

Ministry of Business, Innovation and Employment  
PO Box 1473  
Wellington 6140  
New Zealand



**Ngāti Kahungunu Iwi**  
INCORPORATED

February 2015

**Submission:** Block Offer 2015  
**From:** Ngāti Kahungunu Iwi Incorporated

Tēnā koutou

1. **Ngāti Kahungunu Iwi Incorporated (NKII)** is the mandated iwi organisation responsible for all aspects of Kahungunu development. Ngāti Kahungunu has the third largest iwi population (62,000<sup>1</sup>) and the second largest tribal rohe and coastline, from Paritū and extending inland across the Wharerata ranges in the north to Turakirae in South Wairarapa.
2. The iwi authority maintains an independent position to protect, advocate for and alongside 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 te taiao for future generations.
3. Ngāti Kahungunu has significant interests in the natural environment and seeks to firstly avoid any potential risks and negative impacts on the environment that may be caused by prospecting, exploration and mining for minerals. Avoidance is the most efficient and effective control, however subsequent to this NKII seeks to ensure mitigation and remedial initiatives are appropriate and consider the interests Ngāti Kahungunu. We believe there is a Tiriti o Waitangi partnership that can assist in providing for Ngāti Kahungunu interests.
4. Ngāti Kahungunu would like to work with the Crown, petroleum and mineral companies to explore ways to ensure that any potential economic growth and development generated from minerals found in the Ngāti Kahungunu rohe provide benefits for local tāngata whenua and communities.

#### *Indigenous Rights and Interests*

5. Ngāti Kahungunu maintains an interest in petroleum and minerals and has not forgone its rights. Ngāti Kahungunu whānau, hapu and iwi benefited from the uninhibited use and access to petroleum and minerals prior and up to European arrival and the subsequent alienation through legislation and policy from these natural resources.
  - 5.1. Ngāti Kahungunu disputes the Crown assertion of sole ownership and sole right to royalties. Ngāti Kahungunu seeks a share of the profits from the Crown as a result of any petroleum or mineral resource(s) extraction.

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

- 5.2. Ngāti Kahungunu disputes the Crown assertion that they are the ultimate decision maker for what happens in the Ngāti Kahungunu rohe and **seeks compensation** from the Crown for any exclusion from part of our traditional rohe, moana and or the equivalent of lease / rental for all the seabed and riverbed space and associated resources.
- 5.3. Ngāti Kahungunu **insists** on being totally informed and involved in all stages of prospecting, exploration and mining petroleum or minerals in the Ngāti Kahungunu rohe.

#### *Waitangi Tribunal Claim*

6. Ngāti Kahungunu has a Waitangi Tribunal claim against the Crown with respect to indigenous rights and interests to petroleum resources. The claim made on behalf of Ngāti Kahungunu by William Blake of Wairoa, Toro Waaka of Napier, Marei Apatu of Hastings, and Murray Hemi of Masterton and was registered by the Waitangi Tribunal in June 2000 as **Wai 852**. As noted in the claim, tāngata whenua have suffered the effects of past, present and future prospecting, exploration and mining of petroleum resources within the Ngāti Kahungunu rohe and had been denied the 'exercise of development rights' in respect of those resources. The Ngāti Kahungunu rohe is described as:
  - 6.1. *the area on the east coast of the North Island in New Zealand stretching from Mahia Peninsula in the north to Cape Palliser and Lakes Onoke and Wairarapa in the south and inland to the shores of Lake Waikaremoana and to the Kaiwaka, Kaimanawa, Ruahine, Tararua and Rimataka Ranges to the west, including all riverbed, lakebed, foreshore and seabed areas within or adjacent to those areas.*<sup>2</sup>
7. The claimants sought an outcome that would allow Ngāti Kahungunu to exercise tino rangatiratanga and kaitiakitanga in respect of petroleum resources within the rohe and recognise the customary rights in respect of those resources
8. The Waitangi Tribunal released a Report in 2003 '*The Petroleum Report*' that refers to the Ngāti Kahungunu claim Wai 852<sup>3</sup>. The Waitangi Tribunal found that for the petroleum management regime to meet the standards of the Treaty that four criteria needed to be met. Tāngata whenua must be able to:
  - 8.1. *Count on being involved at key points in decision-making processes that affect their interests;*
  - 8.2. *Make a well-informed contribution to decisions;*
  - 8.3. *Afford to have that level of involvement; and*
  - 8.4. *Be confident that their contribution will be understood and valued.*
9. Ngāti Kahungunu **supports** the Waitangi Tribunal recommendation to Reform the Crown Minerals Act, including strengthening the Treaty provisions, amending the compulsory arbitration requirements, and enhancing the provisions for site protection.

