,
  - e) An independent economic analysis on the costs and benefits to Ngāti Kahungunu and the wider Kahungunu regional economy - with a particular focus on the primary industry, property, social services and health sectors - is commissioned by the Crown prior to the ratification of the TPPA.
- 8) We are disappointed there has been no direct engagement with Ngāti Kahungunu. Ngāti Kahungunu seek a greater level of engagement with the Crown in respect of the implementation of the TPPA, including the active protection of the Ngāti Kahungunu rights and interests.
- 9) Ngāti Kahungunu is aware that, although the Treaty Exception Clause has been included in New Zealand's free trade agreements since 2001, it has not yet been tested and uncertainty remains with respect to its interpretation. Ngāti Kahungunu wishes to ensure that the Treaty Exception Clause protects the relationship that the Crown has with Ngāti Kahungunu, and that the rights guaranteed to Ngāti Kahungunu under the Treaty of Waitangi, are upheld and not negatively affected. Ngāti Kahungunu seeks the necessary protection of our indigenous intellectual property rights in fulfilment of the Crowns obligations under the Treaty of Waitangi.
- 10) Ngāti Kahungunu Iwi Incorporated is an active participant of the Iwi Chairs Forum (ICF). The ICF seeks to obtain a greater definition around the Treaty of Waitangi protection mechanisms, including the ability to enhance protections for proposed instruments that will assist the Government with its Treaty of Waitangi and Wai 262 commitments. The ICF acknowledge signing the TPPA is one step in the process to pass the Bill through Parliament. However, ICF opposition to the signing of the agreement, as outlined by the Iwi Chairs to Minister McClay on 27 January 2016, was unanimously supported by the ICF at Waitangi on 04 February 2016.
- 11) Ngāti Kahungunu Iwi Incorporated endorses the approach of the Iwi Leaders to engage on this matter with the Crown. The Ngāti Kahungunu Iwi Incorporated Chairman, Ngahiwi Tomoana, is the lead Iwi Chair on this kaupapa.

- 12) Ngāti Kahungunu Iwi Incorporated are supportive of other Ngāti Kahungunu Iwi, Taiwhenua, Settlement Groups and hapū organisations submitting on this matter. Please ensure that all queries and further communication is sent to Jonathan Dick, Pouarataki (Director) of Environment and Natural Resources at Ngāti Kahungunu Iwi Incorporated (E: **Redacted s.9(2)(a) OIA 1982** in the first instance.

Nāku noa  
Nā



Dr Adele Whyte  
**KAIWHAKAHAERE MATUA/CHIEF EXECUTIVE**