

Wai 2840 – Hauraki Overlapping Claims Inquiry

Wai 2616 – Application and Evidence

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**IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND**

WAI

IN THE MATTER

of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER

of an application by Charlie Tawhiao on behalf of the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

STATEMENT OF CLAIM

Dated this 14th day of March 2017



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MAY IT PLEASE THE TRIBUNAL:

The claim

1. This claim is made by Charlie Tawhiao (Chairman), on behalf of the Ngai Te Rangi Settlement Trust (“Ngai Te Rangi”).
2. Ngai Te Rangi claim that on 22 December 2016, the Crown initialled a Deed of Settlement with the Hauraki Iwi Collective (see **Appendix C**) that incorrectly and inappropriately provides the Hauraki Iwi Collective (“Hauraki”) redress that extends into the heartlands of Ngai Te Rangi, thereby undermining the mana, rangatiratanga and tikanga of Ngai Te Rangi. As a result, Ngai Te Rangi say that the Crown has breached the principles of Te Tiriti o Waitangi.
3. The following settlement redress that is provided to Hauraki and falls within the rohe of Ngai Te Rangi is in issue (see **Appendix D**):
 - (a) Tauranga Moana affirmations to preserve a fifth seat in the Tauranga Moana Framework and right to participate in alternative redress if the Framework is abandoned by TMIC;
 - (b) Department of Conservation (“DOC”) rights to engage in planning, customary take of flora and fauna and dead marine mammals, establish wahi tapu reserves and other decision making rights;
 - (c) Ministry of Primary Industries (“MPI”) Advisory Committee rights to advise the Minister on the utilisation of fisheries resources;
 - (d) MPI Quota Rights of First Refusal (“RFR”) to purchase certain quota;
 - (e) Pare Hauraki Worldview statement of “Mai Matakana ki Matakana”; and

- (f) Pare Hauraki Redress Area claims area up to Oturu stream (Te Puna).¹
4. Given the extent of the redress now contained in the Hauraki Deed, Ngai Te Rangi also take issue with the specific redress items that were allocated to Hauraki as a result of previously negotiated outcomes including:
- (a) Athenree Forest;
 - (b) RFR properties in Tauranga Moana;
 - (c) Commercial properties in Tauranga Moana; and
 - (d) Kaimai Statutory Acknowledgement.
5. Ngai Te Rangi negotiated outcomes for the redress due to the pressures to achieve a timely Treaty settlement, and on the basis that it was intended at the time that those agreements would be the full redress sought by the Hauraki Collective in Tauranga Moana. The agreements are not a reflection or acknowledgement of Hauraki rights in these areas.
6. Ngai Te Rangi's position is that all redress now contained in the Hauraki Deed that falls within Tauranga Moana, should be removed until there has been a proper process for determining the interests claimed.
7. Ngai Te Rangi entered into its own Deed of Settlement with the Crown on 14 December 2013 (**Appendix L**); the settlement Bill is at the second reading stage. Ngai Te Rangi have reached a position where they feel it necessary to put their own settlement on hold given the developments with the Hauraki settlement.
8. Ngai Te Rangi's claim calls into question failures of Crown policy and practice. It raises serious concerns regarding transparency, fairness and the durability of both the Ngai Te Rangi and Hauraki settlements.

¹ ROI TBC, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at paras 8-26.

9. Ngai Te Rangi claim that the significant and irreversible prejudice that is being, and will be suffered by their iwi includes:
 - (a) The undermining of Ngai Te Rangi mana whenua/mana moana, rangatiratanga, and tikanga;
 - (b) The Crown and Hauraki, by including preservation clauses in the Hauraki Deed, have determined the parameters of future negotiations on the Tauranga Moana Framework;
 - (c) Given the preservation clauses in the Hauraki Deed, Ngai Te Rangi may have to let go of the Framework, or negotiate lesser redress, thereby compromising a “critical” part of the settlement of their historical grievances;
 - (d) Inter/intra-tribal division and damage to relationships;
 - (e) Damage to the Crown and Ngai Te Rangi’s Tiriti partnership; and
 - (f) Loss of resources.
10. The prejudice is to such an extent that the Hauraki Deed has created fresh grievances for Ngai Te Rangi.
11. In fact, the Hauraki Deed has created a situation where neither the Hauraki settlement nor the Ngai Te Rangi settlement can be fair or durable.
12. The prejudice will be permanently entrenched by the passing of settlement legislation. The Crown has not indicated when this will occur.

The claimants

13. Ngai Te Rangi are an iwi of Tauranga Moana.
14. The Ngai Te Rangi Settlement Trust is the post-settlement governance entity for Ngai Te Rangi.

15. Ngai Te Rangi, Ngati Ranginui and Ngati Pukenga are connected with Tauranga Moana to such an extent that the iwi are known and referred to as the Tauranga Moana Iwi. The three iwi have collectivised for the purposes of settling their historical Tiriti claims as the Tauranga Moana Iwi Collective (“TMIC”).
16. Tauranga Moana Iwi are the iwi who have held mana whenua/mana moana and exercise rangatiratanga over the lands and waters within Tauranga Moana, which extends from Nga Kuri a Whareī in the north, inland to the Kaimai Ranges, south to the pae maunga of Puwhenua, Otanewainuku to Wairakei in the south. That mana and rangatiratanga has been held uninterrupted by the three iwi since prior to 1840, through to today.²
17. On 1 March 2017, the Ngai Te Rangi Settlement Trust Board passed the following resolutions:
 - (a) To continue to engage with the Crown to seek a final position on the withdrawal of Hauraki redress in issue by 2 March 2017;
 - (b) To file an urgent application to the Waitangi Tribunal as soon as it is ready and no later than 8 March 2017;
 - (c) That if no agreement is reached with the Crown on the redress sought by the Hauraki Collective in the rohe of Tauranga Moana then:
 - (i) All previous agreements reached with the Hauraki Collective are withdrawn on the basis that it was intended at the time that those agreements would be the full redress sought by the Hauraki Collective in Tauranga Moana, including:
 - (A) 60% of Athenree Forest;
 - (B) Fifteen RFRs in Te Puna/Katikati areas;

² Save for Crown colonisation.

- (C) Four properties in Te Puna/Katikati/Otawhiwhi areas;
 - (D) Kaimai Statutory Acknowledgement; and
 - (E) Kauri Point Reserve.
- (d) That Ngai Te Rangi not proceed with the completion of the Ngai Te Rangi Settlement Bill until a satisfactory agreement is reached on the Hauraki Collective and individual Hauraki iwi redress within Tauranga Moana, including a satisfactory agreement on the removal of the fifth seat in the Tauranga Moana Framework.

Cause of action: The Crown has breached Te Tiriti and undermined Ngai Te Rangi mana whenua/mana moana, rangatiratanga and tikanga by granting Hauraki redress in the rohe of Ngai Te Rangi

18. Ngai Te Rangi claim that the Crown has breached Te Tiriti and undermined their mana whenua/mana moana, rangatiratanga and tikanga in the following ways:
- (a) In the face of consistent and clear opposition, the Crown has granted Hauraki redress that extends into the heartlands of Ngai Te Rangi, thereby entrenching a long-standing dispute;
 - (b) The Crown only notified Ngai Te Rangi of the nature and extent of the redress contained in the Hauraki Deed three days prior to the initialling of the Deed;
 - (c) The Crown has failed to carry out overlapping claims processes for redress contained in the Hauraki Deed;
 - (d) The Crown has failed to carry out a fair and transparent assessment into whether the limited nature of the historical interest claimed by Hauraki in Tauranga Moana justifies the now extensive redress and interests that Hauraki will receive as part of its settlement package;

- (e) The Crown has incorrectly and inappropriately applied the undertaking to Hauraki in 2012 that it would provide Hauraki with no less favourable co-governance arrangements in their area of customary interest, and cultural redress within the Te Puna and Katikati Blocks, as agreed with the Crown. That area has now extended far beyond Te Puna and Katikati, into the heartlands of Ngai Te Rangī;
- (f) The Crown has failed to properly consider and balance the prejudice that will be suffered by Ngai Te Rangī against the Crown and Hauraki's intention to finalise a Hauraki settlement which includes redress in the rohe of Ngai Te Rangī;
- (g) The Crown, by including general preservation clauses regarding the Tauranga Moana Framework or any future resource management redress in the Hauraki Deed, has set the parameters of future negotiations on the Framework in a manner that is prejudicial to Ngai Te Rangī;
- (h) The Crown has failed to act in a manner that is fair and transparent;
- (i) The dispute between Ngai Te Rangī and Hauraki remains unresolved. The Crown has failed to act rigorously, to exhaust all avenues, and to discharge its duties honourably;
- (j) The Crown has failed to act in partnership with Ngai Te Rangī and require a resolution of the issues prior to initialling the Hauraki Deed; and
- (k) In settling one grievance, the Crown has created another.

Te Tiriti o Waitangi and the Crown's Treaty settlement policy

19. The Tribunal's role is to determine whether Crown policy and practice is consistent with the principles of Te Tiriti o Waitangi.
20. Existing Tribunal reporting and the Crown's own settlement policy assists with the consideration of the claims made by Ngai Te Rangī, and is set out below as follows:
 - (a) Relevant Te Tiriti principles (see **Appendix E**);
 - (b) The right of Tauranga Moana Iwi to exercise rangatiratanga (see **Appendices J and K**);
 - (c) The Crown's policy for Treaty settlements (see **Appendix F**);
 - (d) Overlapping claims policy; and
 - (e) Other important Tribunal statements regarding the standard that applies to the Crown's conduct where issues arise during settlement negotiations.

Relevant Te Tiriti principles

21. The following Te Tiriti principles apply to Treaty settlement negotiations:³
 - (a) **The principle of reciprocity:** The Crown must provide for hapu and iwi to exercise their tino rangatiratanga in the settlement of their claims. It follows that the Crown must also consider its Treaty obligation to particular groups, if their circumstances warrant an alternative approach to the Crown's negotiation policies, processes and targets for the settlement of claims. To attain true reciprocity, there must be consultation and negotiation in practice as well as in name, and flexibility in the application of policies where shown to be strictly necessary;

³ Waitangi Tribunal, *The Te Arawa Settlement Process Reports* [Wai 1353, June 2007], at 199 – 201.

- (b) **The principle of partnership:** The principle of partnership carries with it an obligation for each Treaty partner to act towards each other with the utmost good faith. Where the particular circumstances of a group or groups warrant a more flexible approach, the Crown must be prepared to apply its policies in a flexible, practical and natural manner;
- (c) **The principle of active protection:** The Crown's obligation is to actively protect the just rights and tino rangatiratanga of Maori in the use of their lands and waters to the fullest extent practicable; and
- (d) **The principles of equity and equal treatment:** The Crown is to act fairly and impartially towards Maori. This extends to not allowing one iwi an unfair advantage over another. This does not mean treating all groups exactly the same, where they have different populations, interests, leadership structures and preferences. Rather, it means that the Crown must do everything in its power not to create or exacerbate division and damage relationships.

The right of Tauranga Moana Iwi to exercise rangatiratanga

22. The claims of the Tauranga Moana Iwi were reported on by the Waitangi Tribunal⁴ in 2004 and 2010 respectively (see **Appendices J and K**), in:

- (a) *Te Raupatu o Tauranga Moana*;⁵ and
- (b) *Tauranga Moana 1886-2006*.⁶

⁴ We note that for the purposes of this Statement of Claim and accompanying evidence/submissions, the Wai 215 Tribunal is referred to as "the Tauranga Moana Tribunal". The reports will be distinguished either in text or in the corresponding footnote.

⁵ Waitangi Tribunal, *Te Raupatu o Tauranga Moana* [Wai 215, August 2004] ("*Te Raupatu o Tauranga Moana*").

⁶ Waitangi Tribunal, *Tauranga Moana 1886-2006* [Wai 215, August 2010] ("*Tauranga Moana*").

23. In those reports, the Tauranga Moana Tribunal made a number of significant statements that are relevant to this urgent application. In particular, the Tribunal stated that:
- (a) Where their (Tauranga Moana Iwi) environment and cultural heritage are concerned, Tauranga Maori have had to fight hard to maintain even a faint shadow of the tino rangatiratanga and kaitiakitanga they exercised at the time of the signing of the Treaty;⁷
 - (b) The Crown has a duty to respect te tino rangatiratanga of Tauranga Maori and to foster their empowerment and autonomy;⁸
 - (c) Maori autonomy is “the ability of tribal communities to govern themselves as they had for centuries, to determine their own internal political, economic, and social rights and objectives, and to act collectively in accordance with those objectives”;⁹
 - (d) It agreed with Tribunal’s views in the *Ngawha Geothermal Report* (1993) in terms of the implications for the Crown of its duty of active protection of Maori resource-use, where several important elements of the duty were identified, including:¹⁰
 - (i) That Maori are not unnecessarily inhibited by legislative or administrative constraint from using their resources according to their cultural preferences;
 - (ii) That Maori are protected from the actions of others which impinge upon their rangatiratanga by adversely affecting the continued use or enjoyment of their resources whether in spiritual or physical terms; and
 - (iii) The exercise of tino rangatiratanga over taonga within modern New Zealand’s legal framework now requires

⁷ At xxiv (Letter of Transmittal).

⁸ At 18.

⁹ At 23.

¹⁰ At 22.

either ownership or, where this is not possible, significant management rights recognised and provided for in statute. Such management rights provide another means by which to recognise tino rangatiratanga, and allow the expression of kaitiakitanga;

- (e) Where Tauranga Maori have lost ownership over their property and taonga against their will, and in breach of the principles of the Treaty, they may retain Treaty rights to exercise rangatiratanga and kaitiakitanga over those resources;¹¹
 - (f) In consistently refusing to acknowledge Maori rangatiratanga over Tauranga Harbour, we find that the Crown has therefore acted contrary to both the plain meaning of article 2, and the principles of partnership and the duty of active protection;¹² and
 - (g) Tauranga Maori ought to have had the **full protection** of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga Harbour recognised at all times, unless alienated by freely negotiated agreement, or when strictly necessary in the national interest.¹³
24. Significantly, the Tauranga Moana Tribunal found that only once Maori have the capacity to assume the responsibility of acting as kaitiaki over their taonga will the Crown have provided a system of resource management that allows Maori to exercise their rangatiratanga. Only then will the Crown discharge its duties, and avoid further breaches of the principles of the Treaty.¹⁴

Crown policy for Treaty settlements

25. The Crown's guidelines for the resolution of historical claims are set out in the *Red Book* and include that (see **Appendix F**):¹⁵

¹¹ At 854.

¹² At 608.

¹³ At 608 (Emphasis added).

¹⁴ At 625.

¹⁵ Office of Treaty Settlements, *Ka tika ā muri, ka tika ā mua: Healing the past, building a future – A Guide to Treaty of Waitangi Claims and Negotiations with the Crown* [March

- (a) Treaty settlements should not create further injustices;
 - (i) In providing settlement redress to one claimant group the Crown should not harm the interests of other claimant groups;
- (b) As settlements are to be durable, they must be fair, achievable and remove the sense of grievance;
 - (i) Settlements will not last if they are seen to be unfair and do not remove the sense of grievance;
 - (ii) The process of negotiation is intended to ensure that the Crown and a claimant group sign a Deed of Settlement only when both parties are satisfied that it is fair, and the claimant groups agree that their grievances are finally settled;
- (c) The Crown must deal equitably and fairly with all claimant groups;
 - (i) This means that the Crown must have consistent policies and processes and that the redress for each group should be fair in relation to the redress received by other groups;
 - (ii) However, the Crown also acknowledges that each claimant group has different interests and particular claims against the Crown.

Overlapping claims policy

26. The *Red Book* provides that an overlapping claim exists where two or more claimant groups make claims over the same area of land that is the subject of historical Treaty claims (see **Appendix F**).¹⁶

2015], at 24 (“*Red Book*”).

¹⁶ Such situations are also known as ‘cross claims’.

27. The Crown's policy states that the Crown can only provide redress "if it is satisfied that any overlapping claims have been addressed:¹⁷

The Crown's policy provides that overlapping claims or interests of other claimant groups **must be addressed to the satisfaction of the Crown before the Crown will conclude a settlement** involving any of the sites or assets concerned.

28. The policy also provides:¹⁸
- (a) In areas where there are overlapping claims, the Crown encourages claimant groups to discuss their interests with neighbouring groups at an early stage in the negotiation process and establish a process by which they can reach agreement on how such interests can be managed;
 - (b) Addressing overlapping claims at an early stage will avoid delays – and the possibility of a challenge to the settlement package – at a later stage in the settlement process. The Crown will assist this process by providing information on proposed redress items to all groups with a shared interest in a site or property;
 - (c) Disagreements relating to overlapping claims may arise from the Crown proposing a particular form of redress, such as the transfer of a site or property to one claimant group to the exclusion of another. Where there are overlapping claims, such exclusive redress may not always be appropriate. Often both groups have an interest, such as historical or cultural associations, in a site or property and these interests can be accommodated by a form of redress which is non-exclusive. This allows the interests of different groups to be recognised and accommodated;
 - (d) The Crown would prefer that disagreements over redress were settled by mutual agreement between claimant groups. However, in the absence of agreement amongst them, the

¹⁷ *Red Book*, above n 15, at 27 (Emphasis added).

¹⁸ At 54.

Crown may have to make a decision. In reaching any such decision on overlapping claims, the Crown will be guided by two general principles:

- (i) The Crown's wish to reach a fair and appropriate settlement with the claimant group in negotiations; and
- (ii) The Crown's wish to maintain, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims

Other important Tribunal statements regarding the standard that applies to the Crown's conduct where issues arise during settlement negotiations

29. The Tribunal has previously made findings on cross-claim settlement disputes, including:

- (a) *The Tamaki Makaurau Settlement Process Report*,¹⁹
- (b) *The Te Arawa Settlement Process Reports*,²⁰ and
- (c) *The Ngāti Awa Settlement Cross-claims Report*.²¹

30. In discussing the Crown's approach to overlapping claims, the Te Arawa Tribunal said:²²

- (a) The Minister and OTS should at all times be mindful that because of these multiple roles, **OTS holds a powerful position in the negotiation process**: it becomes the negotiator, the dispenser of justice, and the policy adviser to the Minister who has the final power. This makes **it critical that OTS is rigorous in its endeavours to uphold the honour of the Crown**, and to discharge the Crown's Treaty duties. In the context of overlapping claims, it must do so in a

¹⁹ Waitangi Tribunal, *The Tamaki Makaurau Settlement Process Report* [Wai 1362, June 2007] ("*Tamaki Makaurau Report*").

²⁰ *Te Arawa Reports*, above n 3.

²¹ Waitangi Tribunal, *The Ngāti Awa Settlement Cross-claims Report* [Wai 958, July 2002] ("*Ngāti Awa Report*").

²² *Te Arawa Reports*, above n 3, at 64 (Emphasis added).

manner that is fair and impartial. It must be an **honest broker**, and it must remain independent; and

- (b) OTS staff must have the requisite skills to move in and out of the Maori realm if they are to truly understand the tikanga underpinning Maori cultural preferences. These understandings must then be reflected in the development of policies and processes that respect those preferences, without relying solely on the advice of those standing to benefit the most from the settlement process.

31. In addition, the Ngati Awa Tribunal found that:²³

- (a) The Crown should not be satisfied that cross-claims have been addressed until really **no stone has been left unturned**. Even if a consensual approach can be achieved only in relation to *one* item of contested redress, that can ameliorate the wider relationships in issue. The Crown has a duty in this regard, flowing from the principles of partnership and good faith under the Treaty of Waitangi; and
- (b) “The simple point is that where the process of working towards settlement causes fall-out in the form of deteriorating relationships either within or between tribes, the Crown cannot be passive”. It must exercise an ‘honest broker’ role as best it can to effect reconciliation, and to build bridges wherever and whenever the opportunity arises. Officials must be constantly vigilant to ensure that the cost of settlement in the form of damage to tribal relations is kept to the absolute minimum.

32. The Tamaki Makaurau Tribunal was critical of the Crown’s overlapping claims policy and said:²⁴

- (a) The explanation of the process for dealing with ‘overlapping’ claimants in the Office of Treaty Settlement’s policy manual *Ka Tika ā Muri, Ka Tika ā Ma* (the *Red Book*) is summary and

²³ *Ngāti Awa Report*, above n 21, at 88 (Emphasis added).

²⁴ *Tamaki Makaurau Report*, above n 19, at 86-87.

unhelpful. It deals only in broad principles, and gives no clear idea as to how they will be applied or achieved; and

- (b) The *Red Book's* treatment of how cultural redress will be handled in situations where there is competition over sites and recognition provides no insight into how problems will be identified and addressed.

Particulars

- 33. A chronology has been prepared for this application (**Appendix G**),²⁵ which covers the 10-year period between 2007-2017; the period of time that Ngai Te Rangi has been engaged in the Crown's settlement process.
- 34. A document bank has also been prepared (**Appendix H**).
- 35. To assist the Tribunal's consideration of this application, the key time periods and particulars that highlight essential context to Ngai Te Rangi's claim are summarised below.
- 36. At 1840:
 - (a) Tauranga Moana Iwi held and exercised mana whenua/mana moana/rangatiratanga in and over Tauranga Moana; and
 - (b) Hauraki did not exercise mana whenua/mana moana/rangatiratanga in Tauranga Moana.
- 37. Between 1840-2017:
 - (a) Tauranga Moana Iwi held and exercised mana whenua/mana moana/rangatiratanga in Tauranga Moana; and
 - (b) Hauraki did not exercise mana whenua/mana moana/rangatiratanga interest in Tauranga Moana.
- 38. In 2004, the Tauranga Moana Raupatu Tribunal identified that some payments were made to Hauraki tupuna for Crown purchase of the Te

²⁵ See: ROI TBC, *Brief of Evidence of Huhana Rolleston* [14 March 2017].

Puna-Katikati block at the northern end of Tauranga Moana.²⁶ It is this Tribunal finding that the Crown and Hauraki largely rely on to justify the allocation of redress to Hauraki.

39. In 2008, the Crown engaged in settlement negotiations with the TMIC.
40. In 2009, the Crown engaged in settlement negotiations with Hauraki.
41. In September 2012, Hauraki applied to the Waitangi Tribunal for an urgent inquiry into the TMIC Deed. Hauraki claimed prejudice arising from unfair process, and that the TMIC Deed could irreversibly prejudice their customary interests.
42. On 24 October 2012, the urgent application was then adjourned on the basis that the Crown made an undertaking to Hauraki that the:²⁷

Tauranga Moana Framework will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC.

...

Cultural redress will be provided to iwi of Hauraki within the Te Puna and Katikati Blocks, as agreed with the Crown.

43. From this point on, the Crown and Hauraki have continued negotiations on the basis of the Crown's undertaking, and the past Tribunal report which recognised Hauraki's interests in the Te Puna and Katikati blocks.
44. In December 2012, the Crown and TMIC initialled a Deed of Settlement.
45. Between October 2013 – 2015:
 - (a) In October 2013, the Crown notified Ngai Te Rangī that Ngai Te Rangī would likely have interests in areas where redress

²⁶ *Te Raupatu o Tauranga Moana*, above n 5, at 189-190.

²⁷ Wai 215, #2.695, *Joint Memorandum of Counsel for the Hauraki Collective and the Crown* [24 October 2012], at para 3.

was proposed for Hauraki and commenced the overlapping claims process;

- (b) On 14 December 2013, Ngai Te Rangi signed a Deed of Settlement with the Crown (see **Appendix L**)
- (c) Both the preliminary and final decision of the Minister from the overlapping claims process, confirmed that the Minister's position was that the creation of a fifth seat for other iwi on the Tauranga Moana Framework would be appropriate recognition for the interests of Hauraki in Tauranga Moana;
- (d) The Minister stipulated that the TMIC Deed could not proceed without providing an additional seat for other iwi, and that if TMIC agreed to the additional seat that the seat would be created through negotiation with the other iwi and TMIC would be engaged in a further overlapping claims process;
- (e) Through extensive engagement with the Crown, TMIC reluctantly accepted the fifth seat with a number of conditions, which preserved the mana whenua, mana moana and rangatiratanga of TMIC and ensured Hauraki was able to participate when TMIC determined Hauraki interests may be affected;
- (f) In August 2014, the Crown and TMIC engaged to redraft the TMF to include the additional seat, on terms that were acceptable to TMIC. TMIC has since maintained that those terms must apply;
- (g) The terms of the revised draft of the TMF to include the and fifth seat were not acceptable to Hauraki, and a number of attempts were made between the Crown, TMIC and Hauraki to reach an agreement on the fifth seat in order for the TMF to be finalised in the TMIC Deed. Attempts to reach agreement on the terms of the fifth seat were unsuccessful on all fronts;

- (h) On 21 January 2015, the Crown and TMIC signed the Deed of Settlement, which included the Framework, with the fifth seat for other iwi, with conditions, for the co-management of Tauranga Moana (see **Appendix M**). Hauraki maintained its challenge that it should have a seat on the Framework without the conditions required by TMIC;
- (i) In May 2015, the Crown, having determined that the parties were unlikely to reach an agreement, sought that the Tribunal determine whether the application for an urgent hearing by Hauraki be granted;
- (j) On 6 August 2015, the Tribunal granted the application for urgency. The urgent hearings did not take place as parties again attempted to reach a resolution on the Framework;
- (k) Between August 2015 and October 2015, agreements on the fifth seat of the Framework could still not be reached and the conversation between the Crown and TMIC shifted to whether or not TMIC would agree to remove the Framework from the TMIC Deed. The basis for this was to enable the remainder of the TMIC Deed to be finalised. The Minister confirmed that given the significance of the Framework to settling TMIC historic claims, that a separate Bill could be passed for the Framework in the future, once issues were resolved;
- (l) TMIC agreed to remove the Framework from the TMIC Deed subject to conditions that the claimants say have not been completed;
- (m) On 30 October 2015, the Crown notified TMIC of the process to resolve specific matters with the TMF.²⁸ The Crown advised that the right to participate in the fifth seat will be subject to the resolution of overlapping claims (including those of Tauranga Moana Iwi) to the satisfaction of the Crown and will:

²⁸ The process the Crown relied on is set out at clause 2.15 of the Tauranga Moana Iwi Collective Deed.

- (i) Be commensurate with matters such as: The relative strength and nature of the association of the claimant group to the Tauranga Moana catchment, taken as a whole; and the nature of the claimant group's grievances in relation to the Tauranga Moana catchment;
 - (ii) Not undermine the fundamental elements of the Tauranga Moana arrangements set out in the TMIC Deed;
 - (iii) Not derogate from the Crown's recognition of the relationship between Tauranga Moana iwi and hapu and Tauranga Moana referred to in clauses 2.12 and 2.13 of the TMIC Deed; and
 - (iv) Be designed to preserve and enhance relationships between Tauranga Moana Iwi and other iwi.
- (n) On 31 August 2015, because agreement could not be reached on the fifth seat, the Crown and TMIC agreed to have the Framework removed from the TMIC Bill, in order for the issues concerning the fifth seat to be resolved at a later date, through a separate process on the conditions noted above.

46. In 2016:

- (a) In May 2016, the TMIC Settlement Bill was introduced to the House and proceeded through the Maori Affairs Select Committee process;
- (b) On 22 August 2016, the Maori Affairs Select Committee hearings for the TMIC Redress and Bill were held in Tauranga. Hauraki did not participate in these hearings. Tauranga Moana Iwi relayed the prejudice arising from Hauraki claims to Tauranga Moana;
- (c) The Crown, TMIC, and Hauraki attempted to engage regarding the TMF. Once again, no agreements were reached;

- (d) On 21 October 2016, the Crown provided TMIC with information from Hauraki, which the Crown agreed was the basis that Hauraki had sufficient interests to take the fifth seat on the TMF, and have interests in Tauranga Moana provided for in settlement. Again, this largely included the earlier Tribunal reporting regarding Hauraki interests in the Te Puna and Katikati blocks, and the Crown undertaking from 2012;
- (e) On 19 December 2016, three days prior to the Hauraki Deed initialling, the Crown provided TMIC with a table of proposed redress for Hauraki and overlapping claims consultation with Ngai Te Rangi;
- (f) On 20 December 2016, the Crown was notified of Ngai Te Rangi's opposition to the redress, namely that Ngai Te Rangi opposed the Hauraki Deed that included redress in the rohe of Ngai Te Rangi. Ngai Te Rangi requested that the Crown do not initial the Deed with Hauraki until the issues could be resolved;
- (g) On 22 December 2016, the Crown and Hauraki initialled the Hauraki Deed;
- (h) Under the Hauraki Deed, the Crown granted Hauraki broad redress in Tauranga Moana.

47. From January 2017 to present:

- (a) On 27, 28, 29 December 2016 and 13, 18 January 2017, news articles were published which note Ngai Te Rangi's opposition to the Crown and Hauraki approach to overlapping claims (see **Appendix I**). The articles demonstrate tribal division;
- (b) On 11 January 2017, Ngai Te Rangi, Ngati Whatua ki Orakei and Waikato Tainui met to address mutual concerns with the Crown's overlapping claims policy in the context of the Hauraki Deed, and agree to collectively oppose the Crown's approach;

- (c) On 3 February 2017, the Crown commenced overlapping claims processes for new redress contained in the Hauraki Deed;
- (d) On 22 February 2017, Ngai Te Rangi wrote to the Minister and requested a process for addressing Ngai Te Rangi's issues with the Hauraki Deed;
- (e) On 28 February 2017, the Crown declined to engage on the terms upon which Ngai Te Rangi sought to resolve the issues. OTS advised:
 - (i) The Minister will not consider the part of the letter which states that the TMF be preserved, except for the fifth seat;
 - (ii) The Minister made it clear that if the TMF remains, he cannot and will not exclude the fifth seat as the redress is already envisaged for Hauraki and he would in effect be removing this undertaking by agreeing to this text;
 - (iii) That what the Minister agreed to do is work with Hauraki to agree text that allows for discussion with Tauranga Moana over the next 2-4 years which might result in the redress being agreed which is different to or changes the TMF;
 - (iv) During this period of time, the TMF will be parked, with neither the Tauranga nor Hauraki claims in respect of the moana being settled;
 - (v) But if those discussions fail and parties revert to the TMF at the conclusion of the discussions, then it will be in its current form, unedited; and
 - (vi) This position was confirmed in writing by Ngai Te Rangi on 9 March 2017.

- (f) On 7 March 2017, OTS wrote to Ngai Te Rangi and confirmed that the Crown considered that the redress for Hauraki, save a few outstanding matters, was finalised and that the redress in issue would not be removed;
- (g) On 9 March 2017, Ngai Te Rangi responded to the Minister's letter and advised that:
 - (i) Ngai Te Rangi has resolved not to progress with their own settlement until satisfactory agreement with the Crown is reached concerning Hauraki cross claims;
 - (ii) That the Hauraki Deed is facilitating significant prejudice on Ngai Te Rangi mana and rangatiratanga;
 - (iii) Ngai Te Rangi have no alternative but to apply to the Waitangi Tribunal for an urgent hearing; and
 - (iv) That the Ngai Te Rangi and Nga Potiki Claims Settlement Bill second reading should not take place on 15 March 2017.

Prejudice

48. As a result of Crown action, omission, policy and practice in the settlements of Ngai Te Rangi, TMIC and Hauraki, the claimants are suffering the following forms of prejudice:
- (a) The Crown's allocation of redress to Hauraki that incorrectly and inappropriately extends into the heartlands of Ngai Te Rangi;
 - (b) The redress allocated to Hauraki in the rohe of Ngai Te Rangi undermines the mana whenua/mana moana, rangatiratanga and tikanga of Ngai Te Rangi;
 - (c) The redress allocated to Hauraki extends far beyond the nature of the limited historical interest claimed by Hauraki;

- (d) The failure of the Crown's overlapping claims policy to resolve the issues;
 - (e) The lack of transparency and fairness in the Crown's approach to the issues;
 - (f) The preservation of the ability of Hauraki in their Deed to gain redress in Tauranga Moana, which unfairly and prejudicially sets the parameters of what Ngai Te Rangi and TMIC are able to negotiate for their own claims;
 - (g) The Crown's provision of extensive new redress to Hauraki in Tauranga Moana, which was not dealt with in overlapping claims processes;
 - (h) The Tiriti partnership between the Crown and Ngai Te Rangi is suffering due to Ngai Te Rangi having to commence litigation to resolve the issues; and
 - (i) There is division and damaged relationships caused between the whanau and hapu of Ngai Te Rangi and Hauraki.
49. When the Hauraki Deed is settled, these issues become irreversibly entrenched in law.

Relief

50. Ngai Te Rangi seek the following relief from the Tribunal:
- (a) That the Tribunal find that:
 - (i) Ngai Te Rangi's claims are well founded;
 - (ii) The Crown's overlapping claims policy and practice is inconsistent with Te Tiriti o Waitangi;
 - (iii) The Crown has undermined the mana, rangatiratanga and tikanga of Ngai Te Rangi;
 - (iv) The Crown has incorrectly and inappropriately applied the 2012 undertaking and past Tribunal reporting to

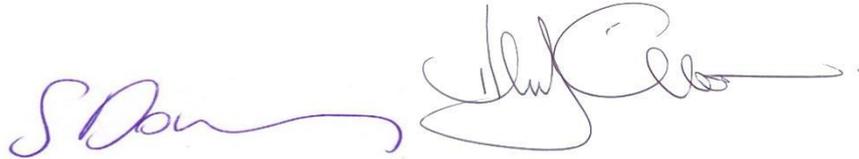
Hauraki by providing Hauraki cultural redress that extends beyond the Te Puna and Katikati Blocks, where the Tribunal accepted Hauraki had an interest in or around the 1860s;

- (b) That the Tribunal recommend that the Crown undertake to stop settlement negotiations with Hauraki and:
 - (i) **Remove the redress:** remove all redress in the rohe of Ngai Te Rangi/Tauranga Moana from the Hauraki Deed; then
 - (ii) **Independent facilitation:** enter into an independent facilitated process with TMIC and Hauraki, with agreed terms of reference, including terms for commissioning research on the issues, with the view to resolving all overlapping claims redress issues arising in the Hauraki Deed;
 - (iii) **Commission research:** following agreement on the Terms of Reference, and prior to entering into facilitation, commission independent research/reports on the respective interests of TMIC and Hauraki in Tauranga Moana;
 - (iv) **Review of overlapping claims policy:** engage widely with Maori to develop a new overlapping claims policy to guide the resolution of the current issues, and future historic and contemporary settlement negotiations;
 - (v) **Finalisation of TMF:** finalise the TMF for TMIC;
 - (vi) **Compensation:** Compensate parties for the delay to the finalisation of their settlements;
- (c) That, if necessary, parties be able to return to the Tribunal for further assistance; and
- (d) Any other such other finding and relief that the Tribunal sees fit.

Amendment

51. Ngai Te Rangi reserve the right to amend this statement of claim.

DATED at Pakaraka this 14th day of March 2017



Season-Mary Downs/Heather Jamieson
Counsel for the Ngai Te Rangi Settlement Trust

This statement of claim is filed by Season-Mary Downs, Chelsea Terei and Heather Jamieson of Tukai Law, the solicitors for the Applicants. Accordingly, the address for service for all documents for this claim is:

- (a) 91 Hupara Road, R D 2, Kaikohe, Northland 0472; or
- (b) By post to 91 Hupara Road, R D 2, Kaikohe, Northland 0472; or
- (c) By email to: seasonmarydowns@tukaulaw.co.nz

IN THE WAITANGI TRIBUNAL

WAI 2840
WAI 2616

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of the Hauraki Overlapping Claims Inquiry (Wai 2840)

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

AMENDED STATEMENT OF CLAIM

Dated this 21st day of December 2018

RECEIVED
Waitangi Tribunal
21 Dec 2018
Ministry of Justice
WELLINGTON



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MAY IT PLEASE THE TRIBUNAL:

The claim

1. This claim is made by Charlie Tawhiao (Chairman), on behalf of the Ngai Te Rangi Settlement Trust (“Ngai Te Rangi”).
2. Ngai Te Rangi claim that on 22 December 2016, the Crown initialled a Deed of Settlement with the Hauraki Iwi Collective (see **Appendix C**) that incorrectly and inappropriately provides the Hauraki Iwi Collective (“Hauraki”) redress that extends into the heartlands of Ngai Te Rangi, thereby undermining the mana, rangatiratanga and tikanga of Ngai Te Rangi. As a result, Ngai Te Rangi say that the Crown has breached the principles of Te Tiriti o Waitangi.
3. The following settlement redress that is provided to Hauraki and falls within the rohe of Ngai Te Rangi is in issue (see **Appendix D**):¹
 - (a) Tauranga Moana affirmations to preserve a fifth seat in the Tauranga Moana Framework and right to participate in alternative redress if the Framework is abandoned by TMIC;
 - (b) Department of Conservation (“DOC”) rights to engage in planning, customary take of flora and fauna and dead marine mammals, establish wahi tapu reserves and other decision-making rights;
 - (c) Ministry of Primary Industries (“MPI”) Advisory Committee rights to advise the Minister on the utilisation of fisheries resources;
 - (d) MPI Quota Rights of First Refusal (“RFR”) to purchase certain quota;
 - (e) Pare Hauraki Worldview statement of “Mai Matakana ki Matakana”;

¹ Wai 2616, #A5, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at [8] – [26].