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<sup>2</sup> WAI 852 Claim 1.2(a), para 2

<sup>3</sup> Waitangi Tribunal *The Petroleum Report* (Wai 796, 2010) at 1,10,41,42,44,45,64,75 and 76

10. Ngāti Kahungunu **supports** the Waitangi Tribunal recommendation to use a small percentage of the Crown's petroleum royalties to establish a fund to which iwi and hapū could apply for assistance to help them participate more effectively in petroleum management processes.
11. In our view the Waitangi Tribunal report and associated recommendations have not been addressed.
12. The Waitangi Tribunal scheduled an additional report on Petroleum to follow. It is appropriate that this claim and all intended / associated reports be finalised and addressed in order to give effect to Te Tiriti o Waitangi and any associated principles before the Crown makes any further decisions that may adversely affects the interests of Ngāti Kahungunu.

#### **"Block Offer 2015"**

13. There is one Block in the 2015 "Block Offer" that Ngāti Kahungunu has specific interests in as it includes the traditional tribal rohe of Ngāti Kahungunu.
  - 13.1. 'Pegasus and Offshore East Coast Basins 15PEG-R1 (79,067.4 square kilometres).
14. This block is situated near the region of Wairarapa and southern Hawke's Bay. If a tender for this block is accepted by the Crown, we insist that the relevant petroleum company makes contact with us immediately.

#### *Significant Sites*

15. The responsibility of safe guarding 'sites of significance' or 'areas of land of particular importance to the mana of iwi and hapu' is a collaboration between those parties the crown and their representatives. However, ultimately the Crown has a stronger obligation and duty of care as self-appointed custodian to identify these areas.
16. Many organisations go to considerable length to identify and record significant sites, wāhi tapu, wāhi taonga and areas of importance to iwi and hapu. As a 'Treaty' partner and as sign of goodwill we believe that as a start it would be prudent that the crown consider the areas that have already been identified and exclude these areas from the operations of the minerals and petroleum programmes.
17. However there are also other 'sites' that may not be readily known or identified that deserve no less respect or duty of care, specific discussions should be held with iwi and hapu organisations in order to establish a comprehensive record.
18. The entire coastline from Pāritu north of Mahia down to Turakirae (head) in the South Wairarapa and adjacent rohe moana, which includes 15PEG-R1 is of cultural significance to Ngāti Kahungunu. The Ngāti Kahungunu coastline is unique due to its abundance of kaimoana particularly pāua, kina and crayfish<sup>4</sup>, and close proximity and association

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<sup>4</sup> Kina, pāua, crayfish are recognised taonga species for Ngāti Kahungunu.

coastal hapu have to these resources. Due to the removal and alienation of other natural resources and land based assets the coastal resources have become increasingly important. Regional Coastal Environment Plans often identify areas of significance to iwi<sup>5</sup> and hapu as well as generally significant areas that should be considered and protected where appropriate.

19. Ngāti Kahungunu Iwi Incorporated, Ngāti Kahungunu Asset Holding Company, the Hapu Coastal Collective, Te Kupenga Whituraoa a Maui collaborated together and consulted with our constituent Ngāti Kahungunu hapu and whānau to develop '*Kahungunu ki Uta, Kahungunu ki Tai Marine and Freshwater Fisheries Strategic Plan*' launched in 2008. This strategy is an iwi management plan relative to block offer we are comfortable and encourage that this Strategic Plan and this submission be provided to any bid applicant for this block. There are also other iwi and hapu management plans that will need to be considered, we do not hold a repository for these plans.