- (f) Pare Hauraki Redress Area claims area up to Oturu stream (Te Puna);
 - (g) Minerals Relationship Agreement; and
 - (h) Any redress included in the individual deeds.
4. Given the extent of the redress now contained in the collective and individual Hauraki deeds (“Hauraki Deeds”), Ngai Te Rangi also take issue with the specific redress items that were allocated to Hauraki as a result of previously negotiated outcomes including:
- (a) Athenree Forest;
 - (b) RFR properties in Tauranga Moana;
 - (c) Commercial properties in Tauranga Moana; and
 - (d) Kaimai Statutory Acknowledgement.
5. Ngai Te Rangi negotiated outcomes for the redress due to the pressures to achieve a timely Treaty settlement, and on the basis that it was intended at the time that those agreements would be the full redress sought by the Hauraki Collective in Tauranga Moana. The agreements are not a reflection or acknowledgement of Hauraki rights in these areas.
6. Ngai Te Rangi’s position is that all redress now contained in the Hauraki Deeds that falls within Tauranga Moana, should be removed until there has been a proper process for determining the interests claimed.
7. Ngai Te Rangi entered into its own Deed of Settlement with the Crown on 14 December 2013 (**Appendix L**); the settlement Bill is at the second reading stage. Ngai Te Rangi have reached a position where they feel it necessary to put their own settlement on hold given the developments with the Hauraki settlement.

8. Ngai Te Rangi's claim calls into question failures of Crown policy and practice. It raises serious concerns regarding transparency, fairness and the durability of both the Ngai Te Rangi and Hauraki settlements.
9. Ngai Te Rangi claim that the significant and irreversible prejudice that is being, and will be suffered by their iwi includes:
 - (a) The undermining of Ngai Te Rangi mana whenua/mana moana, rangatiratanga, and tikanga;
 - (b) The Crown and Hauraki, by including preservation clauses in the Hauraki Deeds, have determined the parameters of future negotiations on the Tauranga Moana Framework;
 - (c) Given the preservation clauses in the Hauraki Deeds, Ngai Te Rangi may have to let go of the Framework, or negotiate lesser redress, thereby compromising a "critical" part of the settlement of their historical grievances;
 - (d) Inter/intra-tribal division and damage to relationships;
 - (e) Damage to the Crown and Ngai Te Rangi's Tiriti partnership; and
 - (f) Loss of resources.
10. The prejudice is to such an extent that the Hauraki Deeds have created fresh grievances for Ngai Te Rangi.
11. In fact, the Hauraki Deeds have created a situation where neither the Hauraki settlement nor the Ngai Te Rangi settlement can be fair or durable.
12. The prejudice will be permanently entrenched by the passing of settlement legislation. The Crown has not indicated when this will occur.

The claimants

13. Ngai Te Rangi are an iwi of Tauranga Moana.

14. The Ngai Te Rangi Settlement Trust is the post-settlement governance entity for Ngai Te Rangi.
15. Ngai Te Rangi, Ngati Ranginui and Ngati Pukenga are connected with Tauranga Moana to such an extent that the iwi are known and referred to as the Tauranga Moana Iwi. The three iwi have collectivised for the purposes of settling their historical Tiriti claims as the Tauranga Moana Iwi Collective (“TMIC”).
16. Tauranga Moana Iwi are the iwi who have held mana whenua/mana moana and exercise rangatiratanga over the lands and waters within Tauranga Moana, which extends from Nga Kuri a Wharei in the north, inland to the Kaimai Ranges, south to the pae maunga of Puwhenua, Otanewainuku to Wairakei in the south. That mana and rangatiratanga has been held uninterrupted by the three iwi since prior to 1840, through to today.²
17. On 1 March 2017, the Ngai Te Rangi Settlement Trust Board passed the following resolutions:
 - (a) To continue to engage with the Crown to seek a final position on the withdrawal of Hauraki redress in issue by 2 March 2017;
 - (b) To file an urgent application to the Waitangi Tribunal as soon as it is ready and no later than 8 March 2017;
 - (c) That if no agreement is reached with the Crown on the redress sought by the Hauraki Collective in the rohe of Tauranga Moana then:
 - (i) All previous agreements reached with the Hauraki Collective are withdrawn on the basis that it was intended at the time that those agreements would be the full redress sought by the Hauraki Collective in Tauranga Moana, including:

² Save for Crown colonisation.

- (A) 60% of Athenree Forest;
 - (B) Fifteen RFRs in Te Puna/Katikati areas;
 - (C) Four properties in Te Puna/Katikati/Otawhiwhi areas;
 - (D) Kaimai Statutory Acknowledgement; and
 - (E) Kauri Point Reserve.
- (d) That Ngai Te Rangi not proceed with the completion of the Ngai Te Rangi Settlement Bill until a satisfactory agreement is reached on the Hauraki Collective and individual Hauraki iwi redress within Tauranga Moana, including a satisfactory agreement on the removal of the fifth seat in the Tauranga Moana Framework.

Cause of action: The Crown has breached Te Tiriti and undermined Ngai Te Rangi mana whenua/mana moana, rangatiratanga and tikanga by granting Hauraki redress in the rohe of Ngai Te Rangi

18. Ngai Te Rangi claim that the Crown has breached Te Tiriti and undermined their mana whenua/mana moana, rangatiratanga and tikanga in the following ways:
- (a) In the face of consistent and clear opposition, the Crown has granted Hauraki redress that extends into the heartlands of Ngai Te Rangi, thereby entrenching a long-standing dispute;
 - (b) The Crown only notified Ngai Te Rangi of the nature and extent of the redress contained in the Hauraki Deed three days prior to the initialling of the Deed;
 - (c) The Crown has failed to carry out overlapping claims processes for redress contained in the Hauraki Deeds;
 - (d) The Crown has failed to carry out a fair and transparent assessment into whether the limited nature of the historical interest claimed by Hauraki in Tauranga Moana justifies the

now extensive redress and interests that Hauraki will receive as part of its settlement package;

- (e) The Crown has incorrectly and inappropriately applied the undertaking to Hauraki in 2012 that it would provide Hauraki with no less favourable co-governance arrangements in their area of customary interest, and cultural redress within the Te Puna and Katikati Blocks, as agreed with the Crown. That area has now extended far beyond Te Puna and Katikati, into the heartlands of Ngai Te Rangi;
- (f) The Crown has failed to properly consider and balance the prejudice that will be suffered by Ngai Te Rangi against the Crown and Hauraki's intention to finalise a Hauraki settlement which includes redress in the rohe of Ngai Te Rangi;
- (g) The Crown, by including general preservation clauses regarding the Tauranga Moana Framework or any future resource management redress in the Hauraki Deeds, has set the parameters of future negotiations on the Framework in a manner that is prejudicial to Ngai Te Rangi;
- (h) The Crown has failed to act in a manner that is fair and transparent;
- (i) The dispute between Ngai Te Rangi and Hauraki remains unresolved. The Crown has failed to act rigorously, to exhaust all avenues, and to discharge its duties honourably;
- (j) The Crown has failed to act in partnership with Ngai Te Rangi and require a resolution of the issues prior to initialling the Hauraki Deeds; and
- (k) In settling one grievance, the Crown has created another.

Te Tiriti o Waitangi and the Crown's Treaty settlement policy

19. The Tribunal's role is to determine whether Crown policy and practice is consistent with the principles of Te Tiriti o Waitangi.
20. Existing Tribunal reporting and the Crown's own settlement policy assists with the consideration of the claims made by Ngai Te Rangi, and is set out below as follows:
 - (a) Relevant Te Tiriti principles (see **Appendix E**);
 - (b) The right of Tauranga Moana Iwi to exercise rangatiratanga (see **Appendices J and K**);
 - (c) The Crown's policy for Treaty settlements (see **Appendix F**);
 - (d) Overlapping claims policy; and
 - (e) Other important Tribunal statements regarding the standard that applies to the Crown's conduct where issues arise during settlement negotiations.

Relevant Te Tiriti principles

21. The following Te Tiriti principles apply to Treaty settlement negotiations:³
 - (a) **The principle of reciprocity:** The Crown must provide for hapu and iwi to exercise their tino rangatiratanga in the settlement of their claims. It follows that the Crown must also consider its Treaty obligation to particular groups, if their circumstances warrant an alternative approach to the Crown's negotiation policies, processes and targets for the settlement of claims. To attain true reciprocity, there must be consultation and negotiation in practice as well as in name, and flexibility in the application of policies where shown to be strictly necessary;

³ Waitangi Tribunal, *The Te Arawa Settlement Process Reports* [Wai 1353, June 2007], at 199 – 201.

- (b) **The principle of partnership:** The principle of partnership carries with it an obligation for each Treaty partner to act towards each other with the utmost good faith. Where the particular circumstances of a group or groups warrant a more flexible approach, the Crown must be prepared to apply its policies in a flexible, practical and natural manner;
- (c) **The principle of active protection:** The Crown's obligation is to actively protect the just rights and tino rangatiratanga of Maori in the use of their lands and waters to the fullest extent practicable; and
- (d) **The principles of equity and equal treatment:** The Crown is to act fairly and impartially towards Maori. This extends to not allowing one iwi an unfair advantage over another. This does not mean treating all groups exactly the same, where they have different populations, interests, leadership structures and preferences. Rather, it means that the Crown must do everything in its power not to create or exacerbate division and damage relationships.

The right of Tauranga Moana Iwi to exercise rangatiratanga

22. The claims of the Tauranga Moana Iwi were reported on by the Waitangi Tribunal⁴ in 2004 and 2010 respectively (see **Appendices J and K**), in:

- (a) *Te Raupatu o Tauranga Moana*;⁵ and
- (b) *Tauranga Moana 1886-2006*.⁶

⁴ We note that for the purposes of this Statement of Claim and accompanying evidence/submissions, the Wai 215 Tribunal is referred to as "the Tauranga Moana Tribunal". The reports will be distinguished either in text or in the corresponding footnote.

⁵ Waitangi Tribunal, *Te Raupatu o Tauranga Moana* [Wai 215, August 2004] ("*Te Raupatu o Tauranga Moana*").

⁶ Waitangi Tribunal, *Tauranga Moana 1886-2006* [Wai 215, August 2010] ("*Tauranga Moana*").

23. In those reports, the Tauranga Moana Tribunal made a number of significant statements that are relevant to this urgent application. In particular, the Tribunal stated that:
- (a) Where their (Tauranga Moana Iwi) environment and cultural heritage are concerned, Tauranga Maori have had to fight hard to maintain even a faint shadow of the tino rangatiratanga and kaitiakitanga they exercised at the time of the signing of the Treaty;⁷
 - (b) The Crown has a duty to respect te tino rangatiratanga of Tauranga Maori and to foster their empowerment and autonomy;⁸
 - (c) Maori autonomy is “the ability of tribal communities to govern themselves as they had for centuries, to determine their own internal political, economic, and social rights and objectives, and to act collectively in accordance with those objectives”;⁹
 - (d) It agreed with Tribunal’s views in the *Ngawha Geothermal Report* (1993) in terms of the implications for the Crown of its duty of active protection of Maori resource-use, where several important elements of the duty were identified, including:¹⁰
 - (i) That Maori are not unnecessarily inhibited by legislative or administrative constraint from using their resources according to their cultural preferences;
 - (ii) That Maori are protected from the actions of others which impinge upon their rangatiratanga by adversely affecting the continued use or enjoyment of their resources whether in spiritual or physical terms; and
 - (iii) The exercise of tino rangatiratanga over taonga within modern New Zealand’s legal framework now requires

⁷ At xxiv (Letter of Transmittal).

⁸ At 18.

⁹ At 23.

¹⁰ At 22.

either ownership or, where this is not possible, significant management rights recognised and provided for in statute. Such management rights provide another means by which to recognise tino rangatiratanga, and allow the expression of kaitiakitanga;

- (e) Where Tauranga Maori have lost ownership over their property and taonga against their will, and in breach of the principles of the Treaty, they may retain Treaty rights to exercise rangatiratanga and kaitiakitanga over those resources;¹¹
 - (f) In consistently refusing to acknowledge Maori rangatiratanga over Tauranga Harbour, we find that the Crown has therefore acted contrary to both the plain meaning of article 2, and the principles of partnership and the duty of active protection;¹² and
 - (g) Tauranga Maori ought to have had the **full protection** of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga Harbour recognised at all times, unless alienated by freely negotiated agreement, or when strictly necessary in the national interest.¹³
24. Significantly, the Tauranga Moana Tribunal found that only once Maori have the capacity to assume the responsibility of acting as kaitiaki over their taonga will the Crown have provided a system of resource management that allows Maori to exercise their rangatiratanga. Only then will the Crown discharge its duties, and avoid further breaches of the principles of the Treaty.¹⁴

Crown policy for Treaty settlements

25. The Crown's guidelines for the resolution of historical claims are set out in the *Red Book* and include that (see **Appendix F**):¹⁵

¹¹ At 854.

¹² At 608.

¹³ At 608 (Emphasis added).

¹⁴ At 625.

¹⁵ Office of Treaty Settlements, *Ka tika ā muri, ka tika ā mua: Healing the past, building a future – A Guide to Treaty of Waitangi Claims and Negotiations with the Crown* [March

- (a) Treaty settlements should not create further injustices;
 - (i) In providing settlement redress to one claimant group the Crown should not harm the interests of other claimant groups;
- (b) As settlements are to be durable, they must be fair, achievable and remove the sense of grievance;
 - (i) Settlements will not last if they are seen to be unfair and do not remove the sense of grievance;
 - (ii) The process of negotiation is intended to ensure that the Crown and a claimant group sign a Deed of Settlement only when both parties are satisfied that it is fair, and the claimant groups agree that their grievances are finally settled;
- (c) The Crown must deal equitably and fairly with all claimant groups;
 - (i) This means that the Crown must have consistent policies and processes and that the redress for each group should be fair in relation to the redress received by other groups;
 - (ii) However, the Crown also acknowledges that each claimant group has different interests and particular claims against the Crown.

Overlapping claims policy

26. The *Red Book* provides that an overlapping claim exists where two or more claimant groups make claims over the same area of land that is the subject of historical Treaty claims (see **Appendix F**).¹⁶

2015], at 24 (“*Red Book*”).

¹⁶ Such situations are also known as ‘cross claims’.

27. The Crown's policy states that the Crown can only provide redress "if it is satisfied that any overlapping claims have been addressed:¹⁷

The Crown's policy provides that overlapping claims or interests of other claimant groups **must be addressed to the satisfaction of the Crown before the Crown will conclude a settlement** involving any of the sites or assets concerned.

28. The policy also provides:¹⁸
- (a) In areas where there are overlapping claims, the Crown encourages claimant groups to discuss their interests with neighbouring groups at an early stage in the negotiation process and establish a process by which they can reach agreement on how such interests can be managed;
 - (b) Addressing overlapping claims at an early stage will avoid delays – and the possibility of a challenge to the settlement package – at a later stage in the settlement process. The Crown will assist this process by providing information on proposed redress items to all groups with a shared interest in a site or property;
 - (c) Disagreements relating to overlapping claims may arise from the Crown proposing a particular form of redress, such as the transfer of a site or property to one claimant group to the exclusion of another. Where there are overlapping claims, such exclusive redress may not always be appropriate. Often both groups have an interest, such as historical or cultural associations, in a site or property and these interests can be accommodated by a form of redress which is non-exclusive. This allows the interests of different groups to be recognised and accommodated;
 - (d) The Crown would prefer that disagreements over redress were settled by mutual agreement between claimant groups. However, in the absence of agreement amongst them, the

¹⁷ *Red Book*, above n 15, at 27 (Emphasis added).

¹⁸ At 54.

Crown may have to make a decision. In reaching any such decision on overlapping claims, the Crown will be guided by two general principles:

- (i) The Crown's wish to reach a fair and appropriate settlement with the claimant group in negotiations; and
- (ii) The Crown's wish to maintain, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims

Other important Tribunal statements regarding the standard that applies to the Crown's conduct where issues arise during settlement negotiations

29. The Tribunal has previously made findings on cross-claim settlement disputes, including:

- (a) *The Tamaki Makaurau Settlement Process Report*,¹⁹
- (b) *The Te Arawa Settlement Process Reports*;²⁰ and
- (c) *The Ngāti Awa Settlement Cross-claims Report*.²¹

30. In discussing the Crown's approach to overlapping claims, the Te Arawa Tribunal said:²²

- (a) The Minister and OTS should at all times be mindful that because of these multiple roles, **OTS holds a powerful position in the negotiation process**: it becomes the negotiator, the dispenser of justice, and the policy adviser to the Minister who has the final power. This makes **it critical that OTS is rigorous in its endeavours to uphold the honour of the Crown**, and to discharge the Crown's Treaty duties. In the context of overlapping claims, it must do so in a

¹⁹ Waitangi Tribunal, *The Tamaki Makaurau Settlement Process Report* [Wai 1362, June 2007] ("*Tamaki Makaurau Report*").

²⁰ *Te Arawa Reports*, above n 3.

²¹ Waitangi Tribunal, *The Ngāti Awa Settlement Cross-claims Report* [Wai 958, July 2002] ("*Ngāti Awa Report*").

²² *Te Arawa Reports*, above n 3, at 64 (Emphasis added).

manner that is fair and impartial. It must be an **honest broker**, and it must remain independent; and

- (b) OTS staff must have the requisite skills to move in and out of the Maori realm if they are to truly understand the tikanga underpinning Maori cultural preferences. These understandings must then be reflected in the development of policies and processes that respect those preferences, without relying solely on the advice of those standing to benefit the most from the settlement process.

31. In addition, the Ngati Awa Tribunal found that:²³

- (a) The Crown should not be satisfied that cross-claims have been addressed until really **no stone has been left unturned**. Even if a consensual approach can be achieved only in relation to *one* item of contested redress, that can ameliorate the wider relationships in issue. The Crown has a duty in this regard, flowing from the principles of partnership and good faith under the Treaty of Waitangi; and
- (b) “The simple point is that where the process of working towards settlement causes fall-out in the form of deteriorating relationships either within or between tribes, the Crown cannot be passive”. It must exercise an ‘honest broker’ role as best it can to effect reconciliation, and to build bridges wherever and whenever the opportunity arises. Officials must be constantly vigilant to ensure that the cost of settlement in the form of damage to tribal relations is kept to the absolute minimum.

32. The Tamaki Makaurau Tribunal was critical of the Crown’s overlapping claims policy and said:²⁴

- (a) The explanation of the process for dealing with ‘overlapping’ claimants in the Office of Treaty Settlement’s policy manual *Ka Tika ā Muri, Ka Tika ā Ma* (the *Red Book*) is summary and

²³ *Ngāti Awa Report*, above n 21, at 88 (Emphasis added).

²⁴ *Tamaki Makaurau Report*, above n 19, at 86-87.

unhelpful. It deals only in broad principles, and gives no clear idea as to how they will be applied or achieved; and

- (b) The *Red Book's* treatment of how cultural redress will be handled in situations where there is competition over sites and recognition provides no insight into how problems will be identified and addressed.

Particulars

- 33. A chronology has been prepared for this application (**Appendix G**),²⁵ which covers the 10-year period between 2007-2017; the period of time that Ngai Te Rangi has been engaged in the Crown's settlement process.
- 34. A document bank has also been prepared (**Appendix H**).
- 35. To assist the Tribunal's consideration of this application, the key time periods and particulars that highlight essential context to Ngai Te Rangi's claim are summarised below.
- 36. At 1840:
 - (a) Tauranga Moana Iwi held and exercised mana whenua/mana moana/rangatiratanga in and over Tauranga Moana; and
 - (b) Hauraki did not exercise mana whenua/mana moana/rangatiratanga in Tauranga Moana.
- 37. Between 1840-2017:
 - (a) Tauranga Moana Iwi held and exercised mana whenua/mana moana/rangatiratanga in Tauranga Moana; and
 - (b) Hauraki did not exercise mana whenua/mana moana/rangatiratanga interest in Tauranga Moana.
- 38. In 2004, the Tauranga Moana Raupatu Tribunal identified that some payments were made to Hauraki tupuna for Crown purchase of the Te

²⁵ See: Wai 2616, #A5, *Brief of Evidence of Huhana Rolleston* [14 March 2017].

Puna-Katikati block at the northern end of Tauranga Moana.²⁶ It is this Tribunal finding that the Crown and Hauraki largely rely on to justify the allocation of redress to Hauraki.

39. In 2008, the Crown engaged in settlement negotiations with the TMIC.
40. In 2009, the Crown engaged in settlement negotiations with Hauraki.
41. In September 2012, Hauraki applied to the Waitangi Tribunal for an urgent inquiry into the TMIC Deed. Hauraki claimed prejudice arising from unfair process, and that the TMIC Deed could irreversibly prejudice their customary interests.
42. On 24 October 2012, the urgent application was then adjourned on the basis that the Crown made an undertaking to Hauraki that the:²⁷

Tauranga Moana Framework will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC.

...

Cultural redress will be provided to iwi of Hauraki within the Te Puna and Katikati Blocks, as agreed with the Crown.

43. From this point on, the Crown and Hauraki have continued negotiations on the basis of the Crown's undertaking, and the past Tribunal report which recognised Hauraki's interests in the Te Puna and Katikati blocks.
44. In December 2012, the Crown and TMIC initialled a Deed of Settlement.
45. Between October 2013 – 2015:
 - (a) In October 2013, the Crown notified Ngai Te Rangī that Ngai Te Rangī would likely have interests in areas where redress

²⁶ *Te Raupatu o Tauranga Moana*, above n 5, at 189-190.

²⁷ Wai 215, #2.695, *Joint Memorandum of Counsel for the Hauraki Collective and the Crown* [24 October 2012], at para 3.

was proposed for Hauraki and commenced the overlapping claims process;

- (b) On 14 December 2013, Ngai Te Rangi signed a Deed of Settlement with the Crown (see **Appendix L**)
- (c) Both the preliminary and final decision of the Minister from the overlapping claims process, confirmed that the Minister's position was that the creation of a fifth seat for other iwi on the Tauranga Moana Framework would be appropriate recognition for the interests of Hauraki in Tauranga Moana;
- (d) The Minister stipulated that the TMIC Deed could not proceed without providing an additional seat for other iwi, and that if TMIC agreed to the additional seat that the seat would be created through negotiation with the other iwi and TMIC would be engaged in a further overlapping claims process;
- (e) Through extensive engagement with the Crown, TMIC reluctantly accepted the fifth seat with a number of conditions, which preserved the mana whenua, mana moana and rangatiratanga of TMIC and ensured Hauraki was able to participate when TMIC determined Hauraki interests may be affected;
- (f) In August 2014, the Crown and TMIC engaged to redraft the TMF to include the additional seat, on terms that were acceptable to TMIC. TMIC has since maintained that those terms must apply;
- (g) The terms of the revised draft of the TMF to include the and fifth seat were not acceptable to Hauraki, and a number of attempts were made between the Crown, TMIC and Hauraki to reach an agreement on the fifth seat in order for the TMF to be finalised in the TMIC Deed. Attempts to reach agreement on the terms of the fifth seat were unsuccessful on all fronts;

- (h) On 21 January 2015, the Crown and TMIC signed the Deed of Settlement, which included the Framework, with the fifth seat for other iwi, with conditions, for the co-management of Tauranga Moana (see **Appendix M**). Hauraki maintained its challenge that it should have a seat on the Framework without the conditions required by TMIC;
- (i) In May 2015, the Crown, having determined that the parties were unlikely to reach an agreement, sought that the Tribunal determine whether the application for an urgent hearing by Hauraki be granted;
- (j) On 6 August 2015, the Tribunal granted the application for urgency. The urgent hearings did not take place as parties again attempted to reach a resolution on the Framework;
- (k) Between August 2015 and October 2015, agreements on the fifth seat of the Framework could still not be reached and the conversation between the Crown and TMIC shifted to whether or not TMIC would agree to remove the Framework from the TMIC Deed. The basis for this was to enable the remainder of the TMIC Deed to be finalised. The Minister confirmed that given the significance of the Framework to settling TMIC historic claims, that a separate Bill could be passed for the Framework in the future, once issues were resolved;
- (l) TMIC agreed to remove the Framework from the TMIC Deed subject to conditions that the claimants say have not been completed;
- (m) On 30 October 2015, the Crown notified TMIC of the process to resolve specific matters with the TMF.²⁸ The Crown advised that the right to participate in the fifth seat will be subject to the resolution of overlapping claims (including those of Tauranga Moana Iwi) to the satisfaction of the Crown and will:

²⁸ The process the Crown relied on is set out at clause 2.15 of the Tauranga Moana Iwi Collective Deed.

- (i) Be commensurate with matters such as: The relative strength and nature of the association of the claimant group to the Tauranga Moana catchment, taken as a whole; and the nature of the claimant group's grievances in relation to the Tauranga Moana catchment;
 - (ii) Not undermine the fundamental elements of the Tauranga Moana arrangements set out in the TMIC Deed;
 - (iii) Not derogate from the Crown's recognition of the relationship between Tauranga Moana iwi and hapu and Tauranga Moana referred to in clauses 2.12 and 2.13 of the TMIC Deed; and
 - (iv) Be designed to preserve and enhance relationships between Tauranga Moana Iwi and other iwi.
- (n) On 31 August 2015, because agreement could not be reached on the fifth seat, the Crown and TMIC agreed to have the Framework removed from the TMIC Bill, in order for the issues concerning the fifth seat to be resolved at a later date, through a separate process on the conditions noted above.

46. In 2016:

- (a) In May 2016, the TMIC Settlement Bill was introduced to the House and proceeded through the Maori Affairs Select Committee process;
- (b) On 22 August 2016, the Maori Affairs Select Committee hearings for the TMIC Redress and Bill were held in Tauranga. Hauraki did not participate in these hearings. Tauranga Moana Iwi relayed the prejudice arising from Hauraki claims to Tauranga Moana;
- (c) The Crown, TMIC, and Hauraki attempted to engage regarding the TMF. Once again, no agreements were reached;

- (d) On 21 October 2016, the Crown provided TMIC with information from Hauraki, which the Crown agreed was the basis that Hauraki had sufficient interests to take the fifth seat on the TMF, and have interests in Tauranga Moana provided for in settlement. Again, this largely included the earlier Tribunal reporting regarding Hauraki interests in the Te Puna and Katikati blocks, and the Crown undertaking from 2012;
- (e) On 19 December 2016, three days prior to the collective Hauraki Deed initialling, the Crown provided TMIC with a table of proposed redress for Hauraki and overlapping claims consultation with Ngai Te Rangi;
- (f) On 20 December 2016, the Crown was notified of Ngai Te Rangi's opposition to the redress, namely that Ngai Te Rangi opposed the Hauraki Deeds that included redress in the rohe of Ngai Te Rangi. Ngai Te Rangi requested that the Crown do not initial the Deed with Hauraki until the issues could be resolved;
- (g) On 22 December 2016, the Crown and Hauraki initialled the collective Hauraki Deed;
- (h) Under the Hauraki Deeds, the Crown granted Hauraki broad redress in Tauranga Moana.

47. From January 2017 to present:

- (a) On 27, 28, 29 December 2016 and 13, 18 January 2017, news articles were published which note Ngai Te Rangi's opposition to the Crown and Hauraki approach to overlapping claims (see **Appendix I**). The articles demonstrate tribal division;
- (b) On 11 January 2017, Ngai Te Rangi, Ngati Whatua ki Orakei and Waikato Tainui met to address mutual concerns with the Crown's overlapping claims policy in the context of the Hauraki Deeds, and agree to collectively oppose the Crown's approach;

- (c) On 3 February 2017, the Crown commenced overlapping claims processes for new redress contained in the Hauraki Deeds;
- (d) On 22 February 2017, Ngai Te Rangi wrote to the Minister and requested a process for addressing Ngai Te Rangi's issues with the Hauraki Deeds;
- (e) On 28 February 2017, the Crown declined to engage on the terms upon which Ngai Te Rangi sought to resolve the issues. OTS advised:
 - (i) The Minister will not consider the part of the letter which states that the TMF be preserved, except for the fifth seat;
 - (ii) The Minister made it clear that if the TMF remains, he cannot and will not exclude the fifth seat as the redress is already envisaged for Hauraki and he would in effect be removing this undertaking by agreeing to this text;
 - (iii) That what the Minister agreed to do is work with Hauraki to agree text that allows for discussion with Tauranga Moana over the next 2-4 years which might result in the redress being agreed which is different to or changes the TMF;
 - (iv) During this period of time, the TMF will be parked, with neither the Tauranga nor Hauraki claims in respect of the moana being settled;
 - (v) But if those discussions fail and parties revert to the TMF at the conclusion of the discussions, then it will be in its current form, unedited; and
 - (vi) This position was confirmed in writing by Ngai Te Rangi on 9 March 2017.

- (f) On 7 March 2017, OTS wrote to Ngai Te Rangi and confirmed that the Crown considered that the redress for Hauraki, save a few outstanding matters, was finalised and that the redress in issue would not be removed;
- (g) On 9 March 2017, Ngai Te Rangi responded to the Minister's letter and advised that:
 - (i) Ngai Te Rangi has resolved not to progress with their own settlement until satisfactory agreement with the Crown is reached concerning Hauraki cross claims;
 - (ii) That the Hauraki Deeds are facilitating significant prejudice on Ngai Te Rangi mana and rangatiratanga;
 - (iii) Ngai Te Rangi have no alternative but to apply to the Waitangi Tribunal for an urgent hearing; and
 - (iv) That the Ngai Te Rangi and Nga Potiki Claims Settlement Bill second reading should not take place on 15 March 2017.

Prejudice

48. As a result of Crown action, omission, policy and practice in the settlements of Ngai Te Rangi, TMIC and Hauraki, the claimants are suffering the following forms of prejudice:
- (a) The Crown's allocation of redress to Hauraki that incorrectly and inappropriately extends into the heartlands of Ngai Te Rangi;
 - (b) The redress allocated to Hauraki in the rohe of Ngai Te Rangi undermines the mana whenua/mana moana, rangatiratanga and tikanga of Ngai Te Rangi;
 - (c) The redress allocated to Hauraki extends far beyond the nature of the limited historical interest claimed by Hauraki;

- (d) The failure of the Crown's overlapping claims policy to resolve the issues;
 - (e) The lack of transparency and fairness in the Crown's approach to the issues;
 - (f) The preservation of the ability of Hauraki in their Deeds to gain redress in Tauranga Moana, which unfairly and prejudicially sets the parameters of what Ngai Te Rangi and TMIC are able to negotiate for their own claims;
 - (g) The Crown's provision of extensive new redress to Hauraki in Tauranga Moana, which was not dealt with in overlapping claims processes;
 - (h) The Tiriti partnership between the Crown and Ngai Te Rangi is suffering due to Ngai Te Rangi having to commence litigation to resolve the issues; and
 - (i) There is division and damaged relationships caused between the whanau and hapu of Ngai Te Rangi and Hauraki.
49. When the Hauraki Deeds are settled, these issues become irreversibly entrenched in law.

Relief

50. Ngai Te Rangi seek the following relief from the Tribunal:
- (a) That the Tribunal find that:
 - (i) Ngai Te Rangi's claims are well founded;
 - (ii) The Crown's overlapping claims policy and practice is inconsistent with Te Tiriti o Waitangi;
 - (iii) The Crown has undermined the mana, rangatiratanga and tikanga of Ngai Te Rangi;
 - (iv) The Crown has incorrectly and inappropriately applied the 2012 undertaking and past Tribunal reporting to

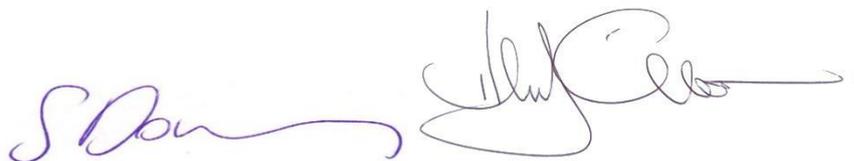
Hauraki by providing Hauraki cultural redress that extends beyond the Te Puna and Katikati Blocks, where the Tribunal accepted Hauraki had an interest in or around the 1860s;

- (b) That the Tribunal recommend that the Crown undertake to stop settlement negotiations with Hauraki and:
 - (i) **Remove the redress:** remove all redress in the rohe of Ngai Te Rangi/Tauranga Moana from the Hauraki Deeds; then
 - (ii) **Independent facilitation:** enter into an independent facilitated process with TMIC and Hauraki, with agreed terms of reference, including terms for commissioning research on the issues, with the view to resolving all overlapping claims redress issues arising in the Hauraki Deeds;
 - (iii) **Commission research:** following agreement on the Terms of Reference, and prior to entering into facilitation, commission independent research/reports on the respective interests of TMIC and Hauraki in Tauranga Moana;
 - (iv) **Review of overlapping claims policy:** engage widely with Maori to develop a new overlapping claims policy to guide the resolution of the current issues, and future historic and contemporary settlement negotiations;
 - (v) **Finalisation of TMF:** finalise the TMF for TMIC;
 - (vi) **Compensation:** Compensate parties for the delay to the finalisation of their settlements;
- (c) That, if necessary, parties be able to return to the Tribunal for further assistance; and
- (d) Any other such other finding and relief that the Tribunal sees fit.

Amendment

51. Ngai Te Rangi reserve the right to amend this statement of claim.

DATED at Pakaraka this 21st day of December 2018



Season-Mary Downs/Heather Jamieson
Counsel for the Ngai Te Rangi Settlement Trust

This statement of claim is filed by Season-Mary Downs, Chelsea Terei and Heather Jamieson of Tukau Law, the solicitors for the Applicants. Accordingly, the address for service for all documents for this claim is:

- (a) 91 Hupara Road, R D 2, Kaikohe, Northland 0472; or
- (b) By post to 91 Hupara Road, R D 2, Kaikohe, Northland 0472; or
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IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND

WAI

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

of an application by Charlie Tawhiao on behalf of the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

MEMORANDUM OF COUNSEL

Dated this 14th day of March 2017

RECEIVED

Waitangi Tribunal

14 Mar 2017

Ministry of Justice
WELLINGTON



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MAY IT PLEASE THE TRIBUNAL:

If the Hauraki settlement is finalised with redress that is in Tauranga Moana, the Crown is effectively saying that Hauraki have mana whenua, mana moana, and rangatiratanga in Tauranga Moana. That is just patently wrong, and it is simply not true.¹

Dr Hauata Palmer

Urgency criteria

1. Ngai Te Rangi seek the Tribunal's urgent assistance for their claim that the Crown's Deed of Settlement with Hauraki (see **Appendix C**), where it grants Hauraki redress in Tauranga Moana, breaches Te Tiriti, undermines their mana, rangatiratanga and tikanga, and is causing them significant, and potentially irreversible prejudice.
2. The Tribunal will grant an urgent hearing in exceptional cases, once it is satisfied that adequate grounds for according priority have been made out.²
3. In deciding whether to grant an urgent application, the Tribunal considers whether:³
 - (a) The applicant for an urgent inquiry can demonstrate that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions or policies;
 - (b) There is no alternative remedy that, in the circumstances, it would be reasonable for the applicant to exercise; and
 - (c) The applicant is ready to proceed urgently to a hearing.
4. Other factors that the Tribunal may consider include:⁴

¹ ROI TBC, *Brief of Evidence of Dr Hauata Palmer* [14 March 2017], at para 17.

² Waitangi Tribunal Practice Note, *Guide to the Practice and Procedure of the Waitangi Tribunal* [May 2012], at 4.

³ At 5.

⁴ At 5.

- (a) An injunction has been issued by the Court on the basis that the claim or claims for which urgency has been sought have been submitted to the Tribunal;
 - (b) Any other grounds justifying urgency have been made out; and
 - (c) The claim challenges an important current or pending Crown action or policy.
5. This memorandum establishes that the grounds for urgency are clearly met by Ngai Te Rangī's claim.

The issue

6. Overlapping claims issues have arisen during many settlement negotiations and the Waitangi Tribunal has intervened on an urgent basis to avoid significant prejudice as issues of mana whenua and rangatiratanga go to the very heart of Te Tiriti guarantees.⁵
7. The Ngai Te Rangī claim against the Hauraki Deed also requires the urgent intervention of the Tribunal.
8. This claim is not about a group being prejudiced by being left out of settlement negotiations, as was the case in the *Tamaki Makaurau* and *Te Arawa* urgent inquiries. Both Ngai Te Rangī and Hauraki are in the final stages of settling their historical Te Tiriti claims.
9. Rather, Ngai Te Rangī's claim is that the Crown has acted inconsistently with the principles of Te Tiriti by incorrectly and inappropriately providing for the historical interests claimed by Hauraki in Tauranga Moana, by granting Hauraki redress that:
- (a) Is far greater than what their interests justify;
 - (b) Encroaches into the heartlands of Ngai Te Rangī; and

⁵ See for instance: Waitangi Tribunal, *The Tamaki Makaurau Settlement Process Report* [Wai 1362, June 2007]; Waitangi Tribunal, *The Ngāti Awa Settlement Cross-claims Report* [Wai 958, July 2002]; Waitangi Tribunal, *The Ngāti Tūwharetoa ki Kawerau Settlement Cross-Claim Report* [Wai 998, July 2003]; Waitangi Tribunal, *The Te Arawa Settlement Process Reports* [Wai 1353, June 2007].

- (c) Undermines the mana, rangatiratanga and tikanga of Ngai Te Rangī.
10. The longstanding dispute regarding the allocation of redress to Hauraki in Tauranga Moana was formalised on 22 December 2016, when the Crown initialled the Hauraki Deed which contains the following redress that is located within Tauranga Moana (see **Appendix D**):⁶
- (a) Provision to preserve a fifth seat in the Tauranga Moana Framework for Hauraki, and the right for Hauraki to participate in alternative redress if the Framework is abandoned by the Tauranga Moana Iwi Collective. The Framework provides, among other things, for Hauraki to participate in decision making and the framing of policy for Tauranga Moana. We note that Hauraki’s representation on the Framework has always been a significant point of contention and is discussed further below;⁷
- (b) Department of Conservation rights for Hauraki to engage in planning, customary take of flora and fauna and dead marine mammals, establishing wahi tapu reserves and other decision making rights;⁸
- (c) The Kaimai Statutory Acknowledgement and Statement of Association;⁹
- (d) The Ministry of Primary Industries (“MPI”) Advisory Committee rights for Hauraki to advise the Minister on the utilisation of fisheries resources within Tauranga Moana;¹⁰

⁶ ROI TBC, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at paras 8-26.

⁷ Appendix C - Pare Hauraki Collective Redress Deed [22 December 2016], clauses 20.7-20.8.

⁸ At clauses 7.67-7.76.

⁹ At clause 8.1.1.

¹⁰ At clauses 10.1-10.2.

- (e) MPI Quota right of first refusal for Hauraki to purchase certain fish quota;¹¹
 - (f) The Pare Hauraki Worldview statement of “Mai Matakana ki Matakana” which encompasses the heartlands of Ngai Te Rangī;¹² and
 - (g) The Pare Hauraki Redress Area claims area up to Oturu stream (Te Puna).
11. Given the extent of the redress now contained in the Hauraki Deed, Ngai Te Rangī also take issue with the specific redress items that were provided to Hauraki as a result of previously negotiated outcomes including:
- (a) Athenree Forest;
 - (b) RFR properties in Tauranga Moana;
 - (c) Commercial properties in Tauranga Moana;
 - (d) Kaimai Statutory Acknowledgement; and
 - (e) Kauri Point Reserve.
12. Ngai Te Rangī’s position is that the negotiated outcomes for the above redress was due to the pressures to achieve a timely Treaty settlement, and on the basis that it was intended at the time that that redress would be the full redress sought by the Hauraki Collective in Tauranga Moana. Further these agreements were not a reflection or acknowledgment of Hauraki rights in these areas.
13. Given the recent conflation of redress, Ngai Te Rangī’s position is now that all redress contained in the Hauraki Deed, that falls within Tauranga Moana, be removed until there has been a proper process for determining the interests claimed by Hauraki and the issues are resolved.

¹¹ At clause 10.3.

¹² At clause 4.1.

14. There is also additional redress that relates to Tauranga Moana contained in separate individual Hauraki iwi deeds.¹³ Those deeds have not been made available to Ngai Te Rangi, despite several requests.¹⁴
15. A fundamental failure of Crown process occurred when the Crown notified Ngai Te Rangi of the nature and extent of the above redress in issue, only three days prior to the initialling of the Hauraki Deed.¹⁵
16. When Ngai Te Rangi asked the Crown not to initial the Deed in order to provide time to resolve the issues, the Crown declined and initialled it anyway. Ratification of the Hauraki Deed then commenced and is currently in train.
17. An additional failure of Crown process, is that some of the above redress in issue, is redress that has not been through an overlapping claims process. The Crown's initial response was that such redress items did not affect Ngai Te Rangi rohe. Only as a result of Ngai Te Rangi's insistence that no overlapping claims process had been completed for the MPI protocol and Quota RFR, did the Crown agree to run an overlapping claims process for this redress which commenced in January/February 2017.
18. It is also significant that the redress on the Tauranga Moana Framework is now formulated in the Deed in a way that generally preserves the ability of Hauraki to participate in the Framework as an equal partner. This redress has been provided by the Crown, in the face of years of consistent and clear opposition from Ngai Te Rangi to Hauraki gaining that particular redress in their rohe.
19. The evidence demonstrates that it was as recent as October 2016 that the Crown told Ngai Te Rangi no commitments would be made to other iwi regarding the Framework, while the Framework was parked from the TMIC Deed to allow for the resolution of the issues. Further, the

¹³ Ngai Te Rangi have not formally responded to this redress as they have made a request to the Crown to review the full Deeds first.

¹⁴ ROI TBC, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at para 29(a).

¹⁵ Appendix H - *Document bank*, at 231-238.

Crown said that it would inform, and get agreement from Ngai Te Rangi on any matters concerning the Framework, and that if agreement could not be reached then renegotiation of the Framework would be necessary.¹⁶ The Crown did not consult with, or get agreement from Ngai Te Rangi about the Tauranga Moana Framework redress contained in the Hauraki Deed.

20. Prejudice arises from the Framework redress in the Deed as it effectively sets the parameters for any future negotiations concerning the Framework. The clause, as it is contained in the Hauraki Deed, puts Ngai Te Rangi in a position where they are required to:¹⁷
 - (a) Agree to allowing Hauraki to take the fifth seat on the Framework on conditions they have never agreed to, and accept the undermining and redefining of their mana, rangatiratanga and tikanga;
 - (b) Let go of the Framework; and
 - (i) Re-negotiate lesser redress for Tauranga Moana. Under the Hauraki Deed, Hauraki will still be entitled to “no less favourable” treatment as Tauranga Moana Iwi; or
 - (ii) Not settle their historical claims over Tauranga Moana, which has already been acknowledged by the Minister as a “critical” part of their settlement.¹⁸
21. All these options are highly prejudicial to Ngai Te Rangi.
22. Counsel note at this point that if the Crown and TMIC agreed to remove the TMF from the TMIC Deed, then it is only right and fair that the Crown and Hauraki remove the redress in issue from the Hauraki Deed.

¹⁶ At 214-220

¹⁷ See: ROI TBC, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at paras 35-39.

¹⁸ Appendix H, *Document bank*, at 178-181.

23. It is also noteworthy that the Crown provided the Tauranga Moana Framework redress to Hauraki with the knowledge that the allocation would entrench a significant longstanding dispute and cause further division.
24. The Crown has now informed Ngai Te Rangi that it is unable to get agreement from Hauraki to make changes to the Deed that will be to Ngai Te Rangi's satisfaction.¹⁹
25. Further, the Crown will not engage on terms that are going to lead to a resolution, Hauraki refuses to engage at all, and ratification of the Deed is underway. On this basis, it is highly unlikely that parties will be able to resolve the issues without the Tribunal's intervention.
26. To be clear, Ngai Te Rangi do not deny that Hauraki has some historical connections with Tauranga Moana. However, they do deny that those historical interests give Hauraki a right to obtain settlement redress in Tauranga Moana that essentially elevates their status to iwi with mana whenua/mana moana and rangatiratanga.
27. Ngai Te Rangi has always maintained that it is their iwi, together with Ngati Ranginui and Ngati Pukenga who hold mana whenua/mana moana and rangatiratanga (authority) over Tauranga Moana; not Hauraki.²⁰
28. Ngai Te Rangi evidence is that Hauraki has not exercised rangatiratanga over Tauranga Moana, and the Crown is incorrect to afford Hauraki this authority by legislation.²¹
29. The redress, where it enables Hauraki to exercise rangatiratanga, fundamentally changes the relationship between Hauraki and Tauranga Moana, and consequently, impacts on the mana, rangatiratanga, tikanga and identity of Ngai Te Rangi. The Crown does not seem to appreciate this point.

¹⁹ At 336-337.

²⁰ ROI TBC, *Brief of Evidence of Reon Tuanau* [14 March 2017], at paras 24-29.

²¹ ROI TBC, *Brief of Evidence of Dr Hauata Palmer* [14 March 2017], at paras 21-41.

30. Ngai Te Rangi will suffer significant and irreversible prejudice if the Crown and Hauraki enact legislation for the Hauraki settlement.
31. We now turn to address the following assertions, that are relevant considerations in terms of whether the Crown has acted inconsistently with the principles of Te Tiriti:
 - (a) The Crown has failed to uphold its own principles for settling claims;
 - (b) The Crown has incorrectly and inappropriately applied its undertaking to Hauraki;
 - (c) The Crown has incorrectly applied past Tribunal findings; and
 - (d) The Crown's overlapping claims policy is deficient and incapable of resolving the issues.

The Crown has failed to uphold its own principles for settling claims

32. The overarching objective of the Crown's settlement policy is to negotiate settlements of historical claims that are lasting and acceptable to most New Zealanders (see **Appendix F**).
33. The Crown should also be consistent in its approach to claimant groups involved in negotiations, while acknowledging that each claimant group is different.²²
34. In order to achieve this objective, the Crown has developed guidelines for the resolution of historical claims, which includes:²³
 - (a) Treaty settlements should not create further injustice;
 - (b) They are to be durable, must be fair and remove the sense of grievance; and

²² Office of Treaty Settlements, *Ka tika ā muri, ka tika ā mua: Healing the past, building a future – A Guide to Treaty of Waitangi Claims and Negotiations with the Crown* [March 2015] ("*Red Book*"), at 24.

²³ At 24.

- (c) The Crown must deal fairly and equitably with all claimant groups.
35. If the essential factors of durability and fairness are still in question when a group is near the completion of their settlement, it follows that the Crown has an obligation to address this.
36. The Crown is the Te Tiriti partner who holds all the power, decision making authority and resources. This puts Maori in a vulnerable position, and at the whim of the Crown.²⁴
37. The Tribunal has already found that the Crown's position of authority means that it is expected that the Crown will be "rigorous in its endeavours to uphold the honour of the Crown, and to discharge the Crown's Treaty duties":²⁵

OTS should at all times be mindful that because of these multiple roles, ***OTS holds a powerful position in the negotiation process: it becomes the negotiator, the dispenser of justice, and the policy adviser to the Minister who has the final power.*** This makes it critical that OTS is rigorous in its endeavours to uphold the honour of the Crown, and to discharge the Crown's Treaty duties. In the context of overlapping claims, it must do so in a manner that is ***fair and impartial.*** It must be an ***honest broker,*** and it ***must remain independent.***

38. It is apparent from the evidence that the Crown has not acted "rigorously" to resolve the issues. In particular, it appears that the Crown has not:
- (a) Commissioned further evidence on the respective nature of the Tauranga Moana Iwi and Hauraki interests in Tauranga Moana;
 - (b) Sought independent pukenga or expert advice on the respective interests of Tauranga Moana Iwi and Hauraki, and considered the impact of Crown allocation of redress on the mana, rangatiratanga and tikanga of Ngai Te Rangī;

²⁴ Waitangi Tribunal, *The Te Arawa Settlement Process Reports* [Wai 1353, June 2007], at 63-64 ("*Te Arawa Reports*").

²⁵ At 63-64 (Emphasis added).

- (c) Required parties to engage in independent facilitated or mediated processes;
 - (d) Required or provided for a tikanga based process be developed and undertaken by the parties;²⁶
 - (e) Ensured an even playing field in order for parties to engage;
 - (f) Revised the shortfalls of its overlapping claims policy with the view to implementing more robust processes that would resolve the issues.
39. There is more that can be done.
40. If the Crown will not do more to resolve the current issues claimed by Ngai Te Rangi of its own volition and within the scope of its own policy and practice, then it follows, that the intervention and assistance of the Waitangi Tribunal is essential.

The Crown has inappropriately applied its undertaking to Hauraki

41. What is very clear from a review of the negotiations history is that the Crown, TMIC and Hauraki have never been able to reach an agreement on what redress, if any, would appropriately provide for the historical interests claimed by Hauraki in Tauranga Moana.
42. There has been a particularly significant dispute over the level of participation that Hauraki sought to have on the Framework.
43. The ongoing opposition and resistance from TMIC to Hauraki participating in the Framework is understandable given the nature of

²⁶Counsel refer the Tribunal to other tikanga based approaches that have taken place to resolve settlement issues. In particular, the Central North Island Forests Land Collective Settlement Act 2008, which contains a tikanga based resolution process. A unique feature of the CNI Forests Collective Settlement was the agreement that iwi themselves, rather than the Crown, would decide which areas of the returned land would rightfully belong to each iwi. A process is undertaken to identify, discuss and eventually agree the respective mana whenua interests, which was designed by the Collective during the settlement negotiation process. This is known as the mana whenua process. There are three main stages of the process, which flow towards a Final Allocation Agreement:

- (a) Stage 1 – Identification of mana whenua interests;
- (b) Stage 2 – Kanohi ki te kanohi Negotiation; and
- (c) Stage 3 - Dispute Resolution.

the redress, and that it has been identified by the Minister himself as a “critical” part of settling the TMIC historic claims.²⁷

44. In short, the Framework was negotiated by TMIC, for TMIC, under the TMIC Deed (see **Appendix M**).
45. The purpose of the Framework is to recognise the mana, rangatiratanga and kaitiakitanga of Tauranga Moana iwi and hapu, in terms of Tauranga Moana, in order to provide for:²⁸
 - (a) The restoration, protection and maintenance of the health and wellbeing of Tauranga Moana and the health and wellbeing of the people around the moana;
 - (b) Direct involvement in policy development and decision-making affecting Tauranga Moana;
 - (c) Use of the full range of tools available under existing and newly developed regulatory Frameworks; and
 - (d) Consistent good-faith engagement on relevant issues.
46. Hauraki has not been satisfied with the Crown’s redress allocation and has challenged the Crown to provide it with redress in Tauranga Moana. Hauraki’s challenge included an application to the Waitangi Tribunal in 2012 for an urgent inquiry into the TMIC Deed, and a claim that the Framework redress was prejudicial in that it excluded Hauraki.
47. In response, the Crown gave an undertaking to Hauraki to treat Hauraki “no less favourably” than TMIC.
48. The undertaking was set out in the joint memorandum filed by Crown and Hauraki, which said:²⁹

Counsel advise that a teleconference and urgent hearing will not now be required prior to initialling of the Tauranga Moana Iwi Collective (TMIC) deed, scheduled to take place on 31 October 2012.

²⁷ Appendix H, *Document bank*, at 178-181.

²⁸ Appendix M, clause 2, at 4.

²⁹ Wai 215, #2.695, *Joint Memorandum* [24 October 2012], at paras 2-4.

The Hauraki Collective has reached this position on the following basis:

Cultural redress will be provided to iwi of Hauraki within the Te Puna and Katikati Blocks, as agreed with the Crown.

The Tauranga Moana Framework will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC.

Commercial redress will be provided to iwi of Hauraki within the Te Puna and Katikati Blocks, as agreed with the Crown.

The Hauraki Collective will have the right to acquire 60% of the Athenree Crown Forest Licensed Land on agreed terms.

49. Ngai Te Rangi did not object to the 2012 undertaking at the time because it was not presented to mean that Hauraki will get redress over Tauranga Moana. Rather, TMIC representatives understood the undertaking to mean that Hauraki would be able to negotiate no less favourable co-governance arrangements for their own area. This is certainly how the undertaking reads.
50. In 2013 and 2014, the Minister then undertook an overlapping claims process to consider what level of participation Hauraki should have in the Framework.³⁰
51. The Minister made a preliminary and then final decision that a separate co-governance arrangement for Hauraki's area was not practical, and that the creation of a fifth seat on the Framework for other iwi, including Hauraki, would be appropriate. The terms of this fifth seat were to be dealt with through an overlapping claims process.³¹
52. The Minister and TMIC then prepared drafting for the fifth seat. The fifth seat was conditional upon a number of conditions, which both the

³⁰ Appendix H, *Document bank*, at 1-69.

³¹ At 41-43.

Crown and TMIC thought would appropriately recognise the limited nature of the historical interests that Hauraki claimed.³²

53. The conditions were such that Hauraki would be able to have limited participation on the Framework.³³ The Crown held the position between 2014 through to most of 2016 that the limited provision for Hauraki by way of the fifth seat on the Framework appropriately provided for Hauraki's interests. Hauraki continued to oppose.
54. Because agreements could not be reached between parties on the terms of the fifth seat, on 31 August 2015, the Crown encouraged Ngai Te Rangi to remove the Framework from their settlement. This would enable Ngai Te Rangi to complete the remainder of their settlement. The Minister advised that, given the significance of the Framework, separate negotiations and settlement legislation could take place in the future, and that negotiations for the Framework would be a Crown priority.³⁴
55. Ngai Te Rangi, again reluctantly and on conditions, agreed to remove the Framework from their Deed and temporarily park it.³⁵ Parties have again, unsuccessfully attempted to engage on the terms of the fifth seat on the Framework.
56. Instead of continuing to work through the issues, the Crown has preserved the ability of Hauraki to take the fifth seat in Tauranga Moana by including a representation of its 2012 undertaking in Hauraki's Deed, which states:³⁶

³² At 44-49.

³³ At 44.

³⁴ At 178-181.

³⁵ Conditions were:

- No more seats will be added;
- The fifth iwi seat will only take effect if the Crown recognises that another iwi has interests in Tauranga Moana following an overlapping claims process in which Tauranga Moana iwi will be entitled to participate;
- If the fifth iwi seat does take effect, it will only be occupied when Tauranga Moana Governance Group ("TMGG") considers matters relating to the area in which other iwi share interests with the three Tauranga iwi; and
- In relation to Hauraki, this would be limited to Katikati and Te Puna blocks at the north-western end of Tauranga Moana.

³⁶ Appendix C, at clauses 20.6-20.8.

20.6 The Crown acknowledges and affirms the Iwi of Hauraki will be able to participate in any governance and management arrangements for Tauranga Moana to be negotiated between the Crown and relevant iwi (including the Iwi of Hauraki) and included in standalone legislation.

20.7 In the event there is continued development of the Tauranga Moana Framework, the Crown:

affirms the right of the Iwi of Hauraki, on the basis of its recognised interests in Tauranga Moana, to participate through the seat described in clause 3.11.4(e) of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed will be preserved.

20.8 In the event the Tauranga Moana Framework is not developed, the Crown:

confirms any future governance and management arrangements over Tauranga Moana will be subject to agreement between the Crown and all relevant iwi (including the Iwi of Hauraki), having regard to the rights of participation set out in clause 20.7.

The Crown agrees to negotiate redress in relation to Tauranga Moana with the Iwi of Hauraki as soon as practicable in accordance with Te Tiriti o Waitangi / the Treaty of Waitangi, and on a basis which gives all iwi with recognised interests in Tauranga Moana the opportunity to be involved.

57. The issue with including the undertaking in the Hauraki Deed in this way is that it effectively sets the parameters of any future negotiations held between the Crown and TMIC, and preserves the ability of Hauraki to get equal treatment in terms of the Framework (or any other negotiated redress).³⁷

58. The Crown has also diverged significantly from the original 2012 undertaking, which provided that “Cultural redress will be provided to iwi of Hauraki within the Te Puna and Katikati Blocks, as agreed with the Crown”, to now grant Hauraki redress that encompasses Tauranga

³⁷ See paragraphs 10-14 for all redress that is contested. How other iwi are to be accommodated in the Framework now needs to be renegotiated.

Moana (from the inner harbour to the territorial sea, inclusive of islands of Ngai Te Rangi).

59. The Crown has therefore incorrectly and inappropriately extended the application of the undertaking, by enabling Hauraki to gain redress into a far broader area of Tauranga Moana than was envisaged or understood by TMIC.
60. What seems to have been lost on the Crown is that it is not treating Hauraki “less favourably” to give them lesser (or no) redress than the TMIC in Tauranga Moana, if the Hauraki interests in Tauranga Moana are lesser than those of the TMIC.
61. The fundamental failing of the Crown is that in the five years that this matter has been an issue, the Crown has never properly assessed the nature of Hauraki’s interests in comparison to those of the TMIC, in order to correctly determine what redress is appropriate for the recognition of each.³⁸
62. Therefore, the question that still needs to be answered is “*how, if at all, should the interests claimed by Hauraki in Tauranga Moana be provided for in settlement?*” There is no process, nor any evidence that demonstrates that this question has been fairly or properly considered.
63. Ngai Te Rangi say that the Crown has never properly investigated whether the interests claimed by Hauraki justify the ongoing conflation of Hauraki settlement redress in Tauranga Moana, from a very narrow acknowledgement to Hauraki now having recognised interest and authority right into the heartlands of Ngai Te Rangi.³⁹
64. Instead, the Crown has relied on its undertaking and on limited extracts from a Tribunal report (discussed below), in order to justify the redress given to Hauraki.

³⁸ ROI TBC, *Brief of Evidence of Dr Hauata Palmer* [14 March 2017], at paras 13-23; ROI TBC, *Brief of Evidence of Reon Tuanau* [14 March 2017], at paras 14-21.

³⁹ ROI TBC, *Brief of Evidence of Dr Hauata Palmer* [14 March 2017], at paras 21-23.

65. On this point, it must also be appreciated that while the Crown says that it does not like to determine the interests of groups, it has ultimately done just that when it provided redress of the nature that it has to Hauraki.

The Crown has incorrectly applied past Tribunal findings

66. Ngai Te Rangi say the Crown has incorrectly applied past Tribunal findings to justify the redress provided to Hauraki.

67. For example, the Crown relies on the 2004 Tauranga Moana Raupatu report, which identified that some payments were made to Hauraki tupuna for Crown purchase of the Te Puna-Katikati block at the northern end of Tauranga (see **Appendix J**).⁴⁰

68. We note that that report rejected Hauraki's claim that they were exclusive rights and instead accepted that the area was a contested zone where the rights of Hauraki overlapped with the rights of Ngai Te Rangi.

69. However, the Crown has failed to balance that finding against the 2010 finding of the Tauranga Moana Tribunal, which said that the Tauranga Moana Iwi should have **full protection of Treaty rights to rangatiratanga and kaitiakitanga over Tauranga Harbour**, recognised at all times, unless alienated by freely negotiated agreement or when strictly necessary in national interests (see **Appendix K**).⁴¹

70. These are clearly different levels of interests, which warrant different treatment in settlement negotiations.⁴²

71. In addition, the Crown and Hauraki have erroneously relied on the finding of the Tamaki Makaurau Tribunal, which states that layers of interests are still valid.⁴³

⁴⁰ Waitangi Tribunal *Te Raupatu o Tauranga Moana* [Wai 215, August 2004], at 189-190; Appendix J at 2-3.

⁴¹ Waitangi Tribunal, *Tauranga Moana 1886-2006*, [Wai 215, August 2010], at 608.

⁴² *Te Arawa Reports*, above n 24, at 201.

⁴³ Waitangi Tribunal, *The Tamaki Makaurau Settlement Process Report* [Wai 1362, June

72. Again, it is submitted that where layers of interests exist, it does not mean that they are the same interests, that should be provided for in the same way in settlement.
73. While Hauraki’s historical interests in the northern blocks of Te Puna and Katikati may be valid, they are not the same as the Tauranga Moana Iwi in Tauranga Moana, and the Crown, via the settlement process, is wrong to provide for them as if they are.
74. It is important to note that the Tiriti principle of equity and equal treatment “does not mean treating all groups exactly the same where they have different populations, different interests, leadership structures, and preferences”; “tino rangatiratanga must be respected”.⁴⁴
75. Rather, where particular circumstances of a group “warrants a more flexible approach, the Crown must be prepared to apply its policies in a flexible, practical and natural manner”.⁴⁵

The Crown’s overlapping claims policy is deficient and incapable of resolving the issues

76. Ngai Te Rangi also claim that the Crown’s overlapping claims policy has failed the iwi on two counts:
- (a) Firstly, the policy itself is deficient as it does not operate to resolve issues; and
 - (b) Secondly, the Crown’s application of the policy has been deficient and has failed to uphold its principles for settling historical claims.
77. The *Red Book* provides that an overlapping claim exists where two or more claimant groups make claims over the same area of land that is the subject of historical Treaty claims.⁴⁶

2007], at 97; ROI TBC, *Affidavit of Ngarimu Blair* [8 March 2017], at paras 13-16.

⁴⁴ *Te Arawa Report*, above n 24, at 201.

⁴⁵ At 21.

⁴⁶ Such situations are also known as ‘cross claims’.

78. Fundamentally, the Crown’s policy states that the Crown “can only provide redress if it is satisfied that any overlapping claims have been addressed”:⁴⁷

Crown’s policy provides that overlapping claims or interests of other claimant groups **must be addressed to the satisfaction of the Crown before the Crown will conclude a settlement** involving any of the sites or assets concerned.

79. At the outset, one must ask how can the Crown possibly be satisfied that the issues with the Hauraki redress in Tauranga Moana have been sufficiently addressed given:

- (a) Crown knowledge of the ongoing nature of the dispute in regards to Hauraki seeking redress in Tauranga Moana;
- (b) Crown knowledge that new redress had not undergone any overlapping claims process; and
- (c) Crown knowledge that the redress would be opposed by Ngai Te Rangi.

80. The *Red Book* also states that overlapping claims should be addressed early on in the settlement process:

- (a) Extra research may be sought to address overlapping claims or cross-claims;⁴⁸
- (b) As part of the development of their Negotiating Brief, claimant groups are asked to identify the interests they wish to have addressed, and promote in the settlement. If those interests are subject to claims by other groups, processes will need to be established as early as possible in the negotiations process to address overlapping claims or shared interests between claimant groups. Developing these processes may be critical in ensuring a settlement is completed in a timely manner.⁴⁹

⁴⁷ *Red Book*, above n 22, at 27 (Emphasis added).

⁴⁸ At 38.

⁴⁹ At 49.

81. The evidence does not demonstrate Crown observance of its own policy here.
82. The Crown does not appear to have commissioned extra research on the substantive issue of assessing the nature and extent of the Hauraki interest in Tauranga Moana, and it does not appear that the Crown sought to address and properly resolve this issue early in the settlement process. In fact, as mentioned, for some of the new redress contained in the Hauraki Deed, the Crown only commenced the overlapping claims process following the initialling of the Deed, and as recent as February/March of this year (2017).
83. Additional principles also guide the Crown's approach to the provision of cultural redress and include that:⁵⁰
- (a) Redress must be a meaningful expression of the relationship of the claimant group with the site, animal, plant or resource; and again
 - (b) Overlapping claims must be addressed to the satisfaction of the Crown.
84. It is unsurprising that the current overlapping claims policy has failed to resolve the issues that have arisen here, particularly given the flaws of the policy, as identified by previous Tribunals, that have yet to be addressed by the Crown. In particular, the Tamaki Makaurau Tribunal was critical of the Crown's overlapping claims policy and said:⁵¹
- (a) The explanation of the process for dealing with 'overlapping' claimants in the Office of Treaty Settlement's policy manual *Ka Tika ā Muri, Ka Tika ā Ma* (the *Red Book*) is summary and unhelpful. It deals only in broad principles, and gives no clear idea as to how they will be applied or achieved; and
 - (b) The *Red Book's* treatment of how cultural redress will be handled in situations where there is competition over sites and

⁵⁰ At 38.

⁵¹ *The Tamaki Makaurau Report*, above n 43, at 86.

recognition provides no insight into how problems will be identified and addressed.

85. One of the recommendations from the Tamaki Makaurau Report was that OTS amend the *Red Book* to better reflect the multiplicity of groups within a proposed settlement district. Later in 2010, OTS has conceded that no amendments were made as a result of the Te Arawa Settlement Process Reports and Tamaki Makaurau Report.⁵²
86. The current overlapping claims policy continues to deal only with broad principles. The principled approach falls over in practice where the Crown fails to properly address the issues.
87. In this case, the Crown has failed to engage in a robust/effective process with the iwi to consider the relative weightings of each groups' interests.
88. In addition, the Crown has also not demonstrated to Ngai Te Rangi that it has considered, or understands, the impact of the allocation of the redress on Ngai Te Rangi mana, rangatiratanga and tikanga.
89. Overlapping claims issues remain live.

Iwi Working Party

90. It is important to note that the high level of concern among Maori to the Crown's overlapping claims policy has led to the creation of an Iwi Working Party, including Ngati Whatua, Ngati Manuhiri, Ngati Rehua, Waikato Tainui, Ngati Haua, Ngati Ranginui and Ngai Te Rangi who together, with other interested iwi, seek to address the policy.
91. The Iwi Working Party have advised the Minister of the following:
 - (a) The policy causes fundamental breaches of tikanga and a breach of Treaty rights for iwi who have already settled with the Crown, or who are about to settle. The principles of tikanga Maori, derived from ancestral tipuna, guide iwi and Crown

⁵² Waitangi Tribunal, *East Coast Settlement Report* [Wai 2190, May 2010], at 52.

relationships, and the Crown should respect those principles in its decision-making concerning iwi. The Crown's approach to Treaty settlements is not based on tikanga and Maori land rights and customs, but rather on the political expediency of achieving these settlements;

- (b) The Crown is incorrect to ignore, or reinterpret customary rights (including questions of mana whenua), or create new contemporary non-customary rights when seeking to settle historical Treaty of Waitangi claims;
 - (c) The Crown's approach of recognising "layers of interest" disregards tikanga and ahi kaa roa, and the Crown should take tikanga Maori into account when making decisions affecting iwi (settled or not settled) in a Treaty settlement context. A flow on effect is that local government also appear to be following the Crown's approach with multi-iwi engagement processes that do not reflect tikanga and Maori land customs;
 - (d) The Crown should not offer redress to an iwi if it is within the area of primary interests of another iwi, without first getting the agreement of the iwi that hold mana whenua. To do so would effectively recognise both iwi as having the same level of mana, and in many cases, that is not right;
 - (e) Iwi should respect tikanga and each other's mana. It appears that Crown policy has allowed some overreach in their negotiations;
 - (f) The policy pits iwi against iwi and, at times, hapu against their own iwi; and
 - (g) The policy creates further contemporary claims in the future.
92. The Iwi Working Party maintains that the Crown's ad hoc and disorganised approach to overlapping claims cannot continue. If it does, the health of the Crown's future relationships with iwi, as well as

the health of relationships between iwi, is in jeopardy, which is something neither group wants.

93. The Iwi Working Party has requested a hui with Ministers, including the Prime Minister, the Minister for Treaty of Waitangi Negotiations, the Minister of Maori Development, and the Deputy Prime Minister.
94. The Minister for Treaty of Waitangi Negotiations has acknowledged the shortfalls of the overlapping claims policy and has invited the input of the Iwi Working Group.
95. While the Iwi Working Party is willing to undertake this work, this will not provide immediate relief to the issues raised by Ngai Te Rangi unless the Crown agrees to put the Hauraki Deed on hold until a new policy is in place.

Significant and irreversible prejudice⁵³

96. Ngai Te Rangi claim that a fresh grievance and prejudice has arisen due to:
 - (a) The Crown's allocation of redress to Hauraki that incorrectly and inappropriately extends into the heartlands of Ngai Te Rangi;⁵⁴
 - (b) The redress allocated to Hauraki in the rohe of Ngai Te Rangi undermines the mana whenua/mana moana, rangatiratanga and tikanga of Ngai Te Rangi;⁵⁵
 - (c) The redress allocated to Hauraki extends far beyond the nature of the limited historical interest claimed by Hauraki;⁵⁶

⁵³ See: ROI TBC, *Statement of Claim* [14 March 2017], at paras 48-49; ROI TBC, *Brief of Evidence of Reon Tuanau* [14 March 2017], at paras 35-39; ROI TBC, *Brief of Evidence of Charlie Tawhiao* [14 March 2017], at paras 33-38; ROI TBC, *Brief of Evidence of Dr Hauata Palmer* [14 March 2017], at paras 10-20.

⁵⁴ See paragraphs 9, 31, 59 above.

⁵⁵ See paragraphs 1, 9 above.

⁵⁶ See paragraphs 9, 59, 63 above.

- (d) The failure of the Crown's overlapping claims policy to resolve the issues;⁵⁷
- (e) The lack of transparency and fairness in the Crown's approach to the issues;⁵⁸
- (f) The preservation of the ability of Hauraki in their Deed to gain redress in Tauranga Moana, which unfairly and prejudicially sets the parameters of what Ngai Te Rangi and TMIC are able to negotiate for their own claims;⁵⁹
- (g) The Crown's provision of extensive new redress to Hauraki in Tauranga Moana, which was not dealt with in overlapping claims processes;⁶⁰
- (h) The Tiriti partnership between the Crown and Ngai Te Rangi is suffering due to Ngai Te Rangi having to commence litigation to resolve the issues;⁶¹ and
- (i) There is division and damaged relationships caused between the whanau and hapu of Ngai Te Rangi and Hauraki;⁶²
- (j) A loss of resources.

Relevant current or pending Crown actions or policies

97. The Crown actions and policies that are causing Ngai Te Rangi significant prejudice are both current and pending, and includes:
- (a) The Crown's initialling of the Hauraki Deed on 22 December 2016, which includes redress in the Ngai Te Rangi rohe that is strongly opposed by Ngai Te Rangi;
 - (a) The Crown's failure to ensure its overlapping claims policy:

⁵⁷ See paragraphs 76-89 above.

⁵⁸ See paragraphs 34-35, 62-64 above.

⁵⁹ See paragraphs 20, 57 above.

⁶⁰ See paragraphs 11-17, 79 above.

⁶¹ See paragraphs 18, 36, 38-40 above.

⁶² See paragraphs 23, 29, 92 above.

- (i) Was applied in a way that dealt fairly with all groups;
 - (ii) Properly resolved the ongoing issues; and
 - (iii) Ensured that the settlements of each group were fair and durable and did not create further injustice;
- (b) The Crown's indication that it is unable to get agreement from Hauraki to change the redress to an extent that will resolve the issues.
98. The pending Crown action that will cause significant and irreversible prejudice is the passing of settlement legislation, which will finalise the Hauraki Deed of Settlement and provide Hauraki with recognised permanent interests and redress in Ngai Te Rangī's rohe.
99. The Crown will not inform Ngai Te Rangī as to when the Crown and Hauraki intend to introduce Hauraki's settlement legislation into the House.
100. There is a period of time prior to the completion of the Hauraki Settlement in which these issues can be resolved.

No alternative remedies exist

101. No alternative remedies exist in the current circumstances.
102. The nature and scope of the issues, the strong positions of the parties, and the unique jurisdiction of the Tribunal to be able to consider the issues from a Te Tiriti perspective, means an inquiry under urgency is the most appropriate course of action.
103. It is the even handedness and independent supervision of the Tribunal that is necessary in this case.

Other grounds that justify urgency

104. The issues raised in this application are significant for both Maori and the Crown, including Crown agencies and local government.

105. Given the significance of natural resource management, and the number of high level agreements being reached for both historical and contemporary claims, it is important that issues concerning overlapping claims and the relative interests of Maori groups are examined now.

What can the Tribunal do?

106. The Tribunal can grant the urgent application and inquire into the issues.
107. If the Tribunal determines that the issues are valid, the Tribunal can provide independent findings and make practical recommendations on how the issues can be resolved.
108. The parties will be able to consider the content of the Tribunal's final report, and determine possible pathways forward.⁶³

Concluding remarks

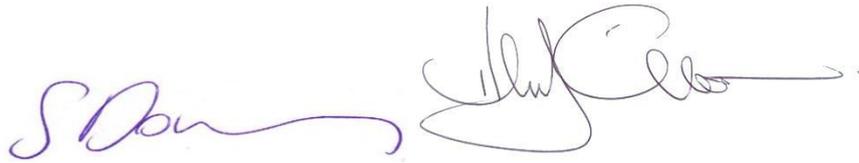
109. Ngai Te Rangi do not seek to stop Hauraki from settling.
110. However, Ngai Te Rangi have the right to the “**full protection** of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga Harbour recognised at all times.”
111. The Crown's provision of redress to Hauraki that falls within Tauranga Moana seriously undermines the mana, rangatiratanga and tikanga of Ngai Te Rangi.
112. The simple solution is that the Crown remove the redress in issue from the Hauraki Deed.
113. The Crown refuses to engage on the substantive issues; Hauraki refuses to engage at all. Ratification of the Hauraki Deed is taking place, and settlement legislation may be introduced to the House in the near future.

⁶³ ROI TBC, *Brief of Evidence of Charlie Tawhiao* [14 March 2017], at paras 39-42; ROI TBC, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at paras 31-33.

114. The urgent assistance of the Tribunal is necessary.

115. Ngai Te Rangi eagerly await the Tribunal's response.

DATED at Pakaraka this 14th day of March 2017

Two handwritten signatures in blue ink. The first signature on the left is cursive and appears to read 'S Down'. The second signature on the right is also cursive and appears to read 'Heather Jamieson'.

Season-Mary Downs / Heather Jamieson
Counsel for the Ngai Te Rangi Settlement Trust

**IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND**

WAI

IN THE MATTER

of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER

of an application by Charlie Tawhiao on behalf of the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

BRIEF OF EVIDENCE OF DR HAUATA PALMER

Dated this 14th day of March 2017

RECEIVED

Waitangi Tribunal

14 Mar 2017

Ministry of Justice
WELLINGTON



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Season-Mary Downs
Heather Jamieson
Chelsea Terei

MAY IT PLEASE THE TRIBUNAL:

Introduction

1. My name is Dr Hauata Palmer.
2. My iwi is Ngai Te Rangi of the Mataatua waka. My hapu are Ngai Tuwhiwhia and Ngati Tapu. I am a descendant of Tuwhiwhia and his son Kotorerua.
3. From 1975 to 1989, I worked for the Ministry of Maori Affairs, and from 1987 to 1989 I was the Assistant Director in the Tauranga area. Prior to that, I was involved in the health and forestry sectors.
4. I have been involved in Te Runanga o Ngai Te Rangi Iwi Trust since it was set up in 1989. I held the position of Chairman for 11 and a half years.
5. I am currently a Member of the Waitangi Tribunal, to which I was appointed in 2015.
6. I was fortunate enough to have learnt about our Ngai Te Rangi history from Haare Kuka, Turi Te Kani and Kaikohe Rolleston. Haare Kuka was my grand-uncle.
7. I have previously presented evidence to the Tribunal regarding the history, rohe and historical Te Tiriti o Waitangi ("Te Tiriti") claims of Ngai Te Rangi.
8. I do not seek to repeat that evidence here, but it is attached to our application and summarised very briefly below:
 - (a) *Wai 215, #A72, Brief of Evidence of Hauata Palmer* (**Attached as Appendix A**):
 - (i) This evidence provided an overview of the settlement of Tauranga Moana, Ngai Te Rangi rohe, Ngai Te Rangi hapu and marae, and Ngai Te Rangi claims; and

(b) Wai 215, #1020, *Brief of Evidence of Hauata Palmer* (**Attached as Appendix B**):

(i) This evidence concerned that part of the Ngai Te Rangi history known as “Te Heke o Rangihouhiri”, or, the story of the journey of Ngai Te Rangi, commencing in Opotiki and ending in Tauranga.

9. This evidence is filed in support of the application by the Ngai Te Rangi Settlement Trust (“Ngai Te Rangi”) for an urgent Tribunal inquiry into the Crown’s settlement negotiations policy and practice concerning the redress in our rohe that Hauraki seeks as part of their historical settlement with the Crown.