#### *Ngāti Kahungunu Fishing Rights*

20. Ngāti Kahungunu has settled its fisheries interests with the Crown through **1992 Treaty of Waitangi (Fisheries Claims) Settlement Act**; however any detrimental effect from petroleum or mineral prospecting, exploration and mining on this resource could be catastrophic and undermine the fisheries settlement and potentially constitute a new breach. If an 'incident' were to occur the fishing potential and in turn mana of Ngāti Kahungunu hapu and iwi would be diminished.
21. Striking a balance with respect to the fishing industry and the possible impacts on this (both positive and negative) by the petroleum and mineral industry is very important to Ngāti Kahungunu. Ngāti Kahungunu does not want to risk an important and certain industry (fisheries) for the unknown possibilities and risks associated with off shore petroleum exploration. Caution as highlighted in this submission should be mandatory as it is for tāngata whenua.
22. Ngāti Kahungunu, including Kahungunu ki Wairarapa have maintained customary use of marine resources out to and beyond the EEZ 12 nautical mile limit. Customary use and hapū authority has been acknowledged and gazetted via the **1998 Fisheries (Kaimoana Customary Fishing) Regulations**. Hapū boundaries are included in these regulations and in some cases are applicable out to 200 nautical miles.
23. Ngāti Kahungunu is involved in offshore aquaculture, prospecting, exploration and mining could potentially compromise or diminish Ngāti Kahungunu aquaculture aspirations and opportunities, and adversely affect the **Māori Commercial Aquaculture Settlement Act 2004**.

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<sup>5</sup> Hawke's Bay Regional Coastal Environment Plan, 8 November 2014 acknowledges that the whole of the Coastal Marine Area is of significance to Ngāti Kahungunu.

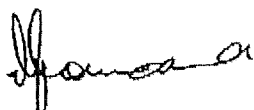
*Kaitiakitanga and the Environmental Protection*

24. The balance between the protection of the environment and economic development can prove problematic depending on use and interpretation. There is a risk that any proposed quantifiable economic benefit will generally outweigh unquantifiable ecological and social (customary) benefits provided by the environment. We **insist** using a precautionary approach (i.e. err on the side of caution) which is internationally accepted as best practice.
25. Ngāti Kahungunu **insists** the Crown ensures our taonga will be protected, particularly if they are assuming the authority to invite and award prospecting, exploitation and mining. Ngāti Kahungunu **insists** that the Crown is responsible and should ensure that there is capacity and capability including appropriate equipment to clean up any potential mishap, disaster, and catastrophe.

*Liability and Guarantee*

26. Ngāti Kahungunu **insists** an insurance or contingency fund be set aside in case 'something goes wrong'. The contingency fund should not admonish liability for any mishaps related to mineral and petroleum exploration, but rather be an interim measure to ensure resources are directly and readily available to affected tāngata whenua and communities if the need arises. If companies and the Crown consider there is no or only a low risk of any mishaps, 'blowouts', well failures or alike, then a contingency fund should not be an issue.
27. As stated, Ngāti Kahungunu Iwi Incorporated encourages NZP&M to share this application with any applicant bid for the relevant area. We believe it is important that we continue to maintain dialogue between petroleum companies and the Crown to ensure our interests are best represented.
28. Ngāti Kahungunu Iwi Incorporated are supportive of other Ngāti Kahungunu iwi, Taiwhenua and hapu organisations submitting on this matter. Please ensure that all queries and further communication is directly communicated to Dr Jonathan Dick, Pouarataki – Ngā tini a Tangaroa (Director of Fisheries), [jonathan@kahungunu.iwi.nz](mailto:jonathan@kahungunu.iwi.nz).

Nā māua,



Ngahiwi Tomoana  
Tumuaki/Chairman  
Ngāti Kahungunu Iwi Incorporated



Dr Adele Whyte  
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Ngāti Kahungunu Iwi Incorporated