The issue: The Crown is causing Ngai Te Rangi prejudice by undermining our mana and rangatiratanga

10. We strongly oppose the Crown granting Hauraki redress in our rohe.

11. The Minister has berated us for accusing him of doing secret deals with Hauraki. However, through recent discussions with the Minister it has actually transpired that the Crown was in fact doing deals and granting Hauraki redress in our rohe.

12. We were not aware of these discussions.

13. The Crown has not let us in on the details of the deal, or informed us as to what has been discussed and agreed, yet the deal wholly prejudices Ngai Te Rangi.

14. The Crown has not acted fairly or transparently.

15. Now that everything is out in the open, the Crown is scrambling around to defend its position and entrench the deal that it seeks to finalise with Hauraki.

16. My main concern is that the Hauraki settlement, insofar as it grants Hauraki redress in Tauranga Moana, has the effect of elevating Hauraki to the same status as the three iwi that are collectively known

as Tauranga Moana iwi, that is, Ngai Te Rangi, Ngati Ranginui, and Ngati Pukenga.

17. If the Hauraki settlement is finalised with redress that is in Tauranga Moana, the Crown is effectively saying that Hauraki have mana whenua, mana moana, and rangatiratanga in Tauranga Moana. That is just patently wrong, and it is simply not true.
18. The Crown action in issue, is the inclusion of a collection of iwi into our area who have no right to this area.
19. The Crown action has the effect of diminishing our rangatiratanga over our whenua, moana and people.
20. The Crown is active in the manipulation of, and interference with, our historical, and now contemporary, mana and rangatiratanga.

The evidence: Hauraki does not have mana whenua, mana moana or rangatiratanga interests in the rohe of Ngai Te Rangi

21. When Hauraki say they have an interest in Tauranga Moana, it is hard to find a source to prove that. Neither the Crown, nor Hauraki have provided us with evidence of the Hauraki interest. If evidence does exist we would like to consider it and provide a response.
22. If the Crown is going to finalise a settlement with Hauraki that includes redress in Tauranga Moana, then it must work with us to identify the nature of that interest, and reach agreements as to whether the redress to be provided to Hauraki is consistent with the nature of that interest.
23. As the Te Tiriti partner, and the iwi with mana whenua, mana moana and rangatiratanga, we have the right to be involved in the decisions that affect these things.

The Hauraki historical interest with Ngai Te Rangi is conflict based

24. In terms of the historical interest that Hauraki does have, our evidence in the Tauranga Moana Tribunal hearings shows that the relationship with Hauraki has primarily been one of conflict and warfare.

25. I have heard of small battles, skirmishes and some intermarriage between Hauraki and Ngai Te Rangī. In fact, our tupuna, Te Rangihouhiri, was slain by Te Rurunga of Hauraki at the battle of Poporohuamea at Maketu.
26. In those encounters, Hauraki were against Tauranga, not with Tauranga.
27. From the historical documentation, it is apparent that the majority of the battles were pre-Treaty, and small isolated events in specific areas; they could hardly be described as 'full-on'.
28. I have not heard of Hauraki intruding and gaining mana whenua in the rohe of Ngai Te Rangī through those conflicts, or of Hauraki occupying or conquering those sites.
29. There was nothing that established Hauraki permanently in terms of those forays, or that would ground their claim to Tauranga Moana today.
30. Similarly, I have not seen any evidence that demonstrates a connection or suggests that Hauraki had a friendly interest in Tauranga Moana.

Mai Matakana ki Matakana

31. The phrase "Mai Matakana ki Matakana" has only come about in the last 30 to 40 years.
32. I understand that this phrase is used on the Hauraki Trust Board letterhead, and it is on their website to describe their rohe.
33. It is generally accepted that statements such as these refer to the outermost boundaries where iwi identify their rohe inclusively. For example, Te Arawa say "Mai Maketu ki Tongariro" and Mataatua say "Mai Nga Kuri a Whareī ki Tihirau".

34. However, in relation to Matakana Island, “Mai Matakana ki Matakana” is an overstatement. No Hauraki tribes have any land or territorial interests at Matakana Island.
35. On 17 June 2016, a group of us from Tauranga Moana travelled to Thames to meet with Hauraki representatives to discuss their overlapping claim into the rohe of Tauranga Moana.
36. At this meeting, I addressed the usage of the phrase “Mai Matakana ki Matakana” and outlined our concern that it overstated Hauraki interests.
37. A woman spoke on behalf of Hauraki and apologised. She said that the statement would no longer be used, but I understand it is still on the Hauraki Maori Trust Board website and letterhead, and is now included in the Pare Hauraki Collective Redress Deed at clause 4.1.

Hauraki has no history of mana whenua, mana moana or rangatiratanga in Ngai Te Rangi

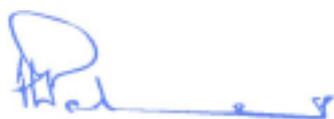
38. I have been involved in the governance and administration of Ngai Te Rangi tribal affairs since 1975.
39. It has been my experience that there has not been any Hauraki representation on the Ngai Te Rangi Runanga or in Tauranga Moana. In fact, Hauraki have not sought to be involved.
40. As far as I am aware, there are no instances in history of Ngai Te Rangi and Hauraki making joint decisions in terms of our whenua, Tauranga Moana, or in the exercise of rangatiratanga.
41. There is no historical or contemporary basis for this to change.

Concluding remarks

42. What Hauraki is claiming, and the Crown is granting, is far beyond what Hauraki is entitled to.
43. I find it very difficult to see how Hauraki can reasonably claim an interest in our area today that would give them decision-making authority and mana in our rohe into the future.

44. I find it difficult to see why the Crown would grant Hauraki such redress without first determining that the nature of the historical interest claimed justified such redress, and without involving us in such a process.
45. In my view, Hauraki is just 'casting out the net' in an effort to see what they can catch.
46. We have successfully fought to keep other tribes out of our area.
47. In the past, there have been other groups that have claimed ownership into our area, which appeared to have far greater interests than Hauraki, and we have succeeded in pushing them out of issues concerning the mana whenua and ownership of our lands.
48. We have done this because other tribes simply do not have a right to be elevated to the status of the Tauranga Moana iwi who have mana whenua, mana moana and rangatiratanga here.
49. The only difference in this case, is that the Crown is the final decision maker; the Crown holds all the power.
50. It will be the Crown's process, and the Crown's decision that will formalise and entrench these issues.
51. It is the Crown that is taking direct and intentional steps to finalise the Hauraki settlement, in the face of consistent opposition from Ngai Te Rangi.
52. We will not acquiesce.

DATED this 14th day of March 2017



Dr Hauata Palmer

IN THE MATTER of the Treaty of Waitangi Act
1975

AND

IN THE MATTER of the Tauranga Moana /
Western Bay of Plenty claims

BRIEF OF EVIDENCE HAUATA PALMER ON BEHALF OF NGAITERANGI

RECEIVED

Waitangi Tribunal

14 Mar 2017

Ministry of Justice
WELLINGTON

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PARNELL
Ph: (09)377 7774, Fax: (09)307 1280
Attention: JV Williams

BACKGROUND

1. My name is Hauata Palmer. I am of Ngaiterangi descent of the Mataatua waka.
2. I have some knowledge of Ngaiterangi history, rohe , hapu and their claims to the Waitangi Tribunal.

Settlement of Tauranga Moana

3. Ngaiterangi held Maketu for a period of time however, this did not last. Avenging the death of Taurawheke, Ngati Ranginui, captured and killed Tuwhiwhia, a son Rangihouhiri and Tauaiti, son of Tuwhiwhia.
4. Subsequently, Tauaiti's younger brother Kotorerua planned a complete annihilation of Ngati Ranginui with the assistance of Putangimaru from the Waikato.
5. Ngaiterangi attacked the Ngati Ranginui stronghold of Mauao and took possession. Ngaiterangi have thereafter resided in Tauranga Moana.

Ngaiterangi Rohe

6. The traditional rohe of Ngaiterangi is known as Mai i nga kuri a Wharei ki Wairakei. It could also be described as the area from Waiorooro Stream north of Katikati, then in direct line to Mount Te Aroha, along the top of the Kaimai ranges to Ngatamahinerua, Waianuanu, Weraiti, Puwhenua and Otanewainuku peaks, along the Otawa hills to Wairakei on the Coast. The traditional rohe of Ngaiterangi also includes the islands of Motuhua, Matakana, Rangiwaea, Karewa, Moturiki, Motuotau, Tuhua and Motiti.

Ngaiterangi hapu and marae

7. Ngaiterangi at present comprises eight hapu with eleven operating marae. Ngai Tuwhiwhia and Ngati Tauaiti have a marae on Matakana island called Opureora. Ngati Tamawhariua have two marae, Reretukahia and Rangihouhiri. Reretukahia is situated at Katikati and Rangihouhiri At Matakana.
8. Ngati Tauwhao has two marae, Rangiwaea on Rangiwaea island and Otawhiwhi situated at Bowentown. Ngati Tapu have one marae, Waikari which is situated at Matapihi. Ngai Tukairangi marae are Whareroa and Hungahungatoroa at Matapihi.
9. Ngapotiki have two marae, Tamapahore at Mangatawa and Tahuwhakatiki at Waitao (Welcome Bay). The Ngati He marae, Maungatapu is situated at Maungatapu.

Ngaiterangi Claims

10. The Ngaiterangi claims are generic and broad claims relating to the prejudicial effects suffered by the hapu of Ngaiterangi as a result of the raupatu of Tauranga Moana. Such effects include, the dispossession of land, the destruction of social organisation and the resulting poor socio-economic position of Ngaiterangi.
11. In addition, numerous Ngaiterangi lives were lost at the battles of Gate Pa and Te Ranga. For instance Rawiri Puhirake and Heanre Taratoa, who were descendants of Rangihouhiri.
12. Also, many actions of the Crown were undertaken without the presence of the paramount Ngaiterangi chief, Hori Tupaea.

IN THE WAITANGI TRIBUNAL

WAI 540

IN THE MATTER OF Section 6 of the Treaty of
Waitangi Act 1975 (as amended)

AND The Tauranga Moana/Western
Bay of Plenty Claims

IN THE MATTER OF A claim by Kihi Ngatai for and
on behalf of Ngai Te Rangi iwi

BRIEF OF EVIDENCE OF HAUATA PALMER
ON BEHALF OF NGAI TE RANGI

BACKGROUND

Introduction



1. **MY** name is Hauata Palmer. My iwi is Ngai Te Rangi of the Mataatua waka. My hapu are Ngai Tuwhiwhia and Ngati Tapu. I am a descendant of Tuwhiwhia and his son Kotorerua.
2. **MY** evidence concerns that part of the Ngai Te Rangi history known as Te Heke o Rangihouhiri the story of the journey of Ngai Te Rangi commencing in Opotiki and ending in Tauranga. The Tribunal will no doubt have read the accounts of the heke from the evidence already presented. This is the Ngai Te Rangi version based on our oral history. You will have heard different versions of these events. Some of them conflict with our version. It is important therefore that the Tribunal hears the Ngai Te Rangi account.

Acknowledgments

3. I have had the honour to be in Tauranga during the time many of the old people were still with us. Not only were those kaumatua very learned in history and whakapapa but they were also more than ready to share their vast knowledge with us. I pay tribute to them all. Haare Te Kuka, Turirangi Te Kani, Hohua Tutengaehe, Te Ao Whakairi Ngatai, Wiremu Karehana, Wiremu Ohia and Kaikohe Roretana and many more whose generosity with information and time have made this possible.
4. **THEY** have since departed into the unknown and left us and following generations with the legacy of a proud history and heritage.
5. **THIS** then is their story.

Mataatua Waka

6. **THE** Mataatua waka under the rangatira Toroa made landfall at Whakatane and from there the occupants settled the coastal areas and dispersed into the hinterland occupying the fertile environs of what is now Whakatane. I have no information on the early origins of Ngai Te Rangi (although the name Ngai Te Rangi was applied much later in the history of the iwi) and where the group lived in the intervening generations between Toroa and Romainohorangi.

Tawhitirahi Pa

7. **TE HEKE O RANGIHOUHIRI** begins in the old Ngai Te Rangi pa of Tawhitirahi at Opotiki. Tawhitirahi is situated on the main highway a few kilometres from Opotiki on the Whakatane side. The pa was strategically positioned overlooking the Kukumoa Stream and further out was the coast

and open sea. Food from both the stream and the sea was abundant as was birdlife and aruhe from the fertile surroundings.

8. **NGATI RANGIHOUHIRI** occupied Tawhitirahi approximately 400 years ago. The heke starts after they are visited by a group of Ngati Ha (later called Ngati Pukenga) who lived at Waihua and Omarumutu. The leader of that group took a liking to the Tui that belonged to Romainohorangi. When the chief was about to return home he asked that the bird be given to him as a gift. Romainohorangi was not happy with this and the leader went away empty handed and angry. A short time later the group returned and attacked the pa in a surprise night raid. The pa was taken and some of the Ngai Te Rangi people were killed. The survivors escaped and fled into the bush in the mountains. They crossed the Motu river and descended into the Waikohu valley. They were found there by people from the Turanganui. They would have been slain but were saved by Waho O Te Rangi. He was a Chief of Ngai Te Rangihokaia, a hapu of Te Aitanga a Hauiti of Takitimu descent who lived at Uawa, now known as Tolaga Bay. Waho o Te Rangi protected Ngai Te Rangi. Ngai Te Rangi were then located on the Whakaroa mountain inland of Waimata and carried out various tasks for Waho o te Rangi. They caught birds and also built whare for him.
9. **AT** this time Rangihouhiri, who was the son of Romainohorangi, took over the leadership of Ngai Te Rangi as Romainohorangi was now an old man and did not take an active part in the leadership of the group. Rangihouhiri now became known as Te Rangihouhiri and he married Pukai who was a descendant of Porourangi.
10. **LIKE** Romainohorangi, Waho o Te Rangi also grew old and realised he was nearing his end. Waho o Te Rangi was concerned that his tribe would not be able to prevent another tribe from taking Te Rangihouhiri and his people to strengthen their own tribe and thus weaken his. He therefore decided that the only solution was to eliminate Ngai Te Rangi.

11. **TE RANGIHOUHIRI** was forewarned of this plan and he and his people prepared to defend themselves to the end. Waho o te Rangi had not realised the group had grown in numbers and fighting prowess during their time at Whakaroa. It was when the whole of Te Aitanga a Hauiti mounted their attack that they realised they had underestimated the capability of Ngai Te Rangi. The tribes fought two battles. Following the second battle Hauiti were forced to come to an agreement with Ngai Te Rangi. The spirit of Rangihouhiri was strong as a result of their adversity. Hauiti and Ngai Te Rangi agreed that the fighting should cease and that Te Rangihouhiri would leave the district. Ngai Te Rangi were allowed time and opportunity to collect supplies for the journey and Hauiti assisted Ngai Te Rangi with the construction of waka.
12. **BOTH** sides scrupulously observed the terms of the agreement and Te Rangihouhiri traveled around the East Cape to the Bay of Plenty where they landed at a place called Hakuranui, and lived there for a time.
13. **THERE** are different accounts of where Hakuranui is situated. One is at Raukokore, the other at Torere. Ngai Tai of Torere say Te Rangihouhiri did live for a time at Hakuranui but at Raukokore. Ngai Te Rangi say that Hakuranui is at Torere. The people of the settlement were not pleased with the intrusion of this group into their area and made their stay as uncomfortable as possible. It was in this atmosphere of tension that the story of Awatope and Tukoko emerged. It seems they went out to plant seed and Awatope favoured broadcasting his seed in order to get away as quickly as possible while Tukoko adopted a more orderly planting which took longer. Awatope completed his task and fled while the more orderly Tukoko continued his task and was thus caught and killed. In terms of revenge and reprisal Te Rangihouhiri decided it was not worth the effort so they decided to move on towards Whakatane, passing their old home of Tawhitirahi on the way.

14. **AT** Whakatane they built a pa at Kaputerangi and settled there relatively undisturbed on the strength of their reputation as a fighting force.
15. **ALTHOUGH** related by whakapapa to Ngati Awa there was still some uneasiness between the two. Te Rangihouhiri had designs on the Ngati Awa stronghold of Papaka (which is immediately above the town of Whakatane) and wondered whether to take the initiative over the issue. To this end, Tamapahore was one night creeping about under the fortification of Papaka looking for weaknesses when a woman came out of the pa onto the ramparts above him. On impulse he tickled her with the point of his taiaha. She raised the alarm but Tamapahore escaped not realising she was a daughter of the chief of the pa and that the insult was a grave one.
16. **THE** decision was made to move on yet again but Tamapahore argued that they should fight before they departed. Ngati Awa would have none of it. If they fought Ngati Awa would wipe them out but if they left in peace then they would be allowed to go. Thus, Te Rangihouhiri moved on once more.
17. **NGAI TE RANGI** then left Whakatane and went to Te Awa o te Atua, settling on what was to become known as Whakapaukorero. The pa is directly inland from the present railway underpass on the way to Matata. Te Awa o te Atua was under the mana of a section of Ngati Awa who had expelled the earlier occupants and had no intention of having Ngai Te Rangi in their place. Te Rangihouhiri did not intend to settle in that area and so he sent Tamapahore to spy out the lay of the land at Maketu.
18. **MAKETU** was occupied by Tapuika under the chief Tatahau a first cousin of Rangihouhiri and Tamapahore. The area had an abundance of resources and was well populated. Tatahau also had links to the powerful Waitaha a Hei. Tamapahore disguised his true purpose by visiting his aunty

Torohangataringa who had married the Tapuika chief Ruangutu. Following the visit Tamapahore and Ngai Te Rangi were given land at Owihara where they lived for several years. Despite the inherent risk Te Rangihouhiri decided the land was worth fighting for. The pretext for the attack was the killing of Tukoko at Hakuranui.

19. **RANGIHOUHIRI** fortified the Owihara pa and prepared to attack Tatahau. Although relations were sometimes tense with Rangihouhiri's Ngati Awa kin he would be able to rely on them to assist with the invasion. There was Ngati Awa at Matata and Whakatane, Ngati Kahurere and Ngati Irawharo at Otamarakau and Maruahaira of Ngati Whakahemo was at Pukehina.
20. **AS** an aside, Ngati Kahurere and Ngati Irawharo eventually settled in Tauranga and their descendants today are Ngai Tukairangi.
21. **THE** Ngai Te Rangi force set out from Te Awa o te Atua and marched towards Maketu. The main force camped at Pukehina while a strong section took up a position at the Waihi river acting as a fishing party. Ten men crossed the Waihi and were searching among the plantation on the hill above Maketu where they found a woman in the kumara gardens. She was Punoho, daughter of Tatahau. They assaulted her and the last one to do so was Werapinaki who was partly crippled. She insulted him by saying, "He atua ki te po, he weu ki te ao." meaning that he would be a god if it was night but in the day he was the ugliest thing she had seen. Stung by her insult he killed her and her body was thrown into a kumara pit where it could not be found.
22. **WHEN** Tapuika realised that Punoho was missing they attempted in vain to find her. Suspecting Ngai Te Rangi of foul play, Tatahau sent his mother Torohangataringa to enquire about the fate of Punoho. She was able to confirm that Punoho was killed by Werapinaki.

23. **AS** a result a raiding party of Tapuika crossed the Waihi river at night to retaliate and killed Werapinaki. After the attack Tatahau's sons suggested that they go to the Tapuika pa at Rangiuru for safety as they had assumed that Ngai Te Rangi would attack. However, Tatahau remained at Maketu and the next day Rangihouhiri attacked.
24. **NGAI TE RANGI** took the initiative by assaulting and taking Tatahau's Pukemarie pa. Tatahau himself was killed as were many of his tribe. His sons and the remaining survivors escaped to Rangiuru. Rangihouhiri followed on and all the other settlements suffered the same fate. Rangihouhiri returned to Owihara to prepare for the retaliation from Tapuika and Waitaha.
25. **MANY** attempts were made by the Ngaoho of Te Arawa to recover the lost territory. The first wave was from Waitaha a Hei who came from east Tauranga because Tatahau's mother, Torohangataringa was from that tribe. Interestingly, Torohangataringa's sisters were the mothers of Rangihouhiri and Tamapahore.
26. A battle was fought at Te Kakaho at Maketu and Waitaha were repelled by sheer force of numbers. Waitaha underestimated the strength of Rangihouhiri. Since their time at Whangara, Rangihouhiri's people had grown in number and strength. They were a disciplined force with an almost indomitable spirit forged through the many trials faced on their journey. The Tapuika therefore sought assistance from Ngati Maru at Thames and Ngati Ranginui. Te Rangihouhiri also sought assistance, ironically from Ngati Pukenga who had driven them out of their home at Tawhitirahi.
27. **THE** combined forces of Ngati Maru under Te Ringa, Ranginui under Kinonui and Tapuika, and Waitaha under Tiritiri and Manu sons of Tatahau, advanced upon Maketu. The first battle was a night attack on Herekaki Pa which was taken. Tutengaeha, a commander and eldest son of Te

Rangihouhiri was killed in this battle. When Rangihouhiri heard of his son's fate he said:

*“Haere e tama mou tai ahiahi,
moku tai awatea.”*

*“Go my son, on the evening tide,
I will follow on the morning tide.”*

28. **THE** next morning opened with the beginning of the battle of Poporohuamea. Rangihouhiri was killed in this battle as he had predicted. The battle lasted all day and involved large numbers of both sides. It was said to be an immense battle. Both sides fought to a standstill and the Te Arawa and Ngati Maru forces retreated across the Kaituna river. Ngai Te Rangi retired to their pa.
29. **FOLLOWING** the death of Te Rangihouhiri the tribe then became known as Ngati Rangihouhiri which was later shortened to Ngai Te Rangi. Tamapahore then became the chief of Ngai Te Rangi. The name of the Ngai Te Rangi settlement then became Whakapaukorero referring to the last words of Te Rangihouhiri.
30. **TE ARAWA** were still determined to expel the Ngai Te Rangi invaders. Te Arawa launched many more attacks on Ngai Te Rangi and each time were unsuccessful. They could not displace Tamapahore and Ngai Te Rangi. The Ngai Te Rangi conquest of the area was now complete. The war had lasted so many years and involved so many tribes and much bloodshed was at an end. Ngai Te Rangi now held undisputed and undisturbed possession of Maketu. The lands and pa were then divided among Ngai Te Rangi and its allies. Ngai Te Rangi lived in relative peace for many years. However, the peace was interrupted and the heke would continue this time to Tauranga.

The Battle of the Kokowai

31. **KINONUI** the son of Tamateapokaiwhenua, the eponymous ancestor of Ngati Ranginui, lived on Mauao in what has been described as an impregnable pa. Ranginui, his elder brother and founder of Ngati Ranginui lived at Papamoa. Kinonui and Ranginui reigned over the entire Tauranga region.
32. **ONE** day a group left Mauao on a fishing expedition when a storm blew up and the canoe was overturned. All the fishermen perished except for Taurawheke who made it to Maketu. The next day a Ngai Te Rangi woman was gathering shell fish when she discovered Taurawheke. He was suffering from the cold and exposure so she returned to the pa to fetch some food and clothing. She met her husband on the way and told him about Taurawheke. After urging her to hurry, he went to the beach and murdered Taurawheke. Ngati Ranginui assumed he died on the fishing expedition. The wife concealed the killing until her husband beat her one day. She then revealed the true fate of Taurawheke.
33. **WORD** of this eventually reached Ngati Ranginui. They immediately decided that they must seek revenge.
34. **AT** Te Tumu a party of Ngai Te Rangi were cutting toetoe rushes for roof thatching when they were suddenly attacked and two of their members were taken prisoner. The prisoners were my tupuna Tuwhiwhia and his son Tauaiti who had crossed the Kaituna river when all of a sudden they found themselves surrounded by the enemy. The father was decapitated, his head placed into the canoe and set adrift to reveal its own story when it was later recovered. Tauaiti was spared for a more prolonged and agonising death. His entire body was lacerated with the serrated edge of the toetoe grass. During this torture Tauaiti cried out:

*“Aue, he aha rawa taku he kia penei he make moku
Akuanei te moana nei i hohonu, me hanga kia*

papaku i taku mokai ia Kotorerua."

*"Oh what have I done to deserve this,
This ocean though deep, will be rendered shallow
When my younger brother Kotorerua hears of this."*

35. **WHAT** he meant was the pain he was suffering would be non-existent compared to the depth of pain that would be felt by his captors when his younger brother Kotorerua would avenge his death. Tauaiti died before reaching Mauao and his body was deposited in the canal that runs parallel with Hull Road at the Mount, known as Te Awa o Tukorako.
36. **KOTORERUA** along with Tamapahore devised a plan to seek revenge for the deaths of Tuwhiwhia and Tauaiti.
37. **KOTORERUA** was so angry he planned a complete annihilation of Ngati Ranginui. Kotorerua consulted with his brother-in-law Putangimaru from Waikato.
38. **KOTORERUA'S** sister Tuwera, heard of the murders and because her husband Putangimaru was a tohunga she asked him to visit Kotorerua at Maketu and tell him of what he must do to successfully avenge his father and brother's deaths. Putangimaru told Kotorerua to visit him at Hinuera the following day but on the way he was to call in to Pukewhanake Pa at the mouth of the Wairoa river. He was told to take a guide with him named Ika whom he would recognise because only half his face was tattooed. He was instructed that when they were traveling and they arrived at the stream that flows down the lower slopes of the western Kaimai ranges he must kill his guide, remove his heart and take it to Putangimaru as a sacrificial offering to appease and placate the gods. If Kotorerua was successful then he was told to leap over the enclosure around Putangimaru's house. Kotorerua was so determined that he followed Putangimaru's explicit instructions and Ika became the first martyr of the battle of Kokowai.

39. **PUTANGIMARU** advised Kotorerua to return home and in due course Mauao would be his.
40. **THE** assault on Mauao would be simple, well planned and brutal as will become evident. Kotorerua and a few warriors masquerading as slaves, visited Kononui at Mauao under pretence of friendliness. He gained entry by offering baskets containing earth with kokowai sprinkled on the surface to conceal the earth. Kokowai (red ochre) was a rare and highly valued commodity used as a paint for dyeing woodcraft such as carvings. Fortunately it was night and the hosts could not see the earth beneath the kokowai. Kinonui suspected that Kotorerua had an ulterior motive for his visit, but played along with the charade until an opportunity to kill him arose. Kinonui invited his guests to share the evening meal with them. Kotorerua declined as fish was not on their menu.
41. **AS** the evening progressed, sleeping arrangements were made for the visitors. As a precaution a sentry was posted at the entrance of the building so that when the visitors fell asleep their despatch would be quick and simple. Kotorerua also had a daring plan. Kotorerua was confined to the sleeping house but his slaves were free to come and go as they pleased. Kotorerua ordered his slaves to go to the beach and check the moorings of their canoes. When they were returning they were told to gather firewood and quietly stack it at the doorway and at the sides of the house. Meanwhile he urged his hosts to stoke the fires as he feigned cold. When enough firewood was accumulated and the guard had become drowsy at his post, Kotorerua leapt from his position, sealed the door and set the firewood around the building alight. In a short time the house became a blazing beacon. This could be termed as the turning point of Ngati Ranginui supremacy and the fall of a stronghold that had for many years been shelter to the tangata whenua. The young Kotorerua had indeed planned his attack to the last detail, for prior to his leaving Te Tumu he had arranged with his forces to storm Mauao at moonrise and in order to identify one another, to display the broad and luminous leaf from the

Wharangi tree upon their foreheads. This then would mean that those who did not wear the symbol were regarded as enemy and treated as such.

42. **BY** morning the pa on Mauao was totally destroyed. There was devastation all around. The first stage of the conquest was now complete. The Ngati Ranginui survivors had managed to make their way across the harbour to safety. One version of the battle is that Tamapahore was supposed to have blocked the escape across the harbour. However, he only turned up on the morning after the battle. Kotorerua and his warriors saw Tamapahore arrive from the summit and as they approached the base they rolled rocks down the side of the mountain at Tamapahore to show their displeasure at his lateness. Another version says that Tamapahore participated at the base of Mauao and when he attempted to settle part of the pa the other groups rolled rocks down at them to prevent this. Whatever the version, Tamapahore settled and occupied the Maungataua-Papamoa area.
43. **SUCH** was the total and complete destruction of the settlement on Mauao that the summit of Mauao has never been reoccupied to this day while the slopes at the base were settled by some hapu.
44. **NGAI** Te Rangi did not stop there. They then crossed over the main land and took over the Otumoetai pa and established themselves there. Kotorerua however returned to Maketu from Otumoetai. After some time he returned to Tauranga to find that many of his people at Otumoetai were intermarrying with the local people. Kotorerua was so angry at such a friendly relationship that he destroyed Otumoetai pa and its inhabitants, friend and foe alike, before re-establishing the settlement there. After this, the land was divided among the hapu of Ngai Te Rangi. The Tribunal has heard before that it was only Mauao that was taken. However, the conquest of Ngai Te Rangi extended over to the main land. It has always been my understanding that you did not have to conquer and walk over and settle every acre of land. Ngai Te

Rangi had defeated the main settlements in Tauranga and thereafter became the dominant tribe in the area.

45. **THE** final destination of Tauranga is of significance. This was the home of their ancestors Whene and Taka of the Takitimu waka. Also, Paewhitu (the mother of Rangihouhiri) and Tuwairua (the mother of Tamapahore) were Waitaha people who had occupied Tauranga for many generations. Ngai Te Rangi were not foreigners in this land so it was fitting that they should again follow the footprints of their ancestors and settle this land.
46. **IT** has been said by some that Kotorerua took Mauao by treachery. When Kotorerua visited Kinonui both knew exactly what was going to happen. It was a battle of wits and ingenuity rather than treachery. Our history is filled with events that might be described as treacherous. However, such acts were common. In the case of Kotorerua and Kinonui, both knew that in the end one side would perish and the other would triumph.

Summary

47. **THE** Ngai Te Rangi return to Tauranga followed an arduous journey over many years from Tawhitirahi to Whangara to Whakatane then to Maketu and finally Tauranga.
48. **FOLLOWING** the conquest of Ngati Ranginui, Ngai Te Rangi have re-established their rights to the Tauranga region through their ancestors who had previously settled the area followed by their conquest and occupation.
49. **ALTHOUGH** our relationship with Ngati Ranginui at the time of the battle of Kokowai was bitter, since the occupation of this area there has been a lot of intermarriage and sharing of resources so that many generations later we occupy this territory as friends rather than foe. As the Tribunal will have seen, we have a common whakapapa and when faced with challenges from

outside groups, Ngai Te Rangi and Ngati Ranginui have always co-operated. The classic example of this is the defence of Pukehinahina by the Tauranga iwi against the attack from the Crown. The relationship between the Tauranga iwi was harmonious until the raupatu and the Crown's actions in this area over the last 150 years which have created fresh animosities.

50. **NEVERTHELESS**, Ngai Te Rangi rights to this area through ancestry, conquest and occupation are without question. The descendants of the Ngai Te Rangi ancestors who fought their way to Tauranga have maintained a presence in this region since the battle of Kokowai. We say that Ngai Te Rangi were the dominant iwi in Tauranga. However, regardless of the position of the iwi before 1860, the Crown's invasion of Tauranga Moana rendered the past obsolete and a new order followed. Although my evidence deals with Te Heke o Te Rangihouhiri, our claims are concentrated on the conquering of the Tauranga iwi by the Crown and the effects that have followed.
51. **FOLLOWING** the conquest of Tauranga Moana as the final act of Te Heke o Rangihouhiri, Ngai Te Rangi were able to finally settle down after years of fighting and living a nomadic lifestyle. At times the fighting had brought the tribe to near extinction but they managed to survive and we are the proud descendants of those warriors and nomads.

IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND

WAI

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER of an application by the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

**AFFIDAVIT OF NGARIMU ALAN HUIROA BLAIR IN SUPPORT OF
APPLICATION BY NGĀI TE RANGI FOR AN URGENT INQUIRY**

Dated this 8th day of March 2017

RECEIVED
Waitangi Tribunal
14 Mar 2017
Ministry of Justice WELLINGTON



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AFFIDAVIT OF NGARIMU ALAN HUIROA BLAIR IN SUPPORT OF APPLICATION BY NGĀI TE RANGI FOR AN URGENT INQUIRY

I, Ngarimu Alan Huiroa Blair, of Tāmaki Makaurau, Director, affirm:

1. I whakapapa to Ngāti Whātua Ōrākei.
2. I am a Director of the Ngāti Whātua Ōrākei Trust, Director of Ngāti Whātua Whai Rawa Ltd, and Chairman of Ngāti Whātua Treaty Settlement Protection Team.
3. I am authorised by the Ngāti Whātua Ōrākei Trust to provide this brief of evidence in support of Ngāi Te Rangi and their Tribunal claim for an urgent inquiry into the Crown's Deed of Settlement with Pare Hauraki.
4. I understand that Ngāi Te Rangi is experiencing difficulties with the Crown and the iwi comprising the Pare Hauraki Collective as a result of the Crown's application of its overlapping claims policy contained the Office of Treaty Settlements publication *Healing the past, building a future* (the 'Red Book').
5. Ngāti Whātua Ōrākei is currently engaged in High Court litigation against the Crown and members of the Marutūāhu Collective over the Crown's approach to settling cross claims in accordance with the overlapping claims policy.
6. In this brief of evidence I set out Ngāti Whātua Ōrākei's experience and position on the Crown's overlapping claims policy.
7. It is deeply concerning that the Government is taking the same flawed approach in Tauranga as it did in Tāmaki Makaurau while the matter is currently being challenged in the courts.

Ngāti Whātua Ōrākei's experience with the Crown's approach to settling cross-claims

8. The Crown has offered land and properties that fall in the centre of Ngāti Whātua Ōrākei's primary area of interest over which it holds mana whenua, to Ngāti Paoa and the Marutūāhu Collective.



9. Neither Ngāti Paoa or the Marutūāhu Collective had any historical interest established in accordance with tikanga Māori within Ngāti Whātua Ōrākei's primary area of interest from the late 1700s (despite a number of unsuccessful challenges, including by Ngāti Paoa), and certainly not from 1840 onwards that would amount to holding 'mana whenua'.
10. Indeed, some of the redress offered to Ngāti Paoa and the Marutūāhu Collective is within an area of land that our tupuna Apihai Te Kawau transferred to the Crown in September 1840 on Ngāti Whātua's behalf for the purposes of establishing Auckland as the capital of Aotearoa New Zealand. The expectations of the people of Ngāti Whātua Ōrākei at the time of this transfer was that each party would hold the reciprocal rights and obligations as against the other party and the land in question.
11. Ngāti Whātua Ōrākei are astounded that the Crown could offer this land to another iwi.
12. These offers are a direct result of the Crown's overlapping claims policy, which provides that iwi and hapū should seek to resolve any overlapping claims between themselves. But if they cannot, the Crown must make a decision.
13. We also believe that these offers reflect the 'layers of interest' approach to overlapping claims set out by the Tribunal in the *Tāmaki Makaurau Process Report* (Wai 1362, 2007). This report came after an application by several iwi and hapū with interests within the wider Tāmaki Makaurau area (including Ngāti Paoa and the Marutūāhu Collective) seeking an urgent inquiry into the proposed Treaty Settlement between the Crown and Ngāti Whātua Ōrākei as set out in an Agreement in Principle dated 9 July 2006. The AIP envisaged Ngāti Whātua Ōrākei being offered an area of RFR land that accords with our primary area of interest over which we have exercised mana whenua through ahi kā since at least 1740, and certainly since 1840.

14. The key finding in the Tribunal, led by Judge Wainwright, was that the Crown's use of predominant interests as a basis for offering *exclusive* redress rights was inappropriate in the context of Tāmaki Makaurau.
15. The Tribunal found that where other groups have a demonstrable interest in a particular area, then "all layers are valid".
16. Ngāti Whātua fundamentally disagrees with this finding. It is inconsistent with well-known concepts of tikanga Māori that govern the relationship between iwi and land, including take tuku, tuku whenua and whenua tautohetohe.
17. Ngāti Whātua Ōrākei subsequently settled its historical claims with the Crown by virtue of the Ngāti Whātua Ōrākei Claims Settlement Act 2012. The 2012 settlement did not give Ngāti Whātua Ōrākei the exclusive redress it was first offered in the 2006 AIP, but nonetheless recognised (similar to the 2006 AIP):
 - (a) the Crown's commitment to conduct the future relationship between the parties in accordance with the Treaty of Waitangi and its principles;
 - (b) an identified primary area of interest, which includes the 2006 AIP land;
 - (c) an Agreed Historical Account, describing the Crown and Ngāti Whātua Ōrākei's interactions from 1840 onwards.
18. As a result of parallel negotiations following the release of the Wai 1362 report, the Crown signed a Deed of Settlement with the collective Ngā Mana Whenua o Tāmaki Makaurau, dealing with joint interests in the maunga and motu in wider Tāmaki Makaurau. That deed was given effect to by the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014. That Act also provided for a right of first refusal covering the wider Tāmaki Makaurau area (i.e. an area both encompassing and beyond the area over which Ngāti

Whātua Ōrākei has its core area of interest), to be exercised by the Collective in its entirety, or by one of the Rōpū entities.

19. Ngāti Whātua Ōrākei is a party to the Tāmaki Collective. We entered into these negotiations as a pragmatic compromise to the halt in Treaty settlement negotiations in Tāmaki Makaurau.
20. Despite agreeing to share volcanic cones and a regional RFR we always told the Crown that no land in our heartland should be transferred to any other iwi as part of their individual Treaty settlements. To do so would be to recognise them as having the same status as ourselves (i.e. the holders of primary mana whenua). As a compromise we suggested any residual Crown land in our heartland be left for the agreed shared RFR process to which we had agreed. What we did not envisage was that this arrangement would allow the Crown to offer redress to other groups that lies within the heart of our rohe and primary area of interest.
21. Unfortunately, the Crown's failure to consider basic principles of tikanga Māori has left Ngāti Whātua Ōrākei with little choice but to challenge the legality of the Ngāti Paoa and Marutūāhu Collective offers in Court. Ngāti Whātua Ōrākei's primary argument is that if the Crown had taken into account the principles of tikanga Māori governing land (for example, mana whenua and ahi kā) it would not and could not have made these offers. We are also asking the Court to find that the overlapping claims policy, informed by the layers of interest approach, is unlawful.
22. The Crown, supported by Ngāti Paoa and Marutūāhu, are attempting to strike out our High Court application. The Crown's position is that it has the law making authority, and it will enact the settlement legislation that will empower it to give Ngāti Paoa and Marutūāhu the properties in their Deed of Settlement, despite any legally binding promises made to Ngāti Whātua Ōrākei in our settlement legislation.
23. The judgment is yet to be released. However, Justice Wylie in a judgment in respect of an earlier application by Ngāti Paoa to dispose

of our case before trial acknowledged the importance and novelty of the issues Ngāti Whātua Ōrākei has raised in its court case: *Ngāti Whātua Ōrākei Trust v Attorney-General & Ors* [2016] NZHC 347.

24. Despite the obvious importance of these issues, the Crown continues to progress the Ngāti Paoa and Marutūāhu settlements, and propose redress to other iwi within our core area of interest even while that very approach is being challenged in the Courts. We are at a loss as to what it will take to drive home the message to the Crown that its approach is not lawful, appropriate, or respectful of tikanga.
25. Further, we are intensely aware of the characterisation of Ngāti Whātua Ōrākei's actions as a 'land grab', and that we are holding up various settlements in Tāmaki Makaurau. This is not the case – Ngāti Whātua Ōrākei wishes for all iwi to settle their historical claims with the Crown. However, we have drawn the line where the Crown's actions will irreparably erode and offend Ngāti Whātua Ōrākei's mana whenua established in accordance with tikanga for almost three centuries.
26. I note, as an aside, that the Crown is also offering Ngāti Paoa and Marutūāhu schools that are within our primary area of interest. The Crown justifies these offers by way of commercial redress – in other words, redress that does not acknowledge any particular historical or cultural connection with any iwi.
27. In Ngāti Whātua Ōrākei's view, purchasing schools is not a commercial deal at all. While the Crown seems to place great importance on whether redress is offered as commercial or cultural redress, we make no distinction between the two. All land over which Ngāti Whātua Ōrākei holds mana whenua is deeply significant to our people. Further, there are no strong commercial reasons an iwi would purchase schools where they are purchased at market but can only be leased back to the Crown at 80% of their value.
28. What is more, the layers of interest approach has also flowed into local government in Auckland and is causing issues across the city

such as when at times up to 19 iwi are engaged on resource management issues.

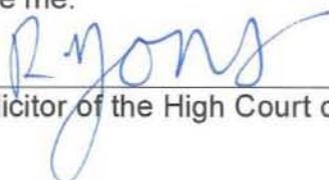
Prejudice

- 29. The way Treaty claims are currently being settled by the Crown is pitting iwi against iwi and at times, hapu against their own iwi. That is clearly wrong, and risks the future of the Crown-Māori relationship. We are in Court on these issues. This demonstrates the extent of the damage that has been done to relationships.
- 30. We do not litigate against the Crown lightly, however our people will always stand on principle when we believe there has been a breach of our agreements.
- 31. But just as importantly it jeopardises iwi to iwi relationships. Everyone's mana whenua is damaged, except for (it seems) a select few groups who are benefitting from the Crown's unprincipled approach to settling overlapping claims.

Conclusion

- 32. The Crown has a responsibility to settle grievances honourably, without undermining tikanga and mana whenua. The Crown must revisit its approach.

Affirmed at Auckland
On 8 March 2017
before me:



A Solicitor of the High Court of New Zealand

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) 
) _____
Ngarimu Alan Huiroa Blair

Rachael Margaret-Anne Jones
Solicitor
Auckland

**IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND**

WAI

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

BRIEF OF EVIDENCE OF CHARLIE TAWHIAO

Dated this 14th day of March 2017



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MAY IT PLEASE THE TRIBUNAL:

Ko Mauao te Maunga

Ko Tauranga te Moana

Ko Matakana te Moutere

Ko Ngai Te Rangi te Iwi

Introduction

1. My name is Charlie Tawhiao. I am Ngai Te Rangi.
2. I am the Chairperson of Te Runanga o Ngai Te Rangi Trust, having been elected to that role in 2009.
3. I am also the Chairperson of the Ngai Te Rangi Settlement Trust, having been elected to that role in 2013.
4. As Chairperson of Te Runanga o Ngai Te Rangi Trust, I led Ngai Te Rangi iwi through our Te Tiriti o Waitangi settlement negotiations process, which is now nearing its conclusion.
5. The Ngai Te Rangi Settlement Trust was established to receive and manage settlement redress on behalf of Ngai Te Rangi.
6. I provide this evidence in support of the application for an urgent Tribunal inquiry into the Crown's settlement negotiations policy and practice concerning the redress in our rohe that Hauraki seeks as part of their historical settlement with the Crown.
7. Ngai Te Rangi strongly object to the Pare Hauraki Collective Redress Deed, which was initialled on 22 December 2016 (**Appendix C**).

Tauranga Moana, Tauranga Tangata

8. The primary mission of the two Ngai Te Rangi Boards that I chair is to ensure that the mana of Ngai Te Rangi is upheld. It is our job to protect and promote our existence as a cultural entity so that in the process of

receiving and managing our Treaty settlement assets we never lose sight of who we are, where we stand, and what we stand for.

9. This mission is important because of the impact that colonisation has had on our people in terms of threatening our existence as Ngai Te Rangi. We can never rest in the battle to maintain our identity and our right to be, whether the threats to our identity come from within, from our neighbouring iwi, or from our Te Tiriti partner.
10. Therefore, the intention signalled by our Te Tiriti partner to provide Treaty settlement redress to Hauraki Iwi Collective, as well as to individual iwi of Hauraki, has been received by Ngai Te Rangi as a direct attack on our identity and on our mana as an iwi.
11. For that reason, we must respond vigorously, both for the sake of the future generations of Ngai Te Rangi, and for our tipuna who shed blood to ensure that we could stand proudly as Ngai Te Rangi in Tauranga Moana and truly say “Tauranga Moana, Tauranga Tangata”.
12. That expression is more than simply a slogan, it is a statement of identity which we must protect as much as we must protect our identity. To be asked to accept that Tauranga Moana Tauranga Tangata now includes iwi other than those who have traditionally exercised rangatiratanga in Tauranga Moana, makes a mockery of our history.
13. On this basis, we reject all claims by Hauraki iwi to any rights akin to mana moana or mana whenua in Tauranga Moana.
14. We do, however, acknowledge that we have a history with our neighbouring hapu and iwi which defines us and them, and which is evidenced today in the relationships that have endured beyond the battles and warfare.

The Pare Hauraki Collective Redress Deed

15. We have been concerned for a significant period of time about the Crown’s proposal to assign rights to Hauraki Iwi Collective in Tauranga Moana.

16. In order to resolve this, we sought to engage with Hauraki and we also asked the Crown to disclose details of the redress they proposed to provide to Hauraki in respect of Tauranga Moana.
17. On 20 December 2016, we finally received some information from the Crown, together with notice that the Crown intended to initial the Hauraki Iwi Collective and Marutuahu Deeds of Settlement on 22 December 2016.
18. The information received from the Crown raised a number of issues, and there are key redress items that we were only able to review for the first time the day before the initialling took place.
19. Two key items of concern were:
 - (a) The Tauranga Moana Framework drafting which includes statements that are completely inaccurate and unjustified; and
 - (b) The MPI protocol and a coastal statutory acknowledgement that encompasses our heartlands, including Matakana Island and Mauao.
20. The Crown is disrespecting the mana, rangatiratanga and tikanga of Ngai Te Rangi by:
 - (a) Offering this redress to Hauraki;
 - (b) Refusing to provide us with sufficient time to:
 - (i) Receive, review, and respond to the redress; and
 - (ii) Properly resolve the issues.
21. We requested that the Crown postpone the initialling or remove this redress from their settlement.
22. We conveyed to the Crown our opposition to the inclusion of Tauranga Moana in the Hauraki Iwi Collective redress, and to the initialling of their Deed of Settlement (see **Appendix D**).
23. The Crown simply ignored our objections.

24. If this settlement proceeds in its present form, the Hauraki Iwi Collective will have gained a permanent foothold in our heartlands.
25. Our people have been very clear about their absolute opposition to allowing any other iwi into our rohe, and are aggrieved that a potential loss of the Tauranga Moana Framework may be the consequence of our position.

The Crown's failures

26. Until recently, we were reasonably assured that a practical solution could be found with the Crown. The Minister and his officials acknowledged and sympathised with our concerns, but maintained that their hands were bound by a prior Waitangi Tribunal decision that had confirmed that Hauraki had cultural and historical interests in Tauranga Moana.
27. Given the nature of the Tribunal's findings, we were surprised by the manner in which the Crown then chose to recognise those Hauraki 'interests' by elevating them to the status of 'rights' akin to mana whenua.
28. As mentioned, we had been requesting information from OTS on the Hauraki redress package for months, and we are extremely frustrated that the full extent of this information was only provided shortly before the deeds were initialled, with notice that the Crown intended to proceed with the initialling.
29. The delayed trickle of information from OTS outlining redress that is being offered to the Hauraki Iwi Collective and individual Hauraki iwi, together with short response deadlines, has been unfair.
30. We are outraged by the redress itself, but also that the Crown went ahead with the deeds when no engagement had occurred with us on such significant matters.
31. We presently see the Crown as the central cause of this unrest between ourselves and Hauraki.

32. In its haste to settle claims, the Crown has diminished the place of tikanga in their deliberations, choosing instead to focus solely on expediting settlements.

The prejudicial effect

33. In ignoring tikanga, the Crown has undermined the very outcome it (and iwi) seeks to achieve; sustainable and durable Treaty of Waitangi settlements.
34. Ngai Te Rangi are presently so incensed by the Crown's approach to addressing overlapping interests that we would prefer no settlement to having a settlement that compromises our mana whenua and mana moana in Tauranga Moana.
35. Our rangatiratanga is being displaced, and our whenua and moana are being confiscated again by the Crown to settle its debt to iwi who have no practical claim to our rohe. That is a return to raupatu.
36. If the Hauraki Iwi Collective settlement proceeds in its present form (wherein redress is provided in Tauranga Moana that accords mana whenua/mana moana status to Hauraki), it would be of such offense to Ngai Te Rangi that we would have no option but to pursue a claim with the Waitangi Tribunal seeking to stop the Hauraki Iwi Collective settlement from proceeding until our concerns have been properly addressed by the Crown.
37. If we do proceed down the Waitangi Tribunal path, there will be consequences, including further delays to the passing of our Bill in Parliament. However, we consider this matter to be of such importance that delaying our settlement is preferable to allowing the Crown to enable outside iwi to encroach into our moana.
38. We believe that Hauraki must receive a fair settlement from the Crown and we are willing to support them in achieving that. However, we do not agree that Tauranga Moana should be included in that settlement in any way.

Pathways forward

39. This matter is best resolved by the affected iwi (Tauranga Moana iwi and Hauraki iwi) without the influence or intrusion of the Crown's Treaty Settlement imperatives.
40. In order for that to happen, the Crown would need to level the playing field so that our own traditional processes are able to be applied so that a tikanga based solution can be found.
41. There should be no time limit put on this process other than any time limit that the iwi may mutually agree to.
42. Our tupuna were willing to enter into pragmatic solutions to such stand-offs in the past, and we should be encouraged by their example.

Concluding remarks

43. Redress offered to Hauraki has completely ignored the reality of occupation that existed at 1840 through to the present.
44. According iwi other than Tauranga Moana iwi (i.e. Ngati Ranginui, Ngati Ngai Te Rangi and Pukenga) rights akin to mana whenua within the rohe of Tauranga Moana is a direct assault on the mana, rangatiratanga and tikanga of Ngai Te Rangi.
45. In order for any iwi to hold mana and rangatiratanga, it is necessary not only to make the assertion, but to evidence how that assertion is, and has been demonstrated over time. We have had the assertion of mana and rangatiratanga within Tauranga Moana made by a number of outside iwi, but none have been able to show us how that mana and rangatiratanga is practically exercised.
46. None of these outside iwi are able to point to any practical or physical manifestation of an authoritative presence in Tauranga Moana, including obvious symbols such as marae. They have instead relied on historical korero that links them to this place in ancient times; korero that has long since been displaced by subsequent occupations.

47. We do not dispute these ancient connections, and indeed they are integrated into our own historical accounts of our relationships with neighbouring iwi. However, we do not accept these accounts as warranting rights akin to mana whenua and mana moana through contemporary Crown settlement processes.

DATED this 14th day of March 2017



Charlie Tawhiao

**IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND**

WAI

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

BRIEF OF EVIDENCE OF REON TUANAU

Dated this 14th day of March 2017



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MAY IT PLEASE THE TRIBUNAL

Tauranga Moana, Tauranga Tangata

Ko Mauao te Maunga

Mauao is the sacred mountain of my people

Ko Tauranga te Moana

Tauranga Moana are the waters that sustain my people

Ko Rauru Kī Tahī e

Our ancestor Rauru, was a man of his word

Ko Mataatua te Waka

Mataatua is our chiefly canoe

Ko Ngāi Te Rangī te Iwi

We are the people of Rangihouhiri

Ko Te Whānau ā Tauwhao te Hapū

We are the family of Tauwhao

Tihei Mauriora!

Behold, I am before you as a living descendant of my ancestors

Introduction

1. My full name is Reon Roger Tuanau. I am authorised to give this evidence on behalf of Te Rūnanga o Ngāi Te Rangī Iwi Trust (“the Rūnanga”).
2. My iwi is Ngāi Te Rangī and my hapū is Te Whānau ā Tauwhao.
3. I am currently employed at the Rūnanga as the Manager of the Resource Management Unit.
4. My hapū is located on the most northern border of Ngā Kurī ā Whārei.
5. The name of my marae is Otāwhiwhi Marae and is situated at Waihi Beach.
6. I have been involved in the tribal affairs of Ngāi Te Rangī for at least 20 years.

7. I have been involved with the settlement process for seven years.
8. Our experience is that the settlement process has been very challenging and divisive; so much so, that if we do not sort these issues out now, there will need to be a new claim to settle these claims that we are trying to settle here.

The issue: Hauraki overclaiming into Tauranga Moana

9. We totally oppose the intrusion by Hauraki into our rohe.
10. The issue of Hauraki overclaiming dates back over three or four years.
11. Basically, Hauraki first started making claims to some of our sites in the Kaimai ranges. They were seeking the return of some of the pa sites and lands where they claimed they had historical interests, but they were mai rānō. Over time, they then progressed to right within our rohe.
12. When Hauraki claimed right into the city of Tauranga, we were in a state of shock. They had really pushed the limits, and we felt we had to push them back to Waiorooro at the very least. Our most northern boundary, being Ngā Kurī a Whārei, is currently north of Waiorooro Stream halfway down at Waihi Beach. We had to make that decision due to the breadth of their claim into Tauranga.
13. In 2012, Hauraki filed an urgency application against the Tauranga Moana Framework because they were excluded from it. They did not have a right to make that claim. We felt disrespected by the fact that Hauraki would not come and talk to us first.
14. I feel like the Crown forced us into a position in regards to Hauraki's claim without having the full information that we needed going into the negotiations. We felt a lot of pressure to allow them to have some recognition or we would not be able to settle ourselves.
15. As a result of this pressure, and the risk that we would not be able to settle, we did go into a negotiation. It was negotiated that Hauraki were to have Right of First Refusal over certain blocks. Even that

aggrieved our people. Now, there have been further negotiations between Hauraki and the Crown and the Crown has granted Hauraki additional redress, it has been the straw that broke the camel's back.

16. We did not accept their claim that they had a right to be included, and again we were practically forced to compromise and allow them some level of participation. Terms were negotiated for the inclusion of a fifth Hauraki seat – and again we were compelled to accept this. I think Hauraki are trying to get all they can - but at whose expense?

No evidence for Hauraki's claim

17. I have seen no real evidence of Hauraki's claim regarding their interests in our area.
18. Evidence has been quite skint and bare, and really just the word of their lawyers.
19. Hauraki have provided some limited korero about historical events, but that was before the Crown confiscation.
20. In my view, their interests are based in historical battles and intermarriage, not Crown grievances, which is what we are negotiating a settlement for.
21. I also believe that the Crown and Hauraki are manipulating our history and tikanga.
22. When I say Hauraki, I mean some of the people who are advancing the settlement, not the hapū and whānau. We have not heard from their kaumātua, kuia or those that we would consider the keepers of mātauranga. Their kaumātua have not come forward to provide the evidence.
23. We have asked them to come and discuss the issues with us, and they have not come. It has been hard to engage with them and get any communication or clarification on these issues.

Mana whenua, mana moana is with Ngāi Te Rangi

24. We acknowledge that Ngāi Te Rangi and Hauraki have historical interests and connections. There were battles and strategic marriages, but this was common throughout the country and it does not mean that we all overclaim into our neighbour's rohe.
25. As far as I know, Hauraki never took control of the area and did not exercise rangatiratanga in our rohe.
26. Hauraki do not have pā, and they do not have marae in our rohe.
27. There has always been a clear understanding between our iwi, that we have mana whenua. That is our kawa, tikanga, and rangatiratanga. We all know where the mana whakahaere sites are within our rohe, and where the boundaries are.
28. We have not sought a mana whenua interest up in their rohe, and they should not be seeking those rights down in ours. We thought that we had a mutual understanding that we would not overclaim into each other's rohe, and that we would respect the mana of each other. We wanted to stick to that. It is only settlement that is threatening that.
29. The delineating boundary is Ngā Kurī a Whārei.

The Crown's role

30. The Crown has treated us unfairly.
31. It feels like since the Tribunal's decision to grant the urgency application in 2015, the Crown has played to the tune of Hauraki who have put a lot of pressure on them.
32. It is like the Crown thinks that it is simply easier to just side with Hauraki.
33. However, the Crown needed to consider the impact that giving Hauraki land and mana in our rohe would have on Ngāi Te Rangi - the people that actually live here.

34. The fact that other iwi are having the same issues with Hauraki is telling.

The prejudice

35. If the Crown grants Hauraki redress, I can foresee that it will have a major negative impact on Ngāi Te Rangi. In fact, it already has.
36. Firstly, it is a takahi mana. Our history and tūpuna have been desecrated by incorrect claiming and the manipulation of our history. If the Hauraki settlement is completed, it will impact our kawa and tikanga, and the way we have lived for generations.
37. Secondly, the settlement has, and will cause division; we feel divided. My people at Otāwhiwhi have whakapapa in Hauraki but they are clear that the mana in Tauranga Moana is with Ngāi Te Rangi, so what the settlement is doing is dividing our whakapapa and relationships. It impacts our relationships quite heavily.
38. In addition, these issues have most definitely damaged our partnership with the Crown. We have lost a lot of trust and confidence.
39. I believe that if the issues are not corrected before a final settlement is reached, it will reinstate old historical grievances that our iwi have had against each other.

Conclusion

40. It is a real concern to me that we are not able to meet as iwi. When we talk with whānau in the wharekai or on the streets, the whānau are not in agreeance with the Hauraki claim into Tauranga Moana.
41. We have had issues with Hauraki in the past, and we have been able to overcome those ourselves. At one point, I think we could have sorted these issues among ourselves too.
42. Given how things have gone, and the state of our relationships (Crown/Ngāi Te Rangi/Hauraki), we need assistance to ensure we are all on a fair and even playing field in our future attempts to resolve these issues.

43. The assistance of the Tribunal is essential.

DATED this 14th day of March 2017



Reon Tuanau

**IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND**

WAI

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngai Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

BRIEF OF EVIDENCE OF HUHANA ROLLESTON

Dated this 14th day of March 2017



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MAY IT PLEASE THE TRIBUNAL:

Introduction

1. My name is Huhana Rolleston. I am Ngai Te Rangi.
2. I am the Project Manager for the Ngai Te Rangi Settlement Trust.
3. I have been involved with the Ngai Te Rangi negotiations since 2012.
4. I file this evidence in support of Ngai Te Rangi's application for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress.
5. A number of appendices are **attached** to our application, including:
 - (a) **Appendix C – Pare Hauraki Collective Redress Deed;**
 - (b) **Appendix D – Tables of relevant redress:** This table includes extracts of relevant redress from the Ngai Te Rangi, TMIC and Hauraki settlement deeds;
 - (c) **Appendix E – Relevant Te Tiriti principles:** This is an extract from the *Te Arawa Settlement Report*;
 - (d) **Appendix F – Crown overlapping claims policy;**
 - (e) **Appendix G – Chronology of events:** The chronology of events is based on the information contained in the document bank; and
 - (f) **Appendix H – Document bank:** The document bank contains relevant documentation and correspondence held by Ngai Te Rangi on the issues raised in our application;
 - (g) **Appendix I – Relevant articles;**
 - (h) **Appendix J – Tauranga Moana report extracts (2004 and 2010);**

- (i) **Appendix K – Tauranga Moana Tribunal references to “rangatiratanga” and “kaitiakitanga”;**
 - (j) **Appendix L – Ngai Te Rangi Deed of Settlement; and**
 - (k) **Appendix M – Tauranga Moana Iwi Collective Deed of Settlement.**
6. I note that a request has been made under the Official Information Act 1982 for all information relating to redress allocated to Hauraki in Tauranga Moana, and further relevant information may be released as part of that request.
7. My evidence primarily focuses on the redress contained, or proposed for inclusion, in the Hauraki Collective Deed that overreaches into Tauranga Moana (a full copy of the Deed is **attached** as **Appendix C**).

Redress in issue

8. Ngai Te Rangi object to all redress, affirmations, rights or statements in the Hauraki Deed that encompass the area extending south of Te Aroha and Waiooro (see **Appendix D**).
9. The Crown has implied that the redress is of no effect. However, the redress has a significant impact on Ngai Te Rangi, in that it elevates the status of Hauraki and affords them direct engagement and decision making on matters that relate to Tauranga Moana, thus undermining and eroding the mana, rangatiratanga and tikanga of Ngai Te Rangi.
10. The redress in issue includes the following affirmations, statements or rights in, or proposed for the Hauraki Deed:
- (a) Cultural Redress – Tauranga Moana (clauses 20.1 – 20.10);
 - (b) Cultural Redress - Pare Hauraki Conservation Framework (clauses 7.7.3 – 7.7.8);

- (c) Cultural Redress, Ministry of Primary Industries Fisheries and Recognition Redress, Advisory Committee and Quota RFR (clauses 10.2 – 10.3);
 - (d) Pare Hauraki Redress Area map;
 - (e) Cultural Redress – Statement of Pare Hauraki Worldview “mai Matakana ki Matakana” (clause 4.1);
 - (f) Cultural Redress - Kaimai Statutory Acknowledgement and Statement of Association (clause 8.1).
11. On 1 March 2017, the Ngai Te Rangi Settlement Trust passed resolutions in relation to the Hauraki redress. The Trustees agreed:
- (a) To continue to engage with the Crown to seek a final position on the withdrawal of Hauraki redress in issue by 2 March 2017;
 - (b) To file an urgent application to the Waitangi Tribunal as soon as it is ready, and no later than 8 March 2017;
 - (c) That, if no agreement is reached with the Crown on the redress sought by the Hauraki Collective in the rohe of Tauranga Moana, then:
 - (i) All previous agreements reached with the Hauraki Collective are withdrawn on the basis that it was intended at the time that those agreements would be the full redress sought by Hauraki in Tauranga Moana, including:
 - (A) 60% of Athenree Forest;
 - (B) Fifteen RFRs in Te Puna/Katikati areas;
 - (C) Four properties in Te Puna/Katikati/Otawhiwhi areas;
 - (D) Kaimai Statutory Acknowledgement;
 - (E) Kauri Point Reserve.

- (ii) Ngai Te Rangi not proceed with the completion of the Ngai Te Rangi Settlement Bill until a satisfactory agreement is reached on the Hauraki Collective and Individual Hauraki Iwi redress within Tauranga Moana, including a satisfactory agreement on the removal of the fifth seat in the Tauranga Moana Framework.

- 12. On 22 February 2017, the Crown was notified of Ngai Te Rangi's opposition in writing. We discuss our opposition to the Hauraki Deed in more detail below.

Opposition to the Pare Hauraki Collective Deed of Settlement

- 13. At the outset, I note that the Hauraki redress extends far beyond the Crown undertaking to Hauraki in 2012, which said that: "Cultural redress will be provided to iwi of Hauraki within the Te Puna and Katikati Blocks, as agreed with the Crown".

Cultural redress pertaining to Tauranga Moana

- 14. Cultural Redress pertaining to Tauranga Moana is set out in clauses 20.1 – 20.10 of the Deed. We take objection to any references to Tauranga Moana in the Hauraki Deed; however, there are particular clauses of the Deed that Ngai Te Rangi have an issue with:

- (a) Clause 20.6, which states:

The Crown acknowledges and affirms the Iwi of Hauraki will be able to participate in any governance and management arrangements for Tauranga Moana to be negotiated between the Crown and relevant iwi (including the Iwi of Hauraki) and included in standalone legislation.

- (b) Clause 20.7.1, which states:

In the event there is continued development of the Tauranga Moana Framework, the Crown:

affirms the right of the Iwi of Hauraki, on the basis of its recognised interests in Tauranga Moana, to participate through the seat described in clause 3.11.4€ of the Legislative Matters Schedule of the

Tauranga Moana Iwi Collective Deed will be preserved.

- (c) Clause 20.8.3, which states:

In the event the Tauranga Moana Framework is not developed, the Crown:

confirms any future governance and management arrangements over Tauranga Moana will be subject to agreement between the Crown and all relevant iwi (including the Iwi of Hauraki), having regard to the rights of participation set out in clause 20.7.

- (d) Clause 20.9, which states:

The Crown agrees to negotiate redress in relation to Tauranga Moana with the Iwi of Hauraki as soon as practicable in accordance with Te Tiriti o Waitangi / the Treaty of Waitangi, and on a basis which gives all iwi with recognised interests in Tauranga Moana the opportunity to be involved.

15. We oppose these clauses in the Hauraki Deed because:

- (a) The affirmations included in the Deed ignore the objections of Ngai Te Rangi and fail to protect the rangatiratanga of Ngai Te Rangi over Tauranga Moana;
- (b) Ngai Te Rangi's view is that a governance seat on the Framework is a form of redress that should be reserved for iwi who hold and exercise mana moana;
- (c) A fifth seat on the Tauranga Moana Governance Group for Hauraki is unwarranted. Tauranga Moana iwi tribal knowledge and day-to-day participation in Tauranga (complimented by tribal knowledge of many other neighbouring tribes), confirms that Hauraki have never settled or exercised rangatiratanga in Tauranga Moana;
- (d) The Tauranga Moana Framework provides, among other things, for Hauraki to participate in decision making and the framing of policy for Tauranga Moana. This kind of decision making is a contemporary expression of rangatiratanga.

Hauraki have never exercised rangatiratanga over Tauranga Moana, and the Crown is incorrect to afford Hauraki this authority by legislation.

Cultural Redress, Pare Hauraki Conservation Framework (clauses 7.7.3 – 7.7.8)

16. In particular, we oppose the following clauses:

- (a) Decision making framework, clauses 7.60 and 7.61, which state:

This section of the Pare Hauraki conservation framework applies to conservation decisions in the **Pare Hauraki Area**.

To avoid doubt, the decision-making framework will apply to any concession applications under Part 3B of the Conservation Act 1987 that are initiated by the Iwi of Hauraki.

- (b) Customary materials, clause 7.68, which states:

The Pare Hauraki collective cultural entity and the Director-General will jointly prepare and agree a plan covering:

the customary take of flora material within conservation protected areas within the **Pare Hauraki redress area**; and

the possession of dead protected fauna that is found **within that area**.

- (c) Marine Mammals, clause 7.78.5, which states:

if the proposed national review has not commenced within the two years after settlement date, the Crown must engage with the Pare Hauraki collective cultural entity to discuss and agree how the Crown will provide for the right sought by the Iwi of Hauraki in clause 7.78.2.

[7.78.2 Consistent with that significance, the Iwi of Hauraki are seeking the right to gather, use and possess materials for customary purposes, from dead marine mammals stranded in their rohe, without having to seek a permit or other authorisation under the Marine Mammals

Protection Act 1978 or the Marine Mammals Protection Regulations 1992]

- (d) Wāhi tapu framework, clause 7.84, which states:

The Iwi of Hauraki may provide to the Director-General a description of the wāhi tapu on conservation land in the **Pare Hauraki redress area**, which may include, but is not limited to, a description of...

- (e) Conservation Boards, clause 7.94, which states:

The Minister of Conservation must, on the nomination of the Pare Hauraki collective cultural entity, appoint one member to a Conservation Board covering all or a significant proportion of the **Pare Hauraki Area**.

- (f) Capability Building, clause 7.100, which states:

The Director-General recognises the important role that the Iwi of Hauraki have in protecting the natural, historic, and cultural heritage in the **Pare Hauraki redress area**.

17. We oppose these clauses because:

- (a) This redress provides Hauraki iwi with direct engagement and decision making on matters that relate to Tauranga Moana, thus eroding the rangatiratanga of Ngai Te Rangī; and
- (b) There is also redress in these clauses that not even TMIC were provided in their settlements. It is wrong for an iwi with no mana to have more rights in the rohe of an iwi who has mana.

Cultural Redress, Ministry of Primary Industries Fisheries and Recognition Redress, Advisory Committee and Quota RFR (clauses 10.2 – 10.3)

18. In particular, we oppose the following clause:

- (a) Clause 10.2, which states:

the advisory committee may propose written advice to the Minister for Primary Industries covering any matter relating to the sustainable utilisation of fisheries resources managed under the Fisheries Act 1996, in a place where an Iwi of

Hauraki has an interest within the area shown on the map attached as schedule 1 to part 4 of the documents schedule.

19. We oppose this clause because:
- (a) This redress provides the ability for Hauraki iwi to advise the Minister on fisheries matters in Tauranga Moana;
 - (b) The effect of this redress is that Hauraki are provided the ability to influence fisheries matters in Tauranga Moana, interfering with and impinging on the mana moana of Ngai Te Rangī; and
 - (c) In accordance with Ngai Te Rangī tikanga, control and influence over access to resources rests with the iwi who hold mana moana; in relation to Tauranga Moana that is Ngai Te Rangī, Ngati Ranginui and Ngati Pukenga.
20. In addition, we also oppose:
- (a) Clause 10.3, which states:

The Crown agrees to grant to the Pare Hauraki collective cultural entity a right of first refusal to purchase certain quota as set out in the Fisheries RFR deed over quota.
21. We oppose this clause because:
- (a) In accordance with Ngai Te Rangī tikanga, access to resources is enabled through relationships between the user and the iwi who hold mana whenua/moana. In this case, Hauraki is seeking rights to acquire fish in Tauranga Moana by legislation; and
 - (b) The Crown and Hauraki iwi are failing to recognise and provide for the rangatiratanga of Ngai Te Rangī in Tauranga Moana by offering this redress without the consent of Ngai Te Rangī who has mana in this area. The tika process would be for Hauraki iwi to meet with Ngai Te Rangī to seek approval.

Pare Hauraki Redress Area map

22. We also oppose the Pare Hauraki Redress Area map extending south of Te Aroha and Waiororo, without an acknowledgement that Hauraki has never held mana or exercised rangatiratanga in the areas extending south of Te Aroha and Waiororo.
23. We recognise that this is a statement of interest by Hauraki that the Crown finds it difficult to put restrictions on. However, Hauraki is an extraordinary case of an iwi who are making unfounded claims to other iwi rohe (not isolated to Tauranga Moana) and using the settlement process to give legal effect to their claims. The Crown should not enable this behaviour.

Cultural Redress, clause 4.1, Statement of Pare Hauraki Worldview “mai Matakana ki Matakana”

24. We oppose the phrase “*mai Matakana ki Matakana*” because:
 - (a) It has no historical underpinning;
 - (b) It is a contemporary statement that Hauraki have promoted within the past 30-40 years;
 - (c) We strongly object to Hauraki using Matakana Island as an identity marker; and
 - (d) Hauraki have no interests on Matakana Island.
25. Our rangatira, Dr Hauata Palmer, made a request to Hauraki to stop using this statement in June 2016 in Thames. A Hauraki representative apologised for their use of the phrase and confirmed that they would not use it anymore.

Cultural Redress, clause 8.1, Kaimai Statutory Acknowledgement and Statement of Association

26. We oppose this clause because:
 - (a) There is no evidence to support claims of mana whenua, practice of kaitiakitanga, or use ‘at will’ of tracks within the

Kaimai ranges as referenced in the supporting statement of association;

- (b) The statement overall implies that Hauraki have enjoyed mana whakahaere of Kaimai and its surrounds in the past and present;
- (c) There is no evidence to support Hauraki having this level of authority in this area; and
- (d) It is also our position that any language that refers to Hauraki as having enjoyed authority in Tauranga Moana should be removed. Such statements are an attack on the rohe and mana of Ngai Te Rangi and the Crown has endorsed this behaviour by initialling the Hauraki Deed.

Previous agreements

- 27. Ngai Te Rangi have withdrawn all previous agreements with Hauraki in our rohe. Ngai Te Rangi only engaged in this process due to the pressures to achieve a timely Treaty settlement and with the expectation that there would be no further claims in our rohe. The agreements were not a reflection or acknowledgement of a Hauraki interest in those areas. Ngai Te Rangi do not accept, and have never accepted that Hauraki have any rights to these items.
- 28. The previous agreements include:
 - (a) Athenree Forest;
 - (b) Kauri Point reserve;
 - (c) Kaimai Statutory Acknowledgement;
 - (d) Rights of First Refusal Properties; and
 - (e) Properties.

Other points to note

29. Additional points which highlight serious failures of Crown policy and practice include that:
- (a) Ngai Te Rangi have not had the opportunity to review the Deeds of Settlement of the individual Hauraki iwi at this time. We need to review the Deeds for ourselves, rather than rely on the Crown's assurances that there are no matters of concern to us. We have not been able to rely on the Crown's assurances to date;
 - (b) It was not until after the Hauraki Deed had been initialled that we found out about the DOC framework, MPI Advisory Committee, and Mai i Matakana ki Matakana redress. The Crown has failed to acknowledge overlapping claims in relation to new redress items contained in the Hauraki Deed, particularly the DOC redress (the Crown went so far as to say that this redress did not affect the rohe of Ngai Te Rangi), the MPI Advisory Committee and the TMF drafting;
 - (c) The only item where the Crown acknowledged that there had been no overlapping claims process was the MPI protocol and quota. The Crown's response was to remove the relevant map that extended this redress into Tauranga from the initialling Deed, and then initiate the overlapping claims process in the correspondence of January and February 2017; and
 - (d) While we were aware of the Crown's position on the fifth seat on the Framework, we were not aware of the Crown's agreement to preserve this into Hauraki legislation, as revealed three days prior to initialling of the Deed. This was first time we were made aware of the TMF affirmations in the Deed.
30. Ngai Te Rangi are concerned that the Crown has failed to maintain good faith engagement on all Tauranga Moana redress and expect that, as our Tiriti partner, the Crown in good faith should make a

concerted effort to understand our concerns and facilitate avenues that will properly resolve issues.

A pathway forward

31. We believe the only pathway forward is for the Crown to remove all redress in the Hauraki Deed that pertains to Tauranga Moana. This will enable us to enter into further processes on a safe and even playing field.
32. The Crown must agree to incorporate tikanga Maori into the settlement of Tauranga Moana.
33. We suggest that:
 - (a) The Crown and Ngai Te Rangi invest time in understanding and agreeing the rules and principles of te ao Maori in relation to social order and relationships between land and sea;
 - (b) The Crown and Ngai Te Rangi undertake research on the nature and extent of the interest of Hauraki iwi with a tikanga Maori lens;
 - (c) The Crown and Ngai Te Rangi consider the rights proposed for Hauraki redress in Tauranga Moana and how such rights translate in te ao Maori; and
 - (d) The Crown reassess its decision on the Hauraki redress following completion of the above steps.

Concluding remarks

34. The Crown has confirmed that it is not removing the redress in issue from the Hauraki Deed, and that it is reconsidering one of the redress items; however, that is not confirmed.
35. The Crown has advised that they are currently engaging with Hauraki to amend the Tauranga Moana text in the Deed to include a process whereby Hauraki and TMIC have two to four years to resolve Framework issues by ourselves, but if an agreement is not reached,

either the Framework with Hauraki participation via a fifth seat is confirmed, or Hauraki and TMIC have to negotiate lesser redress under the Crown's Harbour policy guidelines.

36. In my view, the process proposed by the Crown is not robust and will not lead to a resolution. Hauraki will have no incentive to participate. They could wait out the two to four years, refuse to engage, and then receive the fifth seat. The process also does not require the Crown to assess the nature of the interests before confirming what is appropriate redress. This is the substantive issue that the Crown needs to address if it is concerned to achieve a fair and durable settlement with Ngai Te Rangī.
37. The Crown is refusing to reconsider the fifth seat, despite our concerns, and without properly understanding the nature and extent of the Hauraki interests in Tauranga Moana.
38. By refusing to remove the redress in issue from the Hauraki Deed, the Crown is failing to provide a process that will lead to the proper resolution of issues.
39. It is particularly unfair that the Crown is proceeding to finalise the Hauraki Deed when there are such serious issues in contention. We were required to remove the TMF redress from our own Deed in order to progress our settlement. The Crown should require Hauraki to do the same and remove all Tauranga Moana redress from their Deed
40. For these reasons, we believe the Tribunal's assistance and guidance on these issues is now essential.

DATED this 14th day of March 2017



Huhana Rolleston

RECEIVED Waitangi Tribunal
06 Jul 2017
Ministry of Justice WELLINGTON

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Wai 2616, #A5(a)
Wai 2840, #A5(a)

INDEX TO APPENDICES

Wai 2616 – Brief of Evidence of Huhana Rolleston

Appendix	Description
“C”	Pare Hauraki Collective Redress Deed
“D”	Redress tables
“E”	Relevant Te Tiriti principles (Te Arawa extract)
“F”	Crown overlapping claims policy (Red Book extract)
“G”	Chronology of key events
“H”	Document bank
“I”	Relevant articles
“J”	Tauranga Moana report extracts (2004 and 2010)
“K”	Tauranga Moana Tribunal references to “rangatiratanga”
“L”	NTR Deed of Settlement
“M”	TMIC Deed of Settlement

HAKO
and
NGĀI TAI KI TĀMAKI
and
NGĀTI HEI
and
NGĀTI MARU
and
NGĀTI PAOA
and
NGĀTI POROU KI HAURAKI
and
NGĀTI PŪKENGA
and
NGĀTI RĀHIRI TUMUTUMU
and
NGĀTI TAMATERĀ
and
NGĀTI TARA TOKANUI
and
NGAATI WHANAUNGA
and
TE PATUKIRIKIRI

and

THE CROWN

PARE HAURAKI COLLECTIVE REDRESS DEED

[] 2017

PURPOSE OF THIS DEED

This deed relates to the 12 Iwi of Hauraki, being –

- Hako;
- Ngāi Tai ki Tāmaki;
- Ngāti Hei;
- Ngāti Maru;
- Ngāti Paoa;
- Ngāti Porou ki Hauraki;
- Ngāti Pūkenga;
- Ngāti Rāhiri Tumutumu;
- Ngāti Tamaterā;
- Ngāti Tara Tokanui;
- Ngaati Whanaunga; and
- Te Patukirikiri.

This deed –

- specifies the collective Treaty redress in respect of the shared interests of the Iwi of Hauraki for historical claims to be provided to the Pare Hauraki collective entities that have been approved to receive the collective Treaty redress; and
- provides for other relevant matters; and
- is conditional upon the Pare Hauraki collective redress legislation coming into force.

Each Iwi of Hauraki also receives iwi-specific Treaty redress in a deed of settlement of its historical claims between the iwi and the Crown.

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PARE HAURAKI COLLECTIVE REDRESS DEED

PARE HAURAKI COLLECTIVE REDRESS DEED

THIS DEED is made between

HAKO

and

NGĀI TAI KI TĀMAKI

and

NGĀTI HEI

and

NGĀTI MARU

and

NGĀTI PAOA

and

NGĀTI POROU KI HAURAKI

and

NGĀTI PŪKENGA

and

NGĀTI RĀHIRI TUMUTUMU

and

NGĀTI TAMATERĀ

and

NGĀTI TARA TOKANUI

and

NGAATI WHANAUNGA

and

TE PATUKIRIKIRI

and

THE CROWN

1 BACKGROUND

NEGOTIATIONS, RATIFICATION AND APPROVALS

- 1.1 Since December 2009, there have been negotiations between the Iwi of Hauraki and the Crown towards a collective Treaty redress deed that will provide Treaty redress for historical claims to the 12 Iwi of Hauraki and the Pare Hauraki collective entities to be established by the Hauraki Collective.
- 1.2 The attachments contain a map showing the area within which redress is being provided to the Iwi of Hauraki. This map does not describe an area of interest and only encompasses part of the Iwi of Hauraki rōhe.
- 1.3 On 1 October 2010, the Iwi of Hauraki and the Crown signed a Framework Agreement that included offers to negotiate redress with respect to –
 - 1.3.1 Te Aroha and Moehau maunga;
 - 1.3.2 motu;
 - 1.3.3 recognition of Tikapa Moana – Te Tai Tamahine / Te Tai Tamawahine;
 - 1.3.4 co-governance of Whenua Kura/ public conservation land;
 - 1.3.5 co-governance of the Waihou and Piako Rivers which includes the Ohinemuri River;
 - 1.3.6 relationship agreements and protocols with Ministers including Energy and Resources, Arts Culture and Heritage and Fisheries;
 - 1.3.7 place name changes;
 - 1.3.8 financial redress;
 - 1.3.9 Athenree, Kauaeranga, Tairua, Waihou, Whangamata and Whangapoua Crown Forest Licensed land, including accumulated rentals;
 - 1.3.10 commercial redress properties including Landcorp Farms, Office of Treaty Settlements' landbank properties and sale and leaseback properties;
 - 1.3.11 rights of first refusal.
- 1.4 On 22 July 2011, each Iwi of Hauraki signed Agreement in Principle Equivalent which expanded upon the Hauraki Collective Framework Agreement and also included offers to negotiate redress with respect to –
 - 1.4.1 the rivers and waterways of the Coromandel Peninsula;
 - 1.4.2 Whangamarino system, and Mangatawhiri and Mangatangi streams;

PARE HAURAKI COLLECTIVE REDRESS DEED

1: BACKGROUND

- 1.4.3 formal Conservation Board and Hauraki Gulf Forum representation;
 - 1.4.4 a relationship agreement issued by the Minister of Conservation;
 - 1.4.5 Te Reo Māori me ona tikanga;
 - 1.4.6 enhancement and return of all forms of taonga;
 - 1.4.7 rights relating to nationalised and non-nationalised Crown-owned minerals and information held by the Crown or Crown Research Institutes on these minerals;
 - 1.4.8 preferential access to concessions in relation to Whenua Kura/ conservation land, Tikapa Moana – Te Tai Tamahine / Te Tai Tamawahine;
 - 1.4.9 opportunities to enter into formal arrangements with the Crown over its proposed commercial arrangements in the Hauraki region, particularly in relation to infrastructure development and investment; and
 - 1.4.10 other mechanisms with the Pare Hauraki collective that may recognise the interests of Hauraki iwi in marine and freshwater fisheries in Tikapa Moana – Te Tai Tamahine / Te Tai Tamawahine, and the waterways of Tikapa Moana.
- 1.5 The Agreement in Principle Equivalent also included offers to negotiate iwi specific redress with respect to –
- 1.5.1 the properties and areas of ancestral, spiritual and cultural significance to each iwi including transfers, overlay classifications, statutory acknowledgements and deeds of recognition;
 - 1.5.2 other cultural redress including relationship agreements, access to cultural resources, nohoanga and other arrangements and place name changes; and
 - 1.5.3 commercial redress for each iwi.
- 1.6 On [[] December 2016], the Iwi of Hauraki and the Crown initialled a collective redress deed.
- 1.7 [The Iwi of Hauraki have, since the initialling of this deed, by a majority of –
- 1.7.1 the percentage for each Iwi of Hauraki specified next to the iwi below, ratified this deed; and
 - 1.7.2 the percentage for each iwi specified next to the iwi below, approved the Pare Hauraki collective entities each receiving its collective redress:

PARE HAURAKI COLLECTIVE REDRESS DEED

1: BACKGROUND

Iwi	Deed ratification percentage	Pare Hauraki collective entities approved
Hako		
Ngāi Tai ki Tāmaki		
Ngāti Hei		
Ngāti Maru		
Ngāti Paoa		
Ngāti Porou ki Hauraki		
Ngāti Pūkenga		
Ngāti Rāhiri Tumutumu		
Ngāti Tamaterā		
Ngāti Tara Tokanui		
Ngaati Whanaunga		
Te Patukirikiri		

1.8 [Each majority referred to in clause 1.7 is of valid votes cast in a ballot.]

1.9 [The Crown is satisfied –

1.9.1 with the ratification and approvals of each Iwi of Hauraki referred to in clauses 1.7.1 and 1.7.2; and

1.9.2 the Pare Hauraki collective cultural entity is appropriate to receive the cultural redress on behalf of the Iwi of Hauraki; and

1.9.3 the Pare Hauraki collective commercial entity and Pare Hauraki collective CFL land entity are appropriate to receive the commercial redress on behalf of the Iwi of Hauraki.]

PARE HAURAKI COLLECTIVE REDRESS DEED

1: BACKGROUND

ESTABLISHMENT OF PARE HAURAKI COLLECTIVE ENTITIES

- 1.10 The parties acknowledge that the Iwi of Hauraki must establish the Pare Hauraki collective entities to receive the redress on behalf of the Iwi of Hauraki.

AGREEMENT

- 1.11 Therefore, the parties –

1.11.1 wish to enter, in good faith, into this deed; and

1.11.2 agree and acknowledge as provided in this deed.

2 IMPLEMENTATION AND EFFECT ON VARIOUS STATUTES

RESUMPTIVE ENACTMENTS

- 2.1 The Pare Hauraki collective redress legislation will, on the terms provided by sections 11 to 13 of the draft collective bill, –
- 2.1.1 provide that the legislation referred to in section 11(2) of the draft collective bill does not apply to:
- (a) a cultural redress property; or
 - (b) a commercial redress property; or
 - (c) the licensed land; or
 - (d) a purchased deferred selection property if settlement of the property has been effected; or
 - (e) an early release commercial redress property; or
 - (f) any RFR land transferred under a contract formed under section 167 of the draft collective bill; or
 - (g) to the extent that legislation still applies, any second right of refusal land transferred under a contract formed under section 202 of the draft collective bill; or
 - (h) for the benefit of Pare Hauraki collective entities; and
- 2.1.2 require any resumptive memorial to be removed from a certificate of title to, or a computer register for, the properties listed in clause 2.1.1.

PERPETUITIES AND AVAILABILITY OF DEED

- 2.2 The Pare Hauraki collective redress legislation will, on the terms provided by sections 14 and 18 of the draft collective bill –
- 2.2.1 provide that the rule against perpetuities and the Perpetuities Act 1964 does not –
- (a) apply to a document entered into to give effect to this deed if the application of that rule or the provisions of that Act would otherwise make the document, or a right conferred by the document, invalid or ineffective; or
 - (b) prescribe or restrict the period during which the Pare Hauraki Cultural Redress Trust, being the trust to be established under clause 16.7.2, may exist or hold or deal with property; and

PARE HAURAKI COLLECTIVE REDRESS DEED

2: IMPLEMENTATION AND EFFECT ON VARIOUS STATUTES

- 2.2.2 require the Secretary for Justice to make copies of this deed publicly available.

APPLICATION OF TE TURE WHENUA MAORI ACT 1993

- 2.3 The Pare Hauraki collective redress legislation will, on the terms provided by section 15 of the draft collective bill, provide that no judicial body has jurisdiction in respect of any matter that arises from the application of Te Ture Whenua Maori Act 1993 if the matter relates to –
- 2.3.1 a property vested or transferred under the Pare Hauraki collective redress legislation or this deed while it remains in the ownership of the recipient entity or subsidiary; or
 - 2.3.2 RFR land (other than land subject to an application under section 41(e) of the Public Works Act 1981); or
 - 2.3.3 former RFR land transferred to the Pare Hauraki collective commercial entity (or to a person to whom the rights of the entity under the RFR have been assigned) while it remains in the ownership of that person or subsidiary; or
 - 2.3.4 former second right of refusal land transferred to the Pare Hauraki collective commercial entity (or to a person to whom the rights of the entity under the RFR have been assigned) while it remains in the ownership of that person or a subsidiary; or
 - 2.3.5 any governance arrangement over land or property described in clauses 2.3.1 to 2.3.3; or
 - 2.3.6 action taken by a Pare Hauraki collective entity in relation to land or property (other than a cultural redress property) described in clause 2.3.1 to 2.3.3) before the transfer of the land to it.

3 PARE HAURAKI COLLECTIVE CULTURAL ENTITY

Overview

- 3.1 The Pare Hauraki collective cultural entity will be the representative collective body of the Iwi of Hauraki in relation to natural resource matters.
- 3.2 As detailed in parts 5 to 10, the Pare Hauraki collective cultural entity will be responsible for (among other things):
 - 3.2.1 promoting the restoration, maintenance and enhancement of natural resources in the Pare Hauraki world;
 - 3.2.2 promoting a culture of natural resource partnership in the Pare Hauraki world;
 - 3.2.3 promoting an integrated approach to natural resource governance and management across the Pare Hauraki world; and
 - 3.2.4 promoting the social, cultural and economic wellbeing of the people of Pare Hauraki.
- 3.3 To avoid doubt, nothing in this deed will replace any obligations to, or rights of, any of the Iwi of Hauraki.

Co-governance, partnerships and relationships

- 3.4 The Pare Hauraki collective redress legislation will provide that the Pare Hauraki collective cultural entity will:
 - 3.4.1 appoint six members to the Waihou, Piako, Coromandel Catchment Authority, a co-governance entity which provides governance, oversight and direction in relation to the waterways of the Waihou, Piako and Coromandel catchments;
 - 3.4.2 be involved in the governance and management of the upper and lower Mangatangi River, the Mangatawhiri Stream and the Whangamarino catchments, being the area within the black line on the map in part 9 of the attachments; and
 - 3.4.3 appoint three members to the Moehau Tupuna Maunga Board to administer the Moehau Tupuna Maunga Reserve.
- 3.5 The Pare Hauraki collective cultural entity will also have partnerships and relationships with relevant Ministers and Ministries, including, under this deed, the Department of Conservation, Ministry of Primary Industries and the Ministry of Business, Innovation and Employment.

PARE HAURAKI COLLECTIVE REDRESS DEED

3: PARE HAURAKI COLLECTIVE CULTURAL ENTITY

Future negotiations

- 3.6 The Pare Hauraki collective cultural entity will lead, on behalf of the Iwi of Hauraki, the future negotiations with the Crown:
- 3.6.1 for cultural redress, over the following water bodies:
- (a) Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine:
 - (b) Tauranga Moana; and
- 3.6.2 as part of the review of the scheme which applies to the gathering, use and possession of materials for customary purposes from dead marine mammals to provide for the rights of the Iwi of Hauraki.

Crown contribution

- 3.7 On the settlement date, the Crown will pay the amount of \$500,000 to the Pare Hauraki collective cultural entity as a contribution to the establishment and other costs of the entity.

4 STATEMENT OF PARE HAURAKI WORLD VIEW AND PROGRAMME FOR A CULTURE OF NATURAL RESOURCE PARTNERSHIP

I. STATEMENT OF PARE HAURAKI WORLD VIEW

Ngā puke ki Hauraki ka tārehua
E mihi ana ki te whenua, e tangi ana ki te tāngata
Ko Moehau ki waho, ko Te Aroha ki uta
Ko Tīkapa te moana, ko Hauraki te whenua

The peaks of Hauraki lie shrouded in mist
We revere the land and lament the people
Moehau stands afar while Te Aroha stands within
Tīkapa is the sea and Hauraki the land

Haere mai ki Hauraki he aute te awhea¹

- 4.1 The spiritually and culturally symbiotic relationship between the people of Pare Hauraki and our world, mai Matakana ki Matakana, is founded on whakapapa links between the cosmos, gods, nature and people. Our world is a holistic unified whole consisting of spiritual and physical interrelated realities.
- 4.2 Our relationships are first and foremost genealogical. All things, animate and inanimate, have a whakapapa derived from Papatūānuku and her children. The works of nature – mountains, seas, rivers, wetlands, animals and plants – are either kin, ancestors, or founding parents. From our cosmogony, all things have their own mauri and personality requiring respect and protection.
- 4.3 Whanaungatanga lies at the core of our relationships. Te taura tāngata is the cord of kinship that binds us together through whakapapa. It is a braid that is tightly woven, tying in all its strands. It is unbroken and infinite.
- 4.4 Our traditional imagery holds that the Coromandel Peninsula is the jagged barb of the great fish of Māui (Te Tara o te Ika a Māui), while the peaks of Te Aroha and Moehau form the prow and stern of the waka.
- 4.5 Important tribal taniwha and tupua dwell in the ancestral seas and rivers which are also the location of continued spiritual and cultural traditions and practices maintained over the many centuries.
- 4.6 The extensive coastline, mountainous backbone, rivers and wetlands make for a resource rich and environmentally diverse rohe, desired by many over the centuries. The taonga tuku iho bestowed upon us include taonga species, fertile soils, hua

¹ “Come to Hauraki, where the aute is not disturbed.”

The aute plant (paper mulberry), brought to Hauraki from Hawaiiki, is an iconic symbol representing the fertility and mana of Hauraki, and this pepeha is a metaphor of peace and endurance.

PARE HAURAKI COLLECTIVE REDRESS DEED

4: STATEMENT OF PARE HAURAKI WORLD VIEW AND PROGRAMME FOR A CULTURE OF NATURAL RESOURCE PARTNERSHIP

whenua, hua rākau, kai moana, kai awa, kai ngahere, timber, textile flora and minerals.

- 4.7 The seas and foreshores of Tīkapa Moana to Mahurangi and Te Tai Tamahine / Te Tai Tamawahine to Ngā Kuri a Whārei provide nourishment and spiritual sustenance as well as the maritime pathways to settlements throughout our rohe. The maunga of Hauraki are uplifted places of revered events in time and space. There, resides the tangible history of Pare Hauraki. Many rivers flow from the maunga into the plains and sea and provide sustenance and inland pathways. To the west includes the Waihou, Ōhinemuri and Piako, and to the east Whitianga and Tairua. The flood plain of the Piako and Waihou rivers was an inland sprawling sea and wetland rich with flora and fauna.
- 4.8 These places are revered in tribal histories and mōteatea.
- 4.9 Our traditions hold that our people have dwelt in Hauraki for over a millennium.
- 4.10 Our tūpuna inhabited a rohe temperate and generally frost free which enabled the cultivation of kūmara, taro and yam from Polynesia. The broadleaf and podocarp forests include miro, hinau, tawa and karaka whose fruit were harvested. The rohe abounds in bird life with many wetland species and thousands of migratory waders, which congregate on the coastal mudflats in season. The seas and foreshores teem with marine mammals, fish and shellfish, the wetlands and rivers with birds, tuna and fish, as well as berries and medicinal and textile flora. Much of the rohe was thickly forested, with the rivers and water bodies giving access to great stands of kahikātea and kauri.
- 4.11 These resources were subject to access and use rights as an essential part of kaitiakitanga. Some species would be generally available, while other species would be regulated by rangatira in order to ensure sustenance and sustainability for the tribe.
- 4.12 The richness and diversity of this natural world is reflected by the many peoples who have belonged to the land and seas of Hauraki over the centuries. Thus, there are some 6,000 recorded historical sites, 700 of which are pā. It is generally accepted that there are more than double that number. More numerous again are the wāhi tapu cared for by Pare Hauraki as kaitiaki of these revered places.
- 4.13 The traditions of Pare Hauraki are of a highly mobile and maritime nation. Movement throughout tribal areas was influenced by areas of occupation and the location and availability of natural resources. Seasonal harvesting, especially kai moana, involved travel and occupation over very wide areas of Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine and their motu. Preservation of birds and fish was an important activity, together with tending of extensive cultivations.
- 4.14 The mana and wellbeing of Pare Hauraki was displayed in many ways - the quantity and quality of kai; waka and whare; tools/weaponry personal ornaments (including tahanga, tōhora, and huruhuru); and korowai and whāriki etc.
- 4.15 Many whānau, hapū and iwi have dwelled in Hauraki over the centuries. The complexity and diversity of Pare Hauraki is reflected in the separate waves of tribal migration - various waka, tōhora and taniwha traditions, together with histories of

PARE HAURAKI COLLECTIVE REDRESS DEED

4: STATEMENT OF PARE HAURAKI WORLD VIEW AND PROGRAMME FOR A CULTURE OF NATURAL RESOURCE PARTNERSHIP

conflict, intermarriage and tuku whenua. Tribal entities have come and gone, with the 12 Iwi of Hauraki now comprising:

- 4.15.1 Hako;
- 4.15.2 Ngāi Tai ki Tāmaki;
- 4.15.3 Ngāti Hei;
- 4.15.4 Ngāti Maru;
- 4.15.5 Ngāti Paoa;
- 4.15.6 Ngāti Porou ki Hauraki;
- 4.15.7 Ngāti Pūkenga;
- 4.15.8 Ngāti Rāhiri Tumutumu;
- 4.15.9 Ngāti Tamaterā;
- 4.15.10 Ngāti Tara Tokanui;
- 4.15.11 Ngaati Whanaunga; and
- 4.15.12 Te Patukirikiri.

II. PROGRAMME FOR A CULTURE OF NATURAL RESOURCE PARTNERSHIP

He ahakoa au ka mate, tēna te aute i whakatokia e au ki te taha o te whare²

- 4.16 A culture of natural resource partnership is a set of values, principles, attitudes, traditions, modes of behaviour and ways of life based on:
- 4.16.1 full respect for Te Tiriti o Waitangi;
 - 4.16.2 full respect for the tino rangatiratanga of the Iwi of Hauraki;
 - 4.16.3 full respect for the intergenerational kaitiaki responsibilities of the Iwi of Hauraki;
 - 4.16.4 full respect for the kawanatanga of government;
 - 4.16.5 promoting inclusive and mutual outcomes for all people;
 - 4.16.6 commitment to partnerships based on good faith, integrity, honesty, transparency and accountability;

² "Although I may be killed, there is an aute tree which I have planted by the side of my house."

This Pare Hauraki ohaaki has several layers of meaning, one of which is putting in place the necessary steps to safeguard the future.

PARE HAURAKI COLLECTIVE REDRESS DEED

4: STATEMENT OF PARE HAURAKI WORLD VIEW AND PROGRAMME FOR A CULTURE OF NATURAL RESOURCE PARTNERSHIP

- 4.16.7 recognition that the health and wellbeing of the people is integrally linked to the health and wellness of the Pare Hauraki world;
- 4.16.8 recognition that the whenua binds all people together; and
fostered by enabling regional and national regimes conducive to natural resource partnerships.
- 4.17 Effective implementation of the Programme requires mobilisation of commitments or resources by Pare Hauraki and government (central and local).
- 4.18 Commitments to a whole of world approach that:
 - 4.18.1 produces holistic and vertically integrated policy and planning instruments; and
 - 4.18.2 encourages cross-boundary initiatives.
- 4.19 Maintenance, enhancement and restoration of natural resources, including to:
 - 4.19.1 reinvigorate the health and viability of the Pare Hauraki world;
 - 4.19.2 restore the mana of the ancestral maunga, moana, awa and whenua and other taonga of the Iwi of Hauraki;
 - 4.19.3 prioritise reversing the environmental degradation of the ancestral moana and awa of the Iwi of Hauraki;
 - 4.19.4 ensure the moana and awa are capable of sustaining the cultural traditions, practices and uses of the Iwi of Hauraki;
 - 4.19.5 sustain and enhance the mauri of the Pare Hauraki world and all its parts;
 - 4.19.6 protect the wāhi tapu of the Iwi of Hauraki;
 - 4.19.7 provide governance and management to protect and enhance environmental, economic, social, spiritual and cultural wellbeing for the Iwi of Hauraki; and
 - 4.19.8 promote environmental enhancement.
- 4.20 Processes to effect meaningful natural resource partnerships, including to:
 - 4.20.1 restore the mana of the Iwi of Hauraki to make decisions in relation to the Pare Hauraki world and exercise kaitiakitanga;
 - 4.20.2 promote iwi as decision makers along with government (central and local) on the use, development, management and protection of all natural resources;
 - 4.20.3 commit to enabling and supporting te reo Pare Hauraki me ona tikanga;

PARE HAURAKI COLLECTIVE REDRESS DEED

4: STATEMENT OF PARE HAURAKI WORLD VIEW AND PROGRAMME FOR A CULTURE OF NATURAL RESOURCE PARTNERSHIP

- 4.20.4 provide for cultural use and access by the Iwi of Hauraki to their ancestral maunga, moana, awa and other taonga;
- 4.20.5 strengthen processes for early engagement on issues; and
- 4.20.6 ensure working together between the Iwi of Hauraki and government (central and local) using shared knowledge, information and expertise.

5 CULTURAL REDRESS: WAIHOU, PIAKO, COROMANDEL CATCHMENT CO-GOVERNANCE REGIME

[Note: The Waihou, Piako and Coromandel Catchment Authority redress is subject to agreement on the following matters by the Crown and the Hauraki Collective:

- a process for making decisions on content recommended by the [name to be agreed] for the upper Waihou, Piako section of the Waihou, Piako and Coromandel Catchment Plan and for making any amendments to that content once included in the Plan
- a process for determining the area in which the [name to be agreed] will operate]

WAIHOU, PIAKO, COROMANDEL CATCHMENT AUTHORITY

- 5.1 The settlement legislation will provide for the establishment of a statutory authority called the Waihou, Piako, Coromandel Catchment Authority ("**Waihou, Piako, Coromandel Catchment Authority**").

PURPOSE OF WAIHOU, PIAKO, COROMANDEL CATCHMENT AUTHORITY

- 5.2 The purpose of the Waihou, Piako, Coromandel Catchment Authority will be to provide co-governance, oversight and direction for the taonga that is the waterways of the Coromandel, Waihou and Piako catchments (shown as the areas edged respectively yellow, purple and blue in the map in part 10 of the attachments), in order to promote:
- 5.2.1 a co-ordinated and intergenerational approach;
 - 5.2.2 the Pare Hauraki World View and Programme for a Culture of Natural Resource Partnership;
 - 5.2.3 the values of Ngāti Hauā;
 - 5.2.4 the values of Ngāti Hinerangi;
 - 5.2.5 the values of Raukawa; and
 - 5.2.6 community aspirations for the Waihou, Piako and Coromandel catchments.

FUNCTIONS OF WAIHOU, PIAKO, COROMANDEL CATCHMENT AUTHORITY

- 5.3 The principal function of the Waihou, Piako, Coromandel Catchment Authority will be to achieve its purpose.
- 5.4 The specific functions of the Waihou, Piako, Coromandel Catchment Authority will be to:
- 5.4.1 promote the integrated and co-ordinated management of the waterways of the Waihou, Piako and Coromandel catchments;
 - 5.4.2 prepare and approve the Waihou, Piako and Coromandel Catchments Plan for the waterways of the Waihou, Piako and Coromandel catchments;

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- 5.4.3 maintain a register of accredited hearing commissioners;
 - 5.4.4 engage with, seek advice from and provide advice to the local authorities and government departments regarding the health and wellbeing of the waterways of the Waihou, Piako and Coromandel catchments;
 - 5.4.5 engage with, seek advice from and provide advice to iwi with interests in the waterways of the Waihou, Piako and Coromandel catchments regarding the health and wellbeing of those waterways;
 - 5.4.6 provide oversight of the monitoring of activities in and the state of the waterways of the Waihou, Piako and Coromandel catchments and the extent to which the purpose of the Waihou, Piako, Coromandel Catchment Authority is being achieved including through the implementation and effectiveness of the Waihou, Piako and Coromandel Catchments Plan;
 - 5.4.7 engage with stakeholders, including liaising with the community in relation to the waterways of the Waihou, Piako and Coromandel catchments; and
 - 5.4.8 take any other action that is considered by the Waihou, Piako, Coromandel Catchment Authority to be appropriate to achieve its purpose.
- 5.5 The Waihou, Piako, Coromandel Catchment Authority will operate in a manner that recognises and respects that different iwi have interests in different parts of the waterways of the Waihou, Piako and Coromandel catchments.
- 5.6 The Waihou, Piako, Coromandel Catchment Authority will have those powers that are reasonably necessary for it to carry out its functions.

MEMBERSHIP OF WAIHOU, PIAKO, COROMANDEL CATCHMENT AUTHORITY

- 5.7 The Waihou, Piako, Coromandel Catchment Authority will consist of 14 members as follows:
- 5.7.1 six members appointed by the Pare Hauraki collective cultural entity;
 - 5.7.2 one member appointed by [Name yet to be agreed];
 - 5.7.3 two members appointed by the Waikato Regional Council;
 - 5.7.4 two members appointed by the Thames Coromandel District Council;
 - 5.7.5 one member appointed by the Hauraki District Council;
 - 5.7.6 one member appointed by the Matamata-Piako District Council; and
 - 5.7.7 one member appointed by the South Waikato District Council;
- (each organisation being an "**appointer**").
- 5.8 The members of the Waihou, Piako, Coromandel Catchment Authority must:
- 5.8.1 act in a manner so as to achieve the purpose of the Waihou, Piako, Coromandel Catchment Authority; and

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5.8.2 subject to clause 5.8.1, comply with any terms of appointment issued by the relevant appointer.

Appointment of members and term

5.9 Members of the Waihou, Piako, Coromandel Catchment Authority:

5.9.1 are appointed for a term of three years commencing on the 60th day after the polling day for the most recent triennial local government election, unless the member resigns or, in the case of a local government appointer, is discharged by an appointer during that term; and

5.9.2 may be reappointed.

5.10 The initial term will:

5.10.1 commence on the settlement date; and

5.10.2 cease on the 59th day after the polling day for the next triennial local government election following the commencement date.

5.11 In appointing members to the Waihou, Piako, Coromandel Catchment Authority, appointers must be satisfied that the person has the mana, skills, knowledge or experience to:

5.11.1 participate effectively in the Waihou, Piako, Coromandel Catchment Authority; and

5.11.2 contribute to the achievement of the purpose of the Waihou, Piako, Coromandel Catchment Authority.

Discharge and resignation of members

5.12 A member may resign by written notice to that person's appointer and the Waihou, Piako, Coromandel Catchment Authority.

5.13 An appointer that is a local authority may discharge a member from the Waihou, Piako, Coromandel Catchment Authority by written notice to that person and to the Waihou, Piako, Coromandel Catchment Authority.

5.14 Where there is a vacancy on the Waihou, Piako, Coromandel Catchment Authority:

5.14.1 the relevant appointer will fill that vacancy, for the residual period of the relevant term, as soon as is reasonably practicable; and

5.14.2 any such vacancy does not prevent the Waihou, Piako, Coromandel Catchment Authority from continuing to discharge its functions.

CO-CHAIRS

5.15 At the first meeting two members of the Waihou, Piako, Coromandel Catchment Authority must be appointed as Co-Chairs as follows:

5.15.1 one Co-Chair must be appointed by the seven members appointed under clauses 5.7.1 and 5.7.2; and

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5.15.2 the other Co-Chair must be appointed by the seven members appointed under clauses 5.7.3 to 5.7.7.

5.16 The Co-Chairs:

5.16.1 are appointed for a term of three years unless a Co-Chair resigns or, in the case of a local government appointer, is discharged as a member during that term; and

5.16.2 may be reappointed.

COMMITTEES

5.17 The Waihou, Piako, Coromandel Catchment Authority will have the power to:

5.17.1 appoint subcommittees of the Waihou, Piako, Coromandel Catchment Authority; and

5.17.2 delegate to those subcommittees any functions of the Waihou, Piako, Coromandel Catchment Authority except final approval of the Waihou, Piako and Coromandel Catchments Plan.

5.18 The Waihou, Piako, Coromandel Catchment Authority will consider, in particular, whether subcommittees should be appointed to address matters relating to:

5.18.1 the waterways of the Coromandel catchment; and

5.18.2 the waterways of the Waihou and Piako catchments.

MEETINGS OF WAIHOU, PIAKO, COROMANDEL CATCHMENT AUTHORITY

5.19 The Waihou, Piako, Coromandel Catchment Authority will:

5.19.1 at its first meeting agree a schedule of meetings that will allow the Authority to achieve its purpose and properly discharge its functions; and

5.19.2 review that meeting schedule on a regular basis to ensure that it is sufficient to allow the Authority to achieve its purpose and properly discharge its functions.

5.20 The quorum for a meeting of the Waihou, Piako, Coromandel Catchment Authority is not less than eight members, made up as follows:

5.20.1 at least four of the members appointed under clauses 5.7.1 or 5.7.2;

5.20.2 at least four of the members appointed under clauses 5.7.3 to 5.7.7; and

5.20.3 one of the Co-Chairs as one of those eight members.

5.21 The Waihou, Piako, Coromandel Catchment Authority must hold its first meeting no later than two months after settlement date.

5.22 Members may be accompanied at any meeting by technical or other advisors.

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- 5.23 Unless otherwise agreed, members will meet their own expenses in relation to their participation in the Waihou, Piako, Coromandel Catchment Authority.

DECISION-MAKING

- 5.24 The decisions of the Waihou, Piako, Coromandel Catchment Authority must be made by vote at a meeting.

- 5.25 When making a decision the Waihou, Piako, Coromandel Catchment Authority:

5.25.1 will strive to achieve consensus among its members; but

5.25.2 if, in the opinion of the Co-Chairs (or one of them if only one Co-Chair is present), consensus is not practicable after reasonable discussion, then except as provided for in clause 5.26, a decision of the Authority may be made by a majority of those members present and voting at the meeting.

- 5.26 Where, under clause 5.25.2, in the opinion of the Co-Chairs (or one of them if only one Co-Chair is present) consensus is not practicable after reasonable discussion in relation to the following decisions, those decisions may be made with the agreement of 70% or more of the members present and voting at a meeting:

5.26.1 the decision to approve the Waihou, Piako and Coromandel Catchments Plan; and

5.26.2 the approval of the Waihou, Piako, Coromandel Catchment Authority's annual budget.

- 5.27 To avoid doubt, a member of the Waihou, Piako, Coromandel Catchment Authority may not appoint a proxy.

- 5.28 The Co-Chairs may vote on any matter but do not have casting votes.

- 5.29 The members must approach decision-making in a manner that:

5.29.1 is consistent with, and reflects, the purpose of the Waihou, Piako, Coromandel Catchment Authority; and

5.29.2 acknowledges, as appropriate, the interests of iwi and local authorities in particular parts of the area covered by the Waihou, Piako, Coromandel Catchment Authority.

APPOINTMENT OF COMMISSIONERS

Commissioner register

- 5.30 There will be a register of accredited hearing commissioners developed and maintained for applications for resource consent as outlined in clause 5.35 relating to the waterways of the Waihou, Piako and Coromandel catchments ("**commissioner register**").

- 5.31 The commissioner register will be developed and agreed by the Waihou, Piako, Coromandel Catchment Authority in consultation with [Name yet to be agreed].

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- 5.32 The Waihou, Piako, Coromandel Catchment Authority will maintain the commissioner register.
- 5.33 The commissioner register must include appointees with:
- 5.33.1 skills, knowledge and experience across a range of disciplines, including tikanga Māori; and
 - 5.33.2 knowledge of the waterways of the Waihou, Piako and Coromandel catchments.
- 5.34 The commissioner register:
- 5.34.1 must be kept under review to ensure that it remains fit for purpose; and
 - 5.34.2 may be amended by the parties referred to in clause 5.31.

Appointment of hearing commissioners

- 5.35 Clauses 5.36 to 5.41 apply to any application for a resource consent received that:
- 5.35.1 is notified, or is to be notified;
 - 5.35.2 is to:
 - (a) take, use, dam, or divert water in the waterways of the Waihou, Piako and Coromandel catchments;
 - (b) make a point source discharge to the waterways of the Waihou, Piako and Coromandel catchments;
 - (c) undertake any activity listed in section 13 of the Resource Management Act 1991 in relation to the waterways of the Coromandel Waihou, Piako and Coromandel catchments; or
 - (d) undertake any other activity where the relevant authority decides it is appropriate for those clauses to apply.
- 5.36 Where a relevant local authority receives an application for resource consent referred to in clause 5.35, that local authority must, as soon as is practicable, inform the Waihou, Piako, Coromandel Catchment Authority if the application has been or is to be notified and that a hearing may be held.
- 5.37 When appointing hearing commissioners in relation to an application for resource consent referred to in clause 5.35, a relevant local authority:
- 5.37.1 must have particular regard to the commissioner register;
 - 5.37.2 may make appointments from the commissioner register; and
 - 5.37.3 must be guided by the need for the hearing panel to reflect an appropriate range of skills, knowledge and experience, including:

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- (a) tikanga Māori; and
 - (b) knowledge of the waterways of the Waihou, Piako and Coromandel catchments.
- 5.38 The final decision on the appointment of hearing commissioners will be made by the relevant local authority:
 - 5.38.1 in accordance with the Resource Management Act 1991; and
 - 5.38.2 in consultation with the Waihou, Piako, Coromandel Catchment Authority.
- 5.39 The Waihou, Piako, Coromandel Catchment Authority and a relevant local authority may agree in writing that for a specified period:
 - 5.39.1 the arrangement for the appointment of commissioners set out in clauses 5.35 to 5.38 will not apply; and
 - 5.39.2 an alternative arrangement for the appointment of commissioners will apply.
- 5.40 The parties record that:
 - 5.40.1 Iwi of Hauraki and Waikato Regional Council, Thames Coromandel District Council, Hauraki District Council, Matamata-Piako District Council and South Waikato District Council have entered into a Memorandum of Understanding in relation to the appointment of commissioners in the form set out in the [documents schedule]; and
 - 5.40.2 that Memorandum is an arrangement for the purposes of clause 5.39.2.
- 5.41 To avoid doubt, persons on the commissioner register who are members of an iwi with interests in the waterways of the Waihou, Piako and Coromandel catchments are not automatically disqualified from appointment as a hearing commissioner by virtue only of that person being a member of that iwi.

PROVISION OF APPLICATIONS FOR RESOURCE CONSENT

- 5.42 The relevant local authorities will provide to the Waihou, Piako, Coromandel Catchment Authority, the Pare Hauraki collective cultural entity, Ngāti Hauā, Ngāti Hinerangi and Raukawa governance entities an electronic summary, and if requested a copy, of applications for resource consent for activities that:
 - 5.42.1 are within (in whole or in part) the waterways of the Waihou, Piako and Coromandel catchments; and
 - 5.42.2 may affect the waterways in those catchments.
- 5.43 In order to facilitate an efficient process for the provision of that information, the Waihou, Piako, Coromandel Catchment Authority will provide to the relevant local authorities guidelines on the nature of information to be provided under clause 5.42, including:
 - 5.43.1 the form of the electronic summary or copy to be provided;

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- 5.43.2 whether there are certain types of applications for which a summary does not have to be provided;
 - 5.43.3 the timing of the provision of the summary or copy of applications to the Authority; and
 - 5.43.4 whether clause 5.42 can be suspended and achieved through another agreed approach.
- 5.44 To avoid doubt, the purpose of clause 5.42 is to provide information to the Waihou, Piako, Coromandel Catchment Authority but not to create any other rights or obligations.

PROCEDURES AND STANDING ORDERS

- 5.45 The Waihou, Piako, Coromandel Catchment Authority must at its first meeting adopt a set of procedures and standing orders for the operation of the Authority, and may amend those procedures and standing orders from time to time.
- 5.46 The procedures and standing orders of the Waihou, Piako, Coromandel Catchment Authority must not contravene:
- 5.46.1 this collective redress deed; or
 - 5.46.2 tikanga Māori.
- 5.47 A member of the Waihou, Piako, Coromandel Catchment Authority must comply with the procedures and standing orders as amended from time to time by the Authority.
- 5.48 Subject to any inconsistency with the provisions of this deed, the Local Government Official Information and Meetings Act 1987 will apply to the Waihou, Piako, Coromandel Catchment Authority.

DECLARATION OF INTEREST

- 5.49 A member of the Waihou, Piako, Coromandel Catchment Authority is required to disclose any actual or potential interest in a matter to the Authority.
- 5.50 The Waihou, Piako, Coromandel Catchment Authority will maintain an interests register and will record any actual or potential interests that are disclosed to the Authority.
- 5.51 A member of the Waihou, Piako, Coromandel Catchment Authority is not precluded from discussing or voting on a matter:
- 5.51.1 merely because the member is affiliated to an iwi or hapū that has customary interests over the waterways of the Waihou, Piako and Coromandel catchments;
 - 5.51.2 merely because the member is a member of a local authority; or
 - 5.51.3 merely because the economic, social, cultural, and spiritual values of any iwi or hapū and their relationships with the Waihou, Piako, Coromandel Catchment Authority are advanced by or reflected in:

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- (a) the subject matter under consideration;
 - (b) any decision by or recommendation of the Authority; or
 - (c) participation in the matter by the member.
- 5.52 To avoid doubt, the affiliation of a member of the Waihou, Piako, Coromandel Catchment Authority to an iwi or hapū that has customary interests in area covered the Authority is not an interest that must be disclosed or recorded under clauses 5.49 and 5.50.
- 5.53 A member of the Waihou, Piako, Coromandel Catchment Authority has an actual or potential interest in a matter if he or she:
- 5.53.1 may derive a financial benefit from the matter;
 - 5.53.2 is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter;
 - 5.53.3 may have a financial interest in a person to whom the matter relates;
 - 5.53.4 is a partner, director, officer, Board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - 5.53.5 is otherwise directly or indirectly interested in the matter.
- 5.54 However, a person is not interested in a matter if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities as a member of the Waihou, Piako, Coromandel Catchment Authority.
- 5.55 In clauses 5.49 to 5.54 “**matter**” means:
- 5.55.1 the Waihou, Piako, Coromandel Catchment Authority performance of its functions or exercise of its powers; or
 - 5.55.2 an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by the Waihou, Piako, Coromandel Catchment Authority.

REPORTING AND REVIEW

- 5.56 The Waihou, Piako, Coromandel Catchment Authority must report annually to the appointers.
- 5.57 The report must:
- 5.57.1 describe the activities of the Waihou, Piako, Coromandel Catchment Authority including the use of the Hearing Commissioner register over the preceding 12 months;
 - 5.57.2 explain how these activities are relevant to the Authority's purpose and functions;
 - 5.57.3 include the report referred to in clause 5.67;

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- 5.57.4 describe any matters of particular relevance to particular iwi, including Ngāti Hauā, Ngāti Hinerangi and Raukawa, and how the Authority has addressed those matters; and
- 5.57.5 include any other matters that the Authority considers to be relevant.
- 5.58 The appointers will, on the date that is three years after the Waihou, Piako, Coromandel Catchment Authority's first meeting, commence a review of the performance of the Authority including on the extent to which:
- 5.58.1 the purpose of the Authority is being achieved; and
- 5.58.2 the functions of the Authority are being exercised effectively.
- 5.59 The appointers may undertake any subsequent review of the performance of the Waihou, Piako, Coromandel Catchment Authority at any time agreed between all of the appointers.
- 5.60 Following any review of the Waihou, Piako, Coromandel Catchment Authority under clauses 5.58 or 5.59, the appointers may make recommendations to the Authority on any relevant matter arising out of that review.

LIABILITY

- 5.61 A member of the Waihou, Piako, Coromandel Catchment Authority is not liable for anything done or omitted to be done in good faith in the performance of the Authority's functions or the exercise of its powers.

ADMINISTRATIVE ASSISTANCE AND ADVICE TO AUTHORITY

- 5.62 The Waikato Regional Council will provide administrative and technical support to the Waihou, Piako, Coromandel Catchment Authority.
- 5.63 The Waihou, Piako, Coromandel Catchment Authority may make a reasonable request of any relevant government department or local authority to provide information and attend meetings of the Authority.
- 5.64 A government department or local authority will comply with such a request where it is reasonably practicable to do so.

CROWN CONTRIBUTION TO COSTS

- 5.65 On settlement date, the Crown will provide \$500,000 to Waikato Regional Council as a one-off contribution to the costs of the establishment and activities of the Waihou, Piako, Coromandel Catchment Authority.
- 5.66 The Waikato Regional Council must, on behalf of the Waihou, Piako, Coromandel Catchment Authority:
- 5.66.1 hold the fund referred to in clause 5.65 and any other funds belonging to the Authority;
- 5.66.2 account for those funds in a separate and identifiable manner; and
- 5.66.3 spend those funds only in accordance with the directions of the Authority.

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- 5.67 The Waikato Regional Council must report to the Waihou, Piako, Coromandel Catchment Authority on an annual basis confirming that the Council has complied with clause 5.65.
- 5.68 The Waihou, Piako, Coromandel Catchment Authority may direct the Waikato Regional Council to have an audit undertaken of its compliance with clause 5.66, and the Council must, as soon as practicable, comply with that direction and provide a report from an auditor to the Authority.

POTENTIAL LOCAL GOVERNMENT REORGANISATION

- 5.69 The parties acknowledge that in the event of future local government reorganisation, the local government membership of the Waihou, Piako, Coromandel Catchment Authority may have to be reconfigured to reflect that reorganisation.
- 5.70 Any reconfiguration in accordance with clause 5.68 may only be undertaken following engagement with the Pare Hauraki collective cultural entity, the governance entities for Ngāti Hauā, Ngāti Hinerangi and Raukawa and the Waihou, Piako, Coromandel Catchment Authority.

[NAME YET TO BE AGREED]

- 5.71 The [Name yet to be agreed] will be established in relation to the waterways of the upper Waihou and Piako catchments.

Functions

- 5.72 The functions of [Name yet to be agreed] will be to:
- 5.72.1 draft the upper Waihou and Piako section of the Waihou, Piako and Coromandel Catchments Plan for the decision of the Waihou, Piako, Coromandel Catchment Authority (in accordance with the process in clause 5.101);
 - 5.72.2 propose names of hearings commissioners for the upper Waihou and Piako section of the hearing commissioners register referred to in clause 5.30;
 - 5.72.3 recommend to the Waihou, Piako, Coromandel Catchment Authority public engagement on issues relating to the upper Waihou and Piako waterways;
 - 5.72.4 participate in community and agency engagement on issues relating to the upper Waihou and Piako waterways; and
 - 5.72.5 recommend to the Waihou, Piako, and Coromandel Catchment Authority monitoring measures for the upper catchment to form part of any catchment wide approach to monitoring.

Membership

- 5.73 [Name yet to be agreed] will consist of 8 members as follows:
- 5.73.1 one member appointed by Ngāti Hauā;
 - 5.73.2 one member appointed by Ngāti Hinerangi;

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- 5.73.3 one member appointed by Raukawa;
- 5.73.4 one member appointed by the Pare Hauraki collective cultural entity;
- 5.73.5 one member appointed by the Waikato Regional Council;
- 5.73.6 one member appointed by the Matamata-Piako District Council; and
- 5.73.7 one member appointed by the Hauraki District Council; and
- 5.73.8 one member appointed by the South Waikato District Council.

Appointment of member of Waihou, Piako, Coromandel Catchment Authority

- 5.74 Clause 5.75 applies to the appointment of the member of the Waihou, Piako, Coromandel Catchment Authority under clause 5.7.2.
- 5.75 The members of [Name yet to be agreed] appointed by the governance entities for Ngati Haua, Ngati Hinerangi and Raukawa will jointly make the appointment referred to in clause 5.7.2.
- 5.76 To avoid doubt, the member of the Waihou, Piako, Coromandel Catchment Authority appointed under clause 5.7.2 will act in the interests of that Authority rather than in the interests of the appointers referred to in clause 5.7.2.

WAIHOU, PIAKO AND COROMANDEL CATCHMENTS PLAN

Purpose of Waihou, Piako and Coromandel Catchments Plan

- 5.77 The Waihou, Piako, Coromandel Catchment Authority must prepare and approve the Waihou, Piako and Coromandel Catchments Plan in accordance with the process set out in this part.
- 5.78 The purpose of the Waihou, Piako and Coromandel Catchments Plan is to:
 - 5.78.1 identify the issues, vision, objectives and desired outcomes for the waterways of the Waihou, Piako and Coromandel catchments;
 - 5.78.2 provide direction to decision-makers where decisions are being made in relation to the waterways of the Waihou, Piako and Coromandel catchments; and
 - 5.78.3 convey the Waihou, Piako, Coromandel Catchment Authority's aspirations for the health and wellbeing of the waterways of the Waihou, Piako and Coromandel catchments.
- 5.79 The Waihou, Piako and Coromandel Catchments Plan may also address other matters that the Waihou, Piako, Coromandel Catchment Authority considers relevant to the purpose of that plan, such as (without limitation):
 - 5.79.1 kaitiakitanga and mātauranga Māori;
 - 5.79.2 mahinga kai and cultural activities;
 - 5.79.3 water quality;

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- 5.79.4 water quantity;
 - 5.79.5 the effects of land-based activities on the waterways;
 - 5.79.6 environmental health and biodiversity; and
 - 5.79.7 gravel extraction.
- 5.80 To avoid doubt, the Waihou, Piako and Coromandel Catchments Plan may not contain rules or other methods.

Plan may form part of regional policy statement

- 5.81 The Waihou, Piako, Coromandel Catchment Authority may specify in the Waihou, Piako and Coromandel Catchments Plan that the plan (as a whole or in specified parts) may form part of the Waikato regional policy statement.
- 5.82 The Waikato Regional Council may in its discretion, and at any time after the approval of the Waihou, Piako and Coromandel Catchments Plan, determine that the plan (in whole or in part) is to form part of the Waikato regional policy statement ("**direct incorporation**").
- 5.83 The determination under clause 5.82:
- 5.83.1 may only provide for direct incorporation of the Waihou, Piako and Coromandel Catchments Plan (or parts of the plan) if provision is made for that approach under clause 5.81; and
 - 5.83.2 must be made by the full Waikato Regional Council rather than a committee of that council.
- 5.84 The Waikato Regional Council must consider and may make a new determination as to direct incorporation on each occasion when:
- 5.84.1 a new Waihou, Piako and Coromandel Catchments Plan is approved; or
 - 5.84.2 a review of the regional policy statement is commenced.
- 5.85 In considering whether to make a determination under clause 5.82 the Waikato Regional Council must consider:
- 5.85.1 whether the Waihou, Piako and Coromandel Catchments Plan, or the specified parts of the plan, are in a suitable form for direct incorporation;
 - 5.85.2 the purpose of the Resource Management Act 1991;
 - 5.85.3 the purpose of the Waihou, Piako and Coromandel Catchments Plan; and
 - 5.85.4 any submissions made on the draft Waihou, Piako and Coromandel Catchments Plan in relation to direct incorporation.
- 5.85A Before making a determination under clause 5.82, the Waikato Regional Council may refer specified parts of the Waihou, Piako and Coromandel Catchment Plan to the Waihou, Piako, Coromandel Catchment Authority for reconsideration along with the reasons for the reference.

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- 5.85B The Waihou, Piako, Coromandel Catchment Authority must consider any reference under clause 5.85B, and may at its discretion:
- 5.85B.1 provide the Waikato Regional Council with any amendments to the Waihou, Piako and Coromandel Catchments Plan; or
 - 5.85B.2 advise the Waikato Regional Council that there will be no further amendments to the Waihou, Piako and Coromandel Catchments Plan.
- 5.85C If the Waihou, Piako, Coromandel Catchment Authority intends to make an amendment under clause 5.85B.2, the Authority is not required to comply with any of the provisions relating to notification of or submissions on the draft plan.
- 5.85D Once the amendment is made, the Authority must give public notice of the amended plan in accordance with clause 5.112 and comply with clauses 5.113 to 5.115.
- 5.86 If a determination is made under clause 5.82, the Waikato Regional Council must, as soon as practicable after the determination is made, provide for direct incorporation of the Waihou, Piako and Coromandel Catchments Plan into the Waikato regional policy statement and publicly notify the change within 5 working days.
- 5.87 From the date of direct incorporation, to the extent that there is an inconsistency between a provision in the Waihou, Piako and Coromandel Catchments Plan and any existing provision in the Waikato regional policy statement, the provision in the Waihou, Piako and Coromandel Catchments Plan prevails.
- 5.88 To avoid doubt:
- 5.88.1 clauses 5.81 to 5.87 apply only to those parts of the Waihou, Piako and Coromandel Catchments Plan that are relevant to the Resource Management Act 1991;
 - 5.88.2 Schedule 1 of the Resource Management Act 1991 does not apply to direct incorporation;
 - 5.88.3 direct incorporation does not require a local authority to initiate a review, variation or change to any Resource Management Act 1991 planning document; and
 - 5.88.4 following direct incorporation:
 - (a) the component of the regional policy statement containing the Waihou, Piako and Coromandel Catchments Plan may not be amended, including through a Schedule 1 Resource Management Act 1991 process, unless an such amendment is necessary to give effect to an obligation on the local authority under section 55 of the Resource Management Act 1991;
 - (b) where any provision of the regional policy statement (containing the Waihou, Piako and Coromandel Catchments Plan) conflicts with any other provision in the regional policy statement that was included to give effect to an obligation on the local authority under section 55 of the Resource Management Act 1991, the latter provision will prevail;

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- (c) where there is a conflict of the type referred to in clause 5.88.4(b), the Waikato Regional Council will, following consultation with the Waihou, Piako, Coromandel Catchment Authority, amend the regional policy statement to remove that conflict; and
- (d) to avoid doubt, the Waikato Regional Council may, in accordance with and at the times specified in clause 5.84, determine that the Waihou, Piako and Coromandel Catchments Plan will no longer be directly incorporated into the Waikato regional policy statement.

Effect on Resource Management Act 1991 planning documents

- 5.89 Clauses 5.90 to 5.95 apply where the Waihou, Piako and Coromandel Catchments Plan is not incorporated as part of Waikato regional policy statement under clause 5.82.
- 5.90 In preparing, reviewing, varying or changing a relevant Resource Management Act 1991 planning document, a local authority must recognise and provide for the vision, objectives and desired outcomes in the Waihou, Piako and Coromandel Catchments Plan.
- 5.91 The obligation under clause 5.90 applies each time that a local authority prepares, reviews, varies or changes a relevant Resource Management Act 1991 planning document.
- 5.92 To avoid doubt, the obligation under clause 5.90 does not require a local authority to initiate a review, variation or change to a relevant Resource Management Act 1991 planning document, but applies on the next review, variation or change initiated by that local authority.
- 5.93 Clause 5.94 applies until such time as:
 - 5.93.1 the plan forms part of Waikato regional policy statement; or
 - 5.93.2 the obligation under clause 5.90 is complied with.
- 5.94 Where a consent authority is processing or making a decision on an application for resource consent in relation to the waterways of the Waihou, Piako or Coromandel catchments, that consent authority must have regard to the Waihou, Piako and Coromandel Catchments Plan.
- 5.95 To avoid doubt, the requirements and procedures in Part 5 and Schedule 1 of the Resource Management Act 1991 apply to the obligation under clause 5.90.

Effect on fisheries processes

- 5.96 The parties acknowledge that:
 - 5.96.1 the Waihou, Piako and Coromandel Catchments Plan will influence relevant Resource Management Act 1991 planning documents in the manner set out in clauses 5.81 to 5.95; and
 - 5.96.2 under section 11 of the Fisheries Act 1996, the Minister for Primary Industries is required to have regard to regional policy statements and

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regional plans under the Resource Management Act 1991, before setting or varying any sustainability measures.

Effect on Local Government Acts

- 5.97 A local authority must have particular regard to the Waihou, Piako and Coromandel Catchments Plan when making any decision under the Local Government Act 2002 or Local Government Act 1974 in relation to the waterways of the Waihou, Piako and Coromandel catchments.

Compliance with obligations

- 5.98 The obligations under clauses 5.81 to 5.97 apply:
- 5.98.1 where the exercise of those functions, duties or powers relate to the waterways of the Waihou, Piako and Coromandel catchments;
 - 5.98.2 to the extent that the Waihou, Piako and Coromandel Catchments Plan is relevant to the matters covered by the relevant legislation; and
 - 5.98.3 in a manner that is consistent with the purpose of the relevant legislation.

PREPARATION OF PLAN

- 5.99 The following process applies to the preparation of the Waihou, Piako and Coromandel Catchments Plan :
- 5.99.1 the Waihou, Piako, Coromandel Catchment Authority must commence the preparation of the draft Waihou, Piako and Coromandel Catchments Plan not later than three months after the first meeting of the Authority;
 - 5.99.2 the Waihou, Piako, Coromandel Catchment Authority must meet to discuss the process for the preparation of the draft Waihou, Piako and Coromandel Catchments Plan;
 - 5.99.3 the Waihou, Piako, Coromandel Catchment Authority must consult and seek comment from appropriate persons and organisations on the preparation of the draft Waihou, Piako and Coromandel Catchments Plan; and
 - 5.99.4 the Waihou, Piako, Coromandel Catchment Authority may prepare and approve the Waihou, Piako and Coromandel Catchments Plan in parts and in stages, including addressing different geographical areas in different stages.
- 5.100 In preparing a draft Waihou, Piako and Coromandel Catchments Plan:
- 5.100.1 the Waihou, Piako, Coromandel Catchment Authority must ensure that the contents of the draft Waihou, Piako and Coromandel Catchments Plan are consistent with the purpose of that plan;
 - 5.100.2 the Waihou, Piako, Coromandel Catchment Authority must:
 - (a) consider and document the potential alternatives to, and the potential benefits and costs of, the matters provided for in the draft Waihou, Piako and Coromandel Catchments Plan; and

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- (b) consider other relevant statutory and non-statutory documents that are relevant to the waterways of the Coromandel, Waihou and Piako catchments; and

5.100.3 compliance with the obligations under clause 5.100.2 only requires a level of detail that is proportionate to the nature and contents of the plan.

Upper Waihou and Piako catchment provisions

5.101 The following provisions apply to the preparation of the content of the draft Waihou, Piako and Coromandel Catchments Plan that applies specifically to the upper Waihou and Piako catchments ("**upper Waihou and Piako plan section**"):

5.101.1 [Name yet to be agreed] must draft the upper Waihou and Piako plan section;

5.101.2 [Name yet to be agreed] must recommend the upper Waihou and Piako plan section to the Waihou, Piako, Coromandel Catchment Authority for its decision;

5.101.3 if the Waihou, Piako, Coromandel Catchment Authority does not approve any part of the content recommended by [Name yet to be agreed]:

- (a) the Waihou, Piako, Coromandel Catchment Authority must return the content to [Name yet to be agreed] to consider the matters of disagreement;
- (b) [Name yet to be agreed] must consider those matters of disagreement, and provide a response and revised content to the Waihou, Piako, Coromandel Catchment Authority;
- (c) [PROVISION TO BE DISCUSSED on process for plan finalisation]

5.101.4 the process referred to in clauses 5.101.2 and 5.101.3 will also apply, with necessary modification, to any proposed amendments under clause 5.110 as a result of submissions to the upper Waihou and Piako plan section;

5.101.5 to avoid doubt:

- (a) the Waihou, Piako, Coromandel Catchment Authority may prepare content for the plan that has broader application including over the upper Waihou and Piako catchments [PROVISION TO BE DISCUSSED on changes to the content recommended by [Name yet to be agreed]];
- (b) the Waihou, Piako, Coromandel Catchment Authority will have responsibility for overall integration of the plan components;
- (c) the Waihou, Piako, Coromandel Catchment Authority will consult with [Name yet to be agreed] in relation to amendments to the upper Waihou and Piako plan section that are necessary to achieve integration; and
- (d) the Waihou, Piako, Coromandel Catchment Authority has the responsibility for final approval of the plan.

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NOTIFICATION OF AND SUBMISSIONS ON PLAN

- 5.102 When the Waihou, Piako, Coromandel Catchment Authority has prepared the draft Waihou, Piako and Coromandel Catchments Plan (in whole or in part), the Authority:
- 5.102.1 must notify it by giving public notice;
 - 5.102.2 may notify it by any other means that the Authority considers appropriate; and
 - 5.102.3 must ensure that the draft Waihou, Piako and Coromandel Catchments Plan and any other document that the considers relevant are made available for public inspection.
- 5.103 The component of the Waihou, Piako and Coromandel Catchments Plan relating to the waterways of the Waihou and Piako catchments must be:
- 5.103.1 notified not later than 18 months after the date of the first meeting of the Waihou, Piako, Coromandel Catchment Authority; and
 - 5.103.2 approved not later than three years after the date of the first meeting of the Waihou, Piako, Coromandel Catchment Authority.
- 5.104 The component of the Waihou, Piako and Coromandel Catchments Plan relating to the waterways of the Coromandel catchment must be:
- 5.104.1 notified not later than three years after the date of the first meeting of the Waihou, Piako, Coromandel Catchment Authority; and
 - 5.104.2 approved not later than five years after the date of the first meeting of the Waihou, Piako, Coromandel Catchment Authority.
- 5.105 The public notice must:
- 5.105.1 state that the draft Waihou, Piako and Coromandel Catchments Plan is available for inspection at the places and times specified in the notice;
 - 5.105.2 state that persons or organisations may lodge submissions on the draft Waihou, Piako and Coromandel Catchments Plan:
 - (a) with the Waihou, Piako, Coromandel Catchment Authority;
 - (b) at the place specified in the notice; and
 - (c) before the date specified in the notice;
 - 5.105.3 state that persons may, in particular, include in a submission comments on the potential for the Waihou, Piako and Coromandel Catchments Plan to be directly incorporated (in whole or in part) into the regional policy statement; and
 - 5.105.4 invite persons to state in their submission whether they wish to be heard in person in support of their submission.

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- 5.106 The date for the lodging submissions specified in the notice must be at least 60 working days after the date of the publication of the notice.
- 5.107 Any person or organisation may make a written or electronic submission on the draft Waihou, Piako and Coromandel Catchments Plan in the manner described in the public notice.
- 5.108 The Waihou, Piako, Coromandel Catchment Authority must prepare and make publicly available prior to the hearing a summary of submissions report.
- 5.109 Where a person requests to be heard in support of their submission the Waihou, Piako, Coromandel Catchment Authority:
- 5.109.1 must give at least 30 working days' notice to the person of the date and time at which they will be heard;
 - 5.109.2 must appoint a hearings panel and hold a hearing for that purpose;
 - 5.109.3 may appoint a subcommittee as the hearing panel.

APPROVAL OF PLAN

- 5.110 The Waihou, Piako, Coromandel Catchment Authority must consider any written or oral submissions, to the extent that those submissions relate to matters that are within the scope of the Waihou, Piako and Coromandel Catchments Plan, and may amend that draft plan.
- 5.111 The Waihou, Piako, Coromandel Catchment Authority must then approve the Waihou, Piako and Coromandel Catchments Plan.
- 5.112 The Waihou, Piako, Coromandel Catchment Authority:
- 5.112.1 must notify the approved Waihou, Piako and Coromandel Catchments Plan by giving public notice; and
 - 5.112.2 may notify the Waihou, Piako and Coromandel Catchments Plan by any other means that the Authority considers appropriate.
- 5.113 The public notice must state:
- 5.113.1 where the Waihou, Piako and Coromandel Catchments Plan is available for public inspection; and
 - 5.113.2 when the Waihou, Piako and Coromandel Catchments Plan comes into force.
- 5.114 At the time of giving public notice of the approved plan, the Waihou, Piako, Coromandel Catchment Authority must also make available a decision report that identifies how submissions were considered and dealt with by the Authority.
- 5.115 The plan:
- 5.115.1 comes into force on the date specified in the public notice; and

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- 5.115.2 must be available for public inspection at the local offices of the relevant local authorities and government departments.
- 5.116 The Waihou, Piako, Coromandel Catchment Authority may request from the local authorities and government departments reports or advice to assist in the preparation or approval of the Waihou, Piako and Coromandel Catchments Plan.
- 5.117 The relevant local authority and a government department must comply with such a request where it is reasonably practicable to do so.

REVIEW OF AND AMENDMENTS TO THE PLAN

- 5.118 The Waihou, Piako, Coromandel Catchment Authority must commence a review of the Waihou, Piako and Coromandel Catchments Plan:
- 5.118.1 not later than 10 years after the approval of the first Waihou, Piako and Coromandel Catchments Plan; and
- 5.118.2 not later than 10 years after the completion of the previous review.
- 5.119 If the Waihou, Piako, Coromandel Catchment Authority considers as a result of a review that the Waihou, Piako and Coromandel Catchments Plan should be amended in a material manner, the amendment must be prepared and approved in accordance with clauses 5.99 to 5.114 (modified as necessary).
- 5.120 If the Waihou, Piako, Coromandel Catchment Authority considers the Waihou, Piako and Coromandel Catchments Plan should be amended in a manner that is of minor effect, the amendment may be approved under clause 5.111, and the Authority must comply with clauses 5.112 to 5.115.

FRESHWATER VALUES AND OBJECTIVES

- 5.121 The contents of the Waihou, Piako and Coromandel Catchments Plan do not pre-determine the identification of freshwater values or objectives that are to be set by local authorities and their communities under the National Policy Statement for Freshwater Management 2014.

APPLICATION OF STATUTORY FRAMEWORKS

- 5.122 Except as otherwise provided for, nothing in part 5 affects the application of, or decision-making under, statutory frameworks.

DEFINITIONS

- 5.123 In this Part:
- 5.123.1 "**accredited**" in relation to hearing commissioners has the same meaning as in section 2 of the Resource Management Act 1991;
- 5.123.2 "**Authority**" means the Waihou, Piako, Coromandel Catchment Authority;
- 5.123.3 "**direct incorporation**" has the meaning set out in clause 5.82;
- 5.123.4 "**plan**" means the Waihou, Piako and Coromandel Catchments Plan;

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- 5.123.5 "**relevant RMA planning document**" means a regional policy statement, regional plan or district plan; and
- 5.123.6 "**waterway**" means any river, stream, lake or other natural fresh water body, and includes any tributary flowing into such water bodies.

6 CULTURAL REDRESS: MOEHAU AND TE AROHA

MOEHAU

6.1 To avoid doubt:

6.1.1 clauses 7.4 to 7.6.1 apply to clauses 6.2 to 6.95; and

6.1.2 clause 7.6.2 applies to clauses 6.2 to 6.95 to the extent it is not already covered by those clauses.

Vesting of Moehau Tupuna Maunga

6.2 The Pare Hauraki collective redress legislation will, on the terms provided by sections 25 and 29 of the draft collective bill—

6.2.1 on the settlement date, vest in the Pare Hauraki collective cultural entity the fee simple estate in Moehau Tupuna Maunga (being Part Moehau Ecological Area and Part Coromandel Forest Park) as a government purpose (Pare Hauraki whenua kura and ecological sanctuary) reserve; and

6.2.2 provide that despite that vesting, improvements in or on Moehau Tupuna Maunga do not vest (see clause 6.95); and

6.2.3 provide that Moehau Tupuna Maunga ceases to be part of the Hauraki Gulf Marine Park, being the park established under section 33 of the Hauraki Gulf Marine Park Act 2000.

Creation of Moehau Tupuna Maunga Reserve

6.3 The Pare Hauraki collective redress legislation will, on the terms provided by sections 19 to 27 of the draft collective bill, provide for the creation of a reserve comprising the following:

6.3.1 Moehau Area:

6.3.2 Moehau Tupuna Maunga:

6.3.3 Urarima.

6.4 The reserve will be –

6.4.1 classified as a government purpose (Pare Hauraki whenua kura and ecological sanctuary) reserve subject to section 22 of the Reserves Act 1977; and

6.4.2 named Moehau Tupuna Maunga Reserve; and

6.4.3 created after the vesting of Moehau Tupuna Maunga under clause 6.2 and of Urarima in the trustees of the Ngāti Tamaterā Treaty Settlement Trust, being the trust of that name established by trust deed dated 22 October 2013.

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- 6.5 The Pare Hauraki collective redress legislation will, on the terms provided by sections 20 of the draft collective bill, provide that –
- 6.5.1 the Moehau Area remains in Crown ownership and part of the Hauraki Gulf Marine Park; and
- 6.5.2 Moehau Tupuna Maunga is to be managed as if it were part of that Park.

Purposes of the Reserve

- 6.6 The purposes of the Moehau Tupuna Maunga Reserve (**Reserve**, in this part 6) will be to:
- 6.6.1 protect and enhance the spiritual, cultural, ancestral, customary and historical relationship between the Iwi of Hauraki and Moehau, being a tupuna maunga and taonga of the utmost significance, and such protection and enhancement will include:
- (a) the protection of wāhi tapu areas; and
- (b) respecting and preserving mātauranga Māori, including allowing mātauranga Māori to inform decision-making;
- 6.6.2 protect the significant ecological values at the Reserve, including as a nationally-significant site for indigenous species, including through:
- (a) the maintenance of viable local and national populations of indigenous species; and
- (b) the eradication of introduced plants and animals (as far as possible); and
- 6.6.3 establish and maintain an integrated management regime in relation to the Reserve that is both effective and efficient.

Administering body for Reserve

- 6.7 A joint body will be established to be the administering body for the Reserve.
- 6.8 The joint body will be called the Moehau Tupuna Maunga Board.
- 6.9 The Moehau Tupuna Maunga Board (**Board**, in this part 6) will be the administering body for the Reserve for the purposes of the Reserves Act 1977, and that Act will apply as if the Reserve were vested in the Board under section 26 of the Act.

Membership

- 6.10 The Board will consist of up to six members as follows:
- 6.10.1 three members appointed by the Pare Hauraki collective cultural entity; and
- 6.10.2 up to three members appointed by the Director-General who are to be senior staff members from the Department of Conservation (one member being a Tier 3 (or higher) manager).

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Purposes of Board

- 6.11 The purpose of the Board is to achieve the purposes of the Reserve.
- 6.12 The members of the Board must act in a manner so as to achieve the purposes of the Board.
- 6.13 In achieving its purposes the Board must operate in a manner that is consistent with tikanga Māori.

Functions

- 6.14 The principal function of the Board is to achieve the purposes of the Reserve.
- 6.15 The specific functions of the Board are to:
 - 6.15.1 provide governance and direction for the Reserve;
 - 6.15.2 approve a plan for the Reserve under section 41 of the Reserves Act 1977; and
 - 6.15.3 take any other action that is considered by the Board to be appropriate to achieve its purposes.

Reserve management plan

- 6.16 Subject to clauses 6.17 and 6.20, a management plan for the Reserve will be prepared and approved in accordance with section 41 of the Reserves Act 1977.
- 6.17 The Pare Hauraki collective cultural entity and the Director-General must:
 - 6.17.1 jointly prepare the draft management plan; and
 - 6.17.2 prior to commencing the preparation of the draft management plan engage with the Board on:
 - (a) the principal matters to be addressed in the management plan; and
 - (b) the manner in which those matters should be addressed.
- 6.18 The Pare Hauraki collective cultural entity and the Director-General must:
 - 6.18.1 identify interested parties who should be given an opportunity to comment on the draft management plan;
 - 6.18.2 identify appropriate methods for giving public notice of the draft management plan; and
 - 6.18.3 seek comment on the draft management plan:
 - (a) from the interested parties identified under clause 6.18.1; and
 - (b) through the public notice; and
 - 6.18.4 provide all comments received to the Board for its consideration.

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- 6.19 The management plan will be approved by the Board.
- 6.20 At the time that the management plan is approved, the Board will make available a decision report setting out:
- 6.20.1 a summary of any comments made on the draft management plan; and
 - 6.20.2 how the comments were considered and dealt with by the Board.

Annual Moehau operational plan

- 6.21 Each financial year, an annual Moehau operational plan will provide a framework in which:
- 6.21.1 the Director-General will carry out operational management of the reserve for that year;
 - 6.21.2 the Pare Hauraki collective cultural entity may at its discretion, carry out that management with the Director-General.
- 6.22 The draft annual Moehau operational plan will be prepared by the Director-General and the Pare Hauraki collective cultural entity.
- 6.23 The draft annual Moehau operational plan must then be submitted to the Board.
- 6.24 The Board:
- 6.24.1 must consider the draft annual Moehau operational plan;
 - 6.24.2 must determine whether the draft annual Moehau operational plan is consistent with the reserve management plan (once a reserve management plan has been approved); and
 - 6.24.3 must:
 - (a) accept the draft annual Moehau operational plan in its entirety as being consistent with the reserve management plan; or
 - (b) accept part of the draft annual Moehau operational plan as being consistent with the reserve management plan; or
 - (c) reject the draft annual Moehau operational plan in its entirety.
- 6.25 The Board must notify the Director-General and the Pare Hauraki collective cultural entity of its decision as soon as practicable after receiving the draft Moehau annual operational plan.
- 6.26 If the Board accepts only part of, or rejects, the draft annual Moehau operational plan, the Board must:
- 6.26.1 notify the Director-General and the Pare Hauraki collective cultural entity of those parts of the plan that are accepted;
 - 6.26.2 refer those parts of the plan that are not accepted to the Director-General and the Pare Hauraki collective cultural entity; and

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- 6.26.3 meet with the Director-General and the Pare Hauraki collective cultural entity to discuss the Board's decision.
- 6.27 The Board, the Director-General and the Pare Hauraki collective cultural entity will work together in an open and constructive manner to seek to resolve any disagreement over the draft annual Moehau operational plan with the intention that the whole plan will be in a form acceptable to the Board as soon as possible.
- 6.28 To avoid doubt, from the commencement of the relevant year, the Director-General and the Pare Hauraki collective cultural entity:
- 6.28.1 must, subject to the case of the Pare Hauraki collective cultural entity to clause 6.21.2, undertake management activities in accordance with the accepted parts of the operational plan;
- 6.28.2 may, in emergency circumstances, undertake such other management activities considered necessary for the safety of the Reserve or any person or group in the Reserve; and
- 6.28.3 each retain discretion over how their respective funds are spent in order to implement the annual Moehau operational plan.
- 6.29 At the end of each year the Director-General and the Pare Hauraki collective cultural entity will report to the Board on the implementation of the annual Moehau operational plan for that year
- 6.30 The annual Moehau operational plan must include the following information to the extent that information is relevant to the particular year:
- 6.30.1 information relating to the matters specified in clause 6.31 for the financial year to which the plan relates;
- 6.30.2 relevant financial information contained in the Department's long-term forecasts for all activities and functions relating to Moehau where such information is available;
- 6.30.3 relevant financial information held by the Pare Hauraki collective cultural entity for all activities and functions the entity elected to carry out and where such information is available; and
- 6.30.4 any other information agreed by the Board and the Director-General, including any information relating to future financial years.
- 6.31 The matters referred to in clause 6.30 include:
- 6.31.1 the sources and extent of funding for operational management;
- 6.31.2 restoration work;
- 6.31.3 capital projects;
- 6.31.4 strategic, policy, and planning projects;
- 6.31.5 maintenance and operational projects;

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- 6.31.6 levels of service to be provided by the Department and, subject to clause 6.21.2, the Pare Hauraki collective cultural entity;
 - 6.31.7 pest control;
 - 6.31.8 species management;
 - 6.31.9 contracts for management or maintenance activities;
 - 6.31.10 facilitation of authorised cultural activities;
 - 6.31.11 educational programmes;
 - 6.31.12 Pare Hauraki collective cultural entity programmes, including specific iwi or hapū programmes;
 - 6.31.13 opportunities for the Iwi of Hauraki to carry out or participate in any of the activities described in clauses 6.31.2 to 6.31.12.
- 6.32 The Pare Hauraki collective cultural entity and the Director-General must agree the first annual Moehau operational plan for the financial year commencing on the first day of July after settlement date.

Operational management

- 6.33 The operational management of the Reserve will be undertaken by the Director-General and, subject to clause 6.21.2, the Pare Hauraki collective cultural entity.
- 6.34 The Director-General must carry out this responsibility in accordance with:
- 6.34.1 the current annual Moehau operational plan;
 - 6.34.2 any standard operating procedures agreed between the Board and the Director-General; and
 - 6.34.3 any delegations made to the Director-General.

Authorised cultural activities

- 6.35 In clauses 6.36 to 6.45 the phrase “**authorised cultural activity**” means:
- 6.35.1 the erection of pou or flags;
 - 6.35.2 an instructional or educational hīkoi;
 - 6.35.3 a wānanga, hui, or pōwhiri;
 - 6.35.4 an event that celebrates the maunga as a distinguishing and land-shaping feature of Pare Hauraki;
 - 6.35.5 an event that marks or celebrates the history of Aotearoa, Waitangi Day, or Matariki;
 - 6.35.6 an event that celebrates the ancestral association, or exercises the mana, of the Iwi of Hauraki with or over the maunga;

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- 6.35.7 an event that celebrates the Pare Hauraki collective in its collective capacity;
 - 6.35.8 an event that celebrates an iwi or a hapū of Hauraki; or
 - 6.35.9 any other activity in relation to which provisions are included in the reserve management plan.
- 6.36 The Pare Hauraki collective cultural entity may grant approval to one or more members of Pare Hauraki to carry out an authorised cultural activity on the Reserve.
- 6.37 If requested by an Iwi of Hauraki, the Pare Hauraki collective cultural entity must devolve to that iwi the decision-making role under clause 6.36 in respect of authorising cultural activities for members of that Iwi.
- 6.38 The Pare Hauraki collective cultural entity must notify the Board if it devolves its decision-making responsibility in accordance with clause 6.37.
- 6.39 The Pare Hauraki collective cultural entity, or an Iwi where there has been a devolution in accordance with clause 6.37, may grant approval for the carrying out of an authorised cultural activity only if it is satisfied that:
- 6.39.1 the activity will comply with the relevant provisions of the reserve management plan (where such a plan has been approved), including any terms and conditions prescribed in the plan in respect of the activity or an activity of that type;
 - 6.39.2 the activity will comply with the Resource Management Act 1991;
 - 6.39.3 any permission or other authorisation required under the Reserves Act 1977 from any person other than the Board in respect of the carrying out of the activity has been obtained;
 - 6.39.4 the activity will comply with any other relevant enactment (for example, the Heritage New Zealand Pouhere Taonga Act 2014, the Burial and Cremation Act 1964, and the Health Act 1956); and
 - 6.39.5 any adverse effects on the ecological integrity or viability of indigenous species are no more than minor.
- 6.40 If the authorised cultural activity involves the erection of one or more structures, the Pare Hauraki collective cultural entity, or an Iwi where there has been a devolution in accordance with clause 6.37, must also be satisfied that each structure is:
- 6.40.1 temporary or moveable; or
 - 6.40.2 if permanent, symbolic only (for example, pou whenua or waharoa) or necessary for cultural interpretation (for example, a sign explaining a feature or an event).
- 6.41 The Pare Hauraki collective cultural entity, or an Iwi where there has been a devolution in accordance with clause 6.37, must give the Board notice, in writing or electronically, of an activity for which it has granted approval under clause 6.39.
- 6.42 Notice must be given as soon as possible, but no fewer than five working days before the day, or the first day, on which the activity is to be carried out.

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- 6.43 If the Pare Hauraki collective cultural entity, or an Iwi where there has been a devolution in accordance with clause 6.37, grants approval to carry out an authorised cultural activity under this section, any permission or other authorisation required under the Reserves Act 1977 from the Board in respect of the carrying out of the activity is deemed to have been granted.
- 6.44 The reserve management plan will prescribe any terms and conditions in relation to members of the Iwi of Hauraki carrying out an authorised cultural activity.
- 6.45 To avoid doubt, terms or conditions must not be of such a nature that an activity is effectively prohibited.

Other cultural activities in the reserve management plan

- 6.46 The Board must, in its engagement under clause 6.18, consider the inclusion in the reserve management plan:
- 6.46.1 provisions relating to members of the Iwi of Hauraki carrying out other activities for cultural or spiritual purposes on the Reserve; and
 - 6.46.2 provisions that recognise the members' traditional or ancestral ties to those lands.
- 6.47 Without limiting clause 6.46, the Board must consider the inclusion of provisions in the reserve management plan that relate to members of the Iwi of Hauraki carrying out the following activities:
- 6.47.1 limited land cultivation for harvesting of plants for traditional use;
 - 6.47.2 limited collection of other materials;
 - 6.47.3 archaeological activities;
 - 6.47.4 hāngi;
 - 6.47.5 tribally significant tangihanga or hari tūpāpaku and the interment of tūpāpaku;
 - 6.47.6 spiritual and cultural traditional practices and ceremonies other than those described in clauses 6.35.1 to 6.35.8;
 - 6.47.7 nohoanga;
 - 6.47.8 the permanent erection of symbolic structures and signage; and
 - 6.47.9 activities that exercise kaitiakitanga or manaakitanga, including overnight occupation.
- 6.48 In considering the matter referred to in clause 6.47.1, the Board must consider:
- 6.48.1 whether such cultivation or harvesting will have no more than minor adverse effects on the ecological integrity of the Moehau Tūpuna Maunga Reserve or the viability of indigenous species; and

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- 6.48.2 the use of any ecologically and culturally appropriate plant materials naturally occurring in the area.
- 6.49 If, after such consideration, provisions are included in the reserve management plan relating to the carrying out of an activity described in clause 6.47:
- 6.49.1 the plan must prescribe any terms and conditions in relation to the carrying out of the activity; but
- 6.49.2 such terms or conditions must not be of such a nature that an activity is effectively prohibited.

Further provisions for Board

- 6.50 Clauses 6.51 to 6.90 set out further provisions relating to the operation of the Board.

Capacity

- 6.51 The Board will have such powers as are reasonably necessary for it to carry out its functions:
- 6.51.1 in a manner consistent with this part; and
- 6.51.2 subject to clause 6.51.1, the Reserves Act 1977.

Members of the Board

- 6.52 Members of the Board:
- 6.52.1 are appointed for a term of three years, unless the member resigns during that term; and
- 6.52.2 may be reappointed at the sole discretion of the relevant appointer.
- 6.53 In appointing their respective members to the Board, the Pare Hauraki collective cultural entity and the Director-General:
- 6.53.1 must be satisfied that the person has the mana, skills, knowledge or experience to:
- (a) participate effectively in the Board; and
- (b) contribute to the achievement of the purposes of the Board; and
- 6.53.2 should have regard to the overall membership of the Board.

Discharge or resignation of Board members

- 6.54 A member may resign by written notice to that person's appointer and the Board.
- 6.55 The Director-General may discharge a member appointed by the Director-General from the Board by written notice to that member and to the Board.
- 6.56 Where there is a vacancy on the Board:

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- 6.56.1 the relevant appointer will fill that vacancy as soon as is reasonably practicable; and
- 6.56.2 any such vacancy does not prevent the Board from continuing to discharge its functions.

Co-chairs

- 6.57 At the first meeting of the Board the members will appoint two members of the Board as Co-chairs on the basis that:
 - 6.57.1 one of the Co-chairs must be a member of the Board appointed by the Pare Hauraki collective cultural entity; and
 - 6.57.2 one of the Co-chairs must be a member appointed by the Director-General who is a senior manager from the Department of Conservation (being a Tier 3 (or higher) manager).
- 6.58 The Co-chairs:
 - 6.58.1 are appointed for a term of three years;
 - 6.58.2 may be reappointed as a Co-chair; and
 - 6.58.3 in the case of a Co-chair appointed under clause 6.57.2 (being a Tier 3 (or higher) manager), may be removed by the Director-General in the same manner as the appointment was made.

Standing orders

- 6.59 At its first meeting the Board will adopt a set of standing orders for the operation of the Board, and may amend those standing orders from time to time.
- 6.60 The standing orders of the Board must:
 - 6.60.1 not contravene this part;
 - 6.60.2 respect tikanga Māori; and
 - 6.60.3 subject to compliance with clause 6.60.1 and 6.60.2, not contravene the Reserves Act 1977 or any other Act.
- 6.61 A member of the Board must comply with the standing orders of the Board, as amended from time to time by the Board.

Meetings of the Board

- 6.62 The quorum for a meeting of the Board is not less than three members, made up as follows:
 - 6.62.1 at least two members appointed by the Pare Hauraki collective cultural entity;
 - 6.62.2 at least one member appointed by the Director-General; and

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- 6.62.3 at least one co-chair (who may be one of the members referred to in clause 6.62.1 or 6.62.2).
- 6.63 The Board must hold its first meeting no later than three months after settlement date.
- 6.64 Meetings may be held:
- 6.64.1 in person;
- 6.64.2 by telephone; or
- 6.64.3 by electronic means.

Decision-making

- 6.65 The decisions of the Board must be made at a meeting of the Board.
- 6.66 The Board will make decisions by a consensus of members present at a meeting.
- 6.67 To avoid doubt, a member of the Board may not appoint a proxy.
- 6.68 When making decisions on pest control and species management which affect the ecological integrity of the Moehau Tūpuna Maunga Reserve or the viability of indigenous species:
- 6.68.1 the Board will strive for consensus;
- 6.68.2 if, in the opinion of the Co-Chairs, consensus cannot be reached within a reasonable timeframe, and not later than three months after the issue is first discussed at a meeting of the Board, the Co-Chairs must refer the matter to the Chair of the Pare Hauraki collective cultural entity and the appropriate Deputy Director-General of the Department of Conservation in the Pare Hauraki Area for resolution;
- 6.68.3 following referral under clause 6.68.2, the Chair of the Pare Hauraki collective cultural entity and the appropriate Deputy Director-General of the Department of Conservation in the Pare Hauraki Area must engage in good faith in discussions to resolve the issue; and
- 6.68.4 if, following the discussions referred to in clause 6.68.3, agreement cannot be reached between those persons within six weeks of the matter being referred to them, the decision will be made by the Director-General of Conservation.

- 6.69 The members of the Board must approach decision-making in a manner that is consistent with, and reflects, the purposes of the Board.

Committees

- 6.70 The Board may appoint committees and subcommittees.
- 6.71 A committee or subcommittee is:
- 6.71.1 subject to the direction and control of the Board; and

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6.71.2 must carry out all directions of the Board.

Power of delegation

6.72 The Board may delegate any of its functions, either generally or specifically and subject to any conditions, by written notice to:

6.72.1 the Pare Hauraki collective cultural entity;

6.72.2 the Director-General;

6.72.3 a member or members of the Board; or

6.72.4 a committee or subcommittee of the Board.

6.73 Despite clause 6.72, the Board must not delegate:

6.73.1 the approval of or amendment to a plan for the Reserve under section 41 of the Reserves Act 1977;

6.73.2 the acceptance by the Board of the annual Moehau operational plan;

6.73.3 the appointment or revocation of a committee;

6.73.4 the replacement or amendment of the terms of any appointment of a committee;

6.73.5 the making of bylaws by the Board; or

6.73.6 this power of delegation.

6.74 Subject to the terms of delegation from the Board, a delegate to whom any function or power of the Board is delegated may, unless the delegation provides otherwise, exercise the function or power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the Board.

6.75 A delegate who purports to exercise a function or power under a delegation:

6.75.1 is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and

6.75.2 must produce evidence of his or her authority to do so, if reasonably requested to do so.

6.76 No delegation:

6.76.1 affects or prevents the exercise of any function or power by the Board;

6.76.2 affects the responsibility of the Board for the actions of any delegate acting under the delegation; or

6.76.3 is affected by any change in the membership of the Board or of any committee.

6.77 A delegation may be revoked at will by the Board by:

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- 6.77.1 written notice to the delegate; or
- 6.77.2 any other method provided for in the delegation.

Declaration of interest

- 6.78 A member of the Board is required to disclose any actual or potential interest in a matter to the Board.
- 6.79 The Board will maintain an interests register and will consider and record any actual or potential interests that are disclosed to the Board.
- 6.80 A member of the Board is not precluded from discussing or voting on a matter merely because:
 - 6.80.1 the member is affiliated to the Iwi of Hauraki or a hapū or whānau that has customary interests in Moehau; or
 - 6.80.2 the member is an employee of the Crown; or
 - 6.80.3 the economic, social, cultural, and spiritual values of any Iwi or hapū and their relationships with the Board are advanced by or reflected in:
 - (a) the subject matter under consideration;
 - (b) any decision by or recommendation of the Board; or
 - (c) participation in the matter by the member.
- 6.81 To avoid doubt, the affiliation of a member of the Board to an Iwi or hapū that has customary interests in area covered the Board is not an interest that must be disclosed or recorded.
- 6.82 In clauses 6.78 to 6.84, “**matter**” means:
 - 6.82.1 the Board's performance of its functions or exercise of its powers; or
 - 6.82.2 an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by the Board.
- 6.83 A member of the Board has an actual or potential interest in a matter, if he or she:
 - 6.83.1 may derive a financial benefit from the matter;
 - 6.83.2 is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter;
 - 6.83.3 may have a financial interest in a person to whom the matter relates;
 - 6.83.4 is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - 6.83.5 is otherwise directly or indirectly interested in the matter.

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- 6.84 However, a person is not interested in a matter if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities as a member of the Board.

Reporting and review

- 6.85 The Board will report on an annual basis to the Pare Hauraki collective cultural entity and the Director-General.
- 6.86 The report will:
- 6.86.1 describe the activities of the Board over the preceding 12 months; and
 - 6.86.2 explain how those activities are relevant to the Board's purposes and functions.
- 6.87 The report must be tabled in Parliament by the Minister of Conservation.
- 6.88 The appointers will commence a review of the performance of the Board, including of the extent that the purposes of the Board is being achieved and the functions of the Board are being effectively discharged, on the date that is three years after the Board's first meeting.
- 6.89 The appointers may undertake any subsequent review of the performance of the Board at any time agreed between all of the appointers.
- 6.90 Following any review of the Board, the appointers may make recommendations to the Board on any relevant matter arising out of that review.

Administrative and technical support of Board

- 6.91 The Director-General must provide administrative support to the Board.
- 6.92 The Pare Hauraki collective cultural entity and the Director-General must:
- 6.92.1 meet their own costs in terms of participation by their appointed members on the Board (including the payment of any meeting fees); and
 - 6.92.2 contribute equally to meeting the other administrative costs of the Board where pre-approved by the Board in accordance with its decision-making processes.

Resource consents

- 6.93 A resource consent will not be required under section 9(3) of the Resource Management Act 1991 for any work or activity undertaken by the Board, the Pare Hauraki collective cultural entity or the Director-General within the Reserve where that work or activity:
- 6.93.1 is for the purposes of managing the Reserve under the Reserves Act 1977;
 - 6.93.2 is consistent with the Reserves Act 1977 and any reserve management plan in force at the time; and
 - 6.93.3 does not have a significant adverse effect beyond the boundary of the Reserve.

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Low impact activities

- 6.94 In relation to access to the Moehau Tupuna Maunga for specified low impact activities in relation to minerals the Moehau Tupuna Maunga will be afforded the same level of protection under the Crown Minerals Act 1991 as if it were listed in Schedule 4 of that Act.

Improvements

- 6.95 The Pare Hauraki collective redress legislation will, on the terms provided by sections 25 of the draft collective bill, provide that Crown improvements in or on Moehau Tupuna Maunga Reserve –
- 6.95.1 remain vested in the Crown; and
 - 6.95.2 may remain on the Reserve without charge by –
 - (a) the Board; or
 - (b) the Board and the owner of the property, in the case of Moehau Tupuna Maunga and Urarima; and
 - 6.95.3 may, subject to any existing rights, be used, occupied, accessed, maintained, removed, or demolished by the Director-General or the trustees in a manner that is consistent with –
 - (a) the management plan for the Reserve; and
 - (b) the annual operational plan for the Reserve.

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TE AROHA

6.96 To avoid doubt:

6.96.1 clauses 7.4 to 7.6.1 apply to clauses 6.97 to 6.107; and

6.96.2 clause 7.6.2 applies to clauses 6.97 to 6.107 to the extent it is not already covered by those clauses.

Vesting of Te Aroha Tupuna Maunga and reserve status

6.97 The Pare Hauraki collective redress legislation will, on the terms provided by sections 32 to 34 of the draft collective bill, -

6.97.1 on the settlement date, vest in the Pare Hauraki collective cultural entity the fee simple estate in Te Aroha Tupuna Maunga (being Part Kaimai Mamaku Conservation Park), as a local purpose (Pare Hauraki whenua kura) reserve subject to that entity providing a registrable right of way easement in gross in the form set out in part 6.1 of the documents schedule; and

6.97.2 otherwise give effect to clauses 6.98 to 6.107.

6.98 The name of the reserve will be the Te Aroha Tupuna Maunga Reserve.

6.99 The purposes of the Te Aroha Tupuna Maunga Reserve will be to:

6.99.1 protect and enhance the relationship between the Iwi of Hauraki and Te Aroha being a tupuna maunga and taonga of the utmost spiritual, ancestral, cultural, customary and historical significance; and

6.99.2 protect and manage the scenic, recreational and ecological values of Te Aroha Tupuna Maunga.

Administering body

6.100 The Pare Hauraki collective cultural entity will be the administering body of the Te Aroha Tupuna Maunga Reserve.

Reserve management plan

6.101 A management plan for the Te Aroha Tupuna Maunga Reserve will be prepared by the Pare Hauraki collective cultural entity in accordance with section 41 of the Reserves Act 1977.

6.102 Despite section 41(1) of the Reserves Act 1977, the Pare Hauraki collective cultural entity will approve that management plan.

Funds from Te Aroha Tupuna Maunga Reserve

6.103 Section 42(c) of the draft collective bill will provide that the restrictions in the Reserves Act on the use of revenue derived from reserves (ie.sections 78(1)(a), 79 to 81 and 88) will not apply to Te Aroha Tupuna Maunga Reserve.

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GENERAL PROVISIONS IN RELATION TO MOEHAU TUPUNA MAUNGA AND TE AROHA TUPUNA MAUNGA CULTURAL REDRESS PROPERTIES

- 6.104 Moehau Tupuna Maunga and Te Aroha Tupuna Maunga are each to be –
- 6.104.1 as described in part 1 of schedule 2 of the draft collective bill; and
- 6.104.2 vested on the terms provided by –
- (a) sections 35 to 47 of the draft collective bill; and
 - (b) part 2 of the property redress schedule; and
- 6.104.3 subject to any encumbrances, or other documentation, in relation to that property –
- (a) required by clause 6.97 to be provided by the Pare Hauraki collective cultural entity; or
 - (b) required by the Pare Hauraki collective redress legislation; and
 - (c) in particular, referred to in part 1 of schedule 2 of the draft collective bill.
- 6.105 The Registrar-General of Land must record on any computer freehold register for Moehau Tupuna Maunga and Te Aroha Tupuna Maunga that those of the Iwi of Hauraki identified in part 3 of the attachments have spiritual, cultural, ancestral, customary and historical association with Moehau Tupuna Maunga and Te Aroha Tupuna Maunga.
- 6.106 Section 314(1)(da) of the Resource Management Act 1991 does not apply to the Pare Hauraki collective cultural entity in relation to its ownership of Moehau Tupuna Maunga and Te Aroha Tupuna Maunga in respect of any contamination:
- 6.106.1 that existed on, under, or in those 2 reserves before the settlement date; and
- 6.106.2 that was not disclosed by the Crown under paragraph 1.1 of the property redress schedule;
- 6.106.3 the existence of which was notified to the Crown by the Pare Hauraki collective cultural entity as soon as practicable after its discovery by that entity; and
- 6.106.4 since discovery by the entity, has not been exacerbated by an intentional, reckless or negligent act by the entity.

DEFINITIONS

- 6.107 In this part:
- 6.107.1 "**appointer**" means:
- (a) the Pare Hauraki collective cultural entity in the case of members appointed by that entity; and

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(b) the Director-General (or delegate) in the case of the ex-officio DOC members;

6.107.2 "**consensus**" means the absence of any formally recorded dissent in relation to any matter under consideration at a meeting of the Board;

6.107.3 "**financial year**" or "**year**" means a 12 month period commencing on the first day of July;

6.107.4 "**Moehau Area**" means the area described in part 2 of schedule 2 of the draft collective bill and shown shaded dark grey on OTS-100-302;

6.107.5 "**Moehau Tupuna Maunga**" means the area described by that name in part 1 of schedule 2 of the draft collective bill on OTS-100-301;

6.107.6 "**Te Aroha Tupuna Maunga**" means the area described by that name in part 1 of schedule 2 of the draft collective bill and shown on OTS-100-303; and

6.107.7 "**Urarima**" means the land shaded orange on OTS-100-302 in part 2 of the attachments. [**Note: plan discussed between iwi is to be effected**]

7 CULTURAL REDRESS: PARE HAURAKI CONSERVATION FRAMEWORK

BACKGROUND

- 7.1 The Department of Conservation acknowledges that an effective partnership with Pare Hauraki is fundamental to achieving enhanced conservation of natural resources and historical and cultural heritage. Pare Hauraki responsibilities to this heritage are embodied by mana whenua and kaitiakitanga – the spiritual and cultural ethos that governs Pare Hauraki care and protection of mauri, the dynamic life principle that underpins all heritage. Mana whenua and kaitiakitanga include elements of protection, guardianship, stewardship and customary use. They are exercised by Pare Hauraki in relation to ancestral lands, waters, areas, resources, and other taonga.
- 7.2 Pare Hauraki and the Department of Conservation seek an effective partnership that both recognises the mana whenua and kaitiakitanga responsibilities of Pare Hauraki, and enhances the conservation of natural resources and historical and cultural heritage.
- 7.3 The intent of this Pare Hauraki conservation framework is to establish a framework for the co-governance, and related co-management, of natural resources and historical and cultural heritage as follows:
- 7.3.1 the co-governance provisions set out below are designed to reflect the aspirations of Pare Hauraki to have a meaningful role in influencing policies, not just as another group in the community, but in a way that is consistent with their mana whenua status and their partnership relationship with the Crown under Te Tiriti o Waitangi / the Treaty of Waitangi; and
- 7.3.2 the co-management provisions set out below are designed to give effect to Pare Hauraki aspirations to share in managing natural resources and historical and cultural heritage in a way that sits well with their principles of kaitiakitanga and mana motuhake.

Section 4 of the Conservation Act 1987

- 7.4 Section 4 of the Conservation Act 1987 states:
- "This Act shall be so interpreted and administered as to give effect to the principles of the Treaty of Waitangi".*
- 7.5 This obligation applies to the Conservation Act 1987 and the Acts listed in the First Schedule to that Act.
- 7.6 As an overriding approach, when exercising functions under that legislation in relation to each of the elements of the Pare Hauraki conservation framework set out in this deed, the relevant person or entity must:
- 7.6.1 give effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi as required by section 4 of the Conservation Act 1987; and

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- 7.6.2 acknowledge and provide for the Statement of Pare Hauraki World View and Programme for a Culture of Natural Resource Partnership, unless to do so would be contrary to the purposes of the Conservation Act 1987.

ELEMENTS OF PARE HAURAKI CONSERVATION FRAMEWORK

- 7.7 The elements of the Pare Hauraki conservation framework are:

- 7.7.1 conservation management plan;
- 7.7.2 conservation management strategy;
- 7.7.3 decision-making framework;
- 7.7.4 customary materials;
- 7.7.5 wāhi tapu framework;
- 7.7.6 Conservation Boards;
- 7.7.7 relationship agreement; and
- 7.7.8 capability building.

CONSERVATION MANAGEMENT PLAN

- 7.8 To avoid doubt:

- 7.8.1 clauses 7.4 to 7.6.1 apply to this section of the Pare Hauraki conservation framework; and
- 7.8.2 clause 7.6.2 applies to this section of the Pare Hauraki conservation framework to the extent it is not already covered in this section.

BACKGROUND

- 7.9 In recognition of the significance of the motu of Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine, Te Tara o te Ika a Maui (Coromandel Peninsula), and Kopuatai, Torehape and Pūkorokoro wetlands to the Iwi of Hauraki, the Crown has agreed to provide for the co-governance of those areas, through the development of a conservation management plan, that is approved jointly by the Pare Hauraki collective cultural entity and the Conservation Board.

CROWN ACKNOWLEDGEMENT

- 7.10 The Crown acknowledges the enduring spiritual, ancestral, cultural, customary, historical and economic significance of the following areas to the Iwi of Hauraki:
- 7.10.1 motu of Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine;
 - 7.10.2 Te Tara o te Ika a Māui (Coromandel Peninsula); and
 - 7.10.3 Kopuatai, Torehape and Pūkorokoro (Miranda) wetlands.

PARE HAURAKI COLLECTIVE REDRESS DEED

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PREPARATION AND APPROVAL OF CONSERVATION MANAGEMENT PLAN

- 7.11 There will be one conservation management plan prepared and approved covering the following three areas:
- 7.11.1 motu of Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine;
 - 7.11.2 Te Tara o te Ika a Māui (Coromandel Peninsula); and
 - 7.11.3 Kopuatai, Torehape and Pūkoro (Miranda) wetlands.
- 7.12 To avoid doubt:
- 7.12.1 sections 17F, 17G, 17H and 17I of the Conservation Act 1987 do not apply to the preparation, approval, review or amendment of the plan; but
 - 7.12.2 in all other respects the Conservation Act 1987 applies to the plan as if that plan is a conservation management plan prepared and approved under that Act.

Preparation of plan

- 7.13 The draft plan will be prepared by the Director-General in consultation with the Pare Hauraki collective cultural entity, the Conservation Board(s) and such other persons or organisations as the Director-General considers practicable and appropriate.
- 7.14 The Director-General will commence preparation of the draft plan:
- 7.14.1 not later than six months after settlement date; or
 - 7.14.2 by such later date as agreed between the Director-General and the Pare Hauraki collective cultural entity.

Notification of draft plan

- 7.15 Not later than 12 months after commencement of the preparation of the draft plan, or such later date as agreed between the Director-General and the Pare Hauraki collective cultural entity, the Director-General will notify the draft plan in accordance with section 49(1) of the Conservation Act 1987, and to the appropriate regional councils and territorial authorities, and to each Iwi of Hauraki, and that provision will apply as if the notice were required to be given by the Minister of Conservation.
- 7.16 Every notice under clause 7.15 will:
- 7.16.1 state that the draft plan is available for inspection at the places and times specified in the notice; and
 - 7.16.2 invite persons or organisations interested to lodge with the Director-General submissions on the draft plan before the date specified in the notice, being a date not less than two months after the date of the publication of the notice.

PARE HAURAKI COLLECTIVE REDRESS DEED

7: PARE HAURAKI CONSERVATION FRAMEWORK

Submissions and opinion

- 7.17 Any person or organisation may make written submissions to the Director-General on the draft plan at the place and before the date specified in the notice.
- 7.18 The Director-General may, after consultation with the Pare Hauraki collective cultural entity and the Conservation Board(s), obtain public opinion of the draft plan by any other means from any person or organisation.
- 7.19 From the date of public notification of the draft plan until public opinion of it has been made known to the Director-General, the draft plan will be made available by the Director-General for public inspection during normal office hours, in such places and quantities as are likely to encourage public participation in the development of the plan.

Hearing of submissions

- 7.20 The Director-General will give every person or organisation who or which, in making a submission on the draft plan, asked to be heard in support of that submission a reasonable opportunity of appearing before a meeting of representatives of the Director-General, the Pare Hauraki collective cultural entity and the Conservation Board(s).
- 7.21 Representatives of the Director-General, the Pare Hauraki collective cultural entity and the Conservation Board(s) may hear submissions from any other person or organisations consulted on the draft plan.
- 7.22 The hearing of submissions will be concluded not later than two months after the closing date for submissions unless otherwise agreed by the parties.
- 7.23 The Director-General will prepare a summary of the submissions received on the draft plan and other opinion expressed following the process referred to in clause 7.44 and, not later than one month after the conclusion of the hearing of submissions, provide that summary to the Pare Hauraki collective cultural entity and the Conservation Board(s).

Revision of draft plan

- 7.24 After considering such submissions and opinion the Director-General will, in consultation with the Pare Hauraki collective cultural entity and the Conservation Board(s) who heard the submissions, revise the draft plan and, not later than four months after the completion of the hearing of submissions, will send to the Pare Hauraki collective cultural entity and the Conservation Board(s) the revised draft plan.
- 7.25 On receipt of the revised draft plan:
- 7.25.1 the Pare Hauraki collective cultural entity and the Conservation Board(s) will consider the revised draft plan and the summary of submissions, and may, not later than four months after receiving those documents, request the Director-General to further revise the draft plan; and
- 7.25.2 if a request is made under clause 7.25.1 the Director-General will further revise the draft plan in accordance with the request from the Pare Hauraki collective cultural entity and the Conservation Board(s), and will, not later than

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two months after receiving a request under clause 7.25.1, send to the Pare Hauraki collective cultural entity and the Conservation Board(s) the further revised draft plan.

Referral of plan to Conservation Authority and Minister

- 7.26 On receipt of the revised draft under clause 7.24 or if a request is made under clause 7.25.1, on receipt of the further revised draft plan, the Pare Hauraki collective cultural entity and the Conservation Board(s) will refer the draft plan and the summary of submissions to:
- 7.26.1 the New Zealand Conservation Authority (“**Conservation Authority**”) for comments on matters relating to the national public conservation interest; and
 - 7.26.2 the Minister of Conservation for his or her comments.
- 7.27 The Conservation Authority and the Minister of Conservation will provide any comments on the draft plan to the Pare Hauraki collective cultural entity and the Conservation Board(s) not later than four months after receiving that draft plan for comment.

Approval of plan

- 7.28 After considering any comments received from the Conservation Authority and the Minister of Conservation under clause 7.27, the Pare Hauraki collective cultural entity and the Conservation Board(s) will:
- 7.28.1 not later than two months after receiving any comments from Conservation Authority and the Minister of Conservation, approve the draft plan; or
 - 7.28.2 not later than two months after receiving any comments from Conservation Authority and the Minister of Conservation, refer any matter of disagreement in relation to the draft plan to the Conservation Authority for determination.

Referral to Conservation Authority in case of disagreement

- 7.29 Where the Pare Hauraki collective cultural entity and the Conservation Board(s) refer any matter of disagreement to the Conservation Authority under clause 7.28.2, the Pare Hauraki collective cultural entity and the Conservation Board(s) will also provide a written statement of the matters of disagreement and the reasons for such disagreement.
- 7.30 Not later than three months after referral to it, the Conservation Authority will make a recommendation on the matters of disagreement, and notify that recommendation to the Pare Hauraki collective cultural entity and the Conservation Board(s).
- 7.31 After receiving and considering the recommendation of the Conservation Authority under clause 7.30, the Pare Hauraki collective cultural entity and the Conservation Board will seek to resolve any matters of disagreement.
- 7.32 If the Pare Hauraki collective cultural entity and the Conservation Board(s) have not resolved any matters of disagreement within two months of receiving the

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recommendation from the Conservation Authority, the recommendation of the Conservation Authority will become binding on the Pare Hauraki collective cultural entity and the Conservation Board(s).

- 7.33 Where the Pare Hauraki collective cultural entity and the Conservation Board(s) have referred any matter of disagreement to the Conservation Authority under clause 7.29, the Pare Hauraki collective cultural entity and the Conservation Board(s) will approve the draft plan not later than four months after receiving the recommendation of the Conservation Authority under clause 7.30.

Mediation Process

- 7.34 At any time during the process set out in clauses 7.29 to 7.33, any of the Pare Hauraki collective cultural entity or the Conservation Board(s) or the Director-General may refer any matter of disagreement arising out of that process to a mediator.
- 7.35 Not later than three months after settlement date, the Pare Hauraki collective cultural entity and the Conservation Board(s) will agree on a mediator to be used in the event of referral to mediation under clause 7.34, and the parties may agree to change the mediator from time to time.
- 7.36 Where a matter of disagreement arises, the relevant parties in dispute will seek to resolve that matter in a co-operative, open-minded and timely manner before resorting to the mediation process.
- 7.37 The following conditions will apply to such a mediation process:
- 7.37.1 where one of the Pare Hauraki collective cultural entity, the Conservation Board(s) or the Director-General considers that it is necessary to resort to the mediation process, that party will give notice in writing of that referral to the other parties;
 - 7.37.2 all parties will participate in a mediation process in a co-operative, open-minded and timely manner;
 - 7.37.3 in participating in a mediation the parties will have particular regard to the purpose of the plan redress provided under this collective redress deed and the conservation purpose for which the relevant areas are held;
 - 7.37.4 where a matter of disagreement is referred to mediation, the mediation process must be completed not later than three months after the date upon which notice of referral is given under clause 7.37.1;
 - 7.37.5 pending the resolution of any matter of disagreement, the parties will use their best endeavours to continue with the process for the preparation and approval of the plan;
 - 7.37.6 the parties to the mediation process will bear their own costs in relation to the resolution of any matter of disagreement and the costs of the mediator (and associated costs) will be shared equally between the parties;

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7.37.7 the period of time taken for a mediation process under this clause 7.37 will not be counted for the purposes of the timeframes specified for the preparation and approval of the plan; and

7.37.8 to avoid doubt, the period of time referred to in clause 7.37.4 will not exceed three months.

Reviews of the plan

7.38 The Director-General, after consultation with the Pare Hauraki collective cultural entity and the Conservation Board(s), may at any time initiate a review of the plan or any part of the plan.

7.39 The Pare Hauraki collective cultural entity or the Conservation Board(s) may at any time request that the Director-General initiate a review of the plan or any part of the plan and the Director-General will consider that request in making a decision under clause 7.38.

7.40 Every review of the plan will be carried out and approved in accordance with the provisions of clauses 7.12 to 7.28, which will apply with any necessary modifications.

7.41 The following provisions will also apply in relation to reviews of the plan:

7.41.1 the plan will be reviewed as a whole by the Director-General not later than 10 years after the date of its approval; and

7.41.2 the Minister of Conservation may, after consultation with the Pare Hauraki collective cultural entity and the Conservation Board(s), extend that period of review.

Amendments to the plan

7.42 The Director-General, after consultation with the Pare Hauraki collective cultural entity and the Conservation Board(s), may at any time initiate the amendment of the plan or any part of the plan.

7.43 Except as provided in clause 7.44, every amendment to the plan will be carried out in accordance with the provisions of clause 7.12 to 7.28, which will apply with any necessary modifications.

7.44 Where the proposed amendment is of such a nature that the Director-General, the Pare Hauraki collective cultural entity and the Conservation Board(s) consider that it will not materially affect the objectives or policies expressed in the plan or the public interest in the area concerned, then the Director-General, without the need for public notification, will send the proposal to the Pare Hauraki collective cultural entity and the Conservation Board(s) and it will be dealt with under clause 7.28, which will apply with any necessary modifications.

CONSERVATION MANAGEMENT STRATEGY

7.45 To avoid doubt:

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- 7.45.1 clauses 7.4 to 7.6.1 apply to this section of the Pare Hauraki conservation framework; and
- 7.45.2 clause 7.6.2 applies to this section of the Pare Hauraki conservation framework to the extent it is not already covered in this section.
- 7.46 The Conservation Management Strategy for the Waikato 2014-2024 notes that:
- 7.46.1 the Pare Hauraki values and interests have not been incorporated; and
- 7.46.2 once the Pare Hauraki collective negotiations are completed "*amended text relating to Iwi values and interests, including any revised objectives, will be subject to public consultation*".
- 7.47 Following settlement date there will be targeted review undertaken of the Waikato Conservation Management Strategy ("**Waikato CMS review**") as it applies to the area shaded and edged red on the map in part 11 of the attachments.

Purpose of review

- 7.48 The purpose of the Waikato CMS review will be to:
- 7.48.1 ensure Pare Hauraki values and interests are identified and provided for, including to enable the exercise of kaitiakitanga over public conservation lands and waters; and
- 7.48.2 take into account any relevant matters contained in this collective redress deed.

Process for review

- 7.49 The process for the making of amendments to the Waikato CMS will be integrated with the process for the preparation and approval of the conservation management plan under clause 7.8 to 7.44 in the manner set out below.
- 7.50 The draft Waikato CMS amendments will be prepared at the same time and in the same manner as prescribed for the conservation management plan in clauses 7.13 and 7.14.
- 7.51 The draft Waikato CMS amendments will be notified at the same time and in the manner as prescribed for the conservation management plan in clauses 7.15 and 7.16.
- 7.52 Submissions may be made and opinion sought on the draft Waikato CMS amendments at the same time and in the same manner as prescribed for the conservation management plan in clauses 7.17 to 7.19.
- 7.53 Submissions will be heard on the draft Waikato CMS amendments at the same time and in the same manner as prescribed for the conservation management plan in clauses 7.20 to 7.22.
- 7.54 A summary of submissions will be prepared on the draft Waikato CMS amendments at the same time and in the same manner as prescribed for the conservation management plan in clause 7.23.

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- 7.55 Revisions will be made to the draft Waikato CMS amendments at the same time and in the same manner as prescribed for the conservation management plan in clause 7.24.
- 7.56 Once the revisions are made to the draft Waikato CMS amendments under clause 7.24 the process set out in section 17F(k) to section 17F(p) of the Conservation Act 1987 will apply to the draft Waikato CMS amendments.
- 7.57 The review of the Waikato CMS will incorporate Pare Hauraki values and take into account any relevant matters in this deed.
- 7.58 To avoid doubt:
- 7.58.1 the Pare Hauraki collective redress legislation will be an Act for the purposes of section 17D(4)(a) of the Conservation Act 1987; and
 - 7.58.2 once approved, the conservation management plan is a management plan for the purposes of section 17D(8) of the Conservation Act 1987.

DECISION MAKING FRAMEWORK

- 7.59 To avoid doubt:
- 7.59.1 clauses 7.4 to 7.6.1 apply to this section of the Pare Hauraki conservation framework; and
 - 7.59.2 clause 7.6.2 applies to this section of the Pare Hauraki conservation framework to the extent it is not already covered in this section.
- 7.60 This section of the Pare Hauraki conservation framework applies to conservation decisions in the Pare Hauraki Area.
- 7.61 To avoid doubt, the decision-making framework will apply to any concession applications under Part 3B of the Conservation Act 1987 that are initiated by the Iwi of Hauraki.
- 7.62 The Pare Hauraki collective cultural entity and the Director-General must, by the settlement date, discuss what will be reasonable timeframes for responses at various stages in the decision-making framework and in various scenarios.
- 7.63 The Pare Hauraki collective cultural entity and the Director-General must, by the settlement date, discuss and agree a schedule identifying:
- 7.63.1 any decisions that do not require the application of the decision-making framework; and
 - 7.63.2 any decisions for which the decision-making framework may be modified, and the nature of that modification, including any decisions that need to be made at a national level.
- 7.64 The Pare Hauraki collective cultural entity and the Director-General may agree to review the schedule agreed under clause 7.63.

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- 7.65 The decision-making framework involves the following stages:
- 7.65.1 **Stage One:** the Director-General will notify the Pare Hauraki collective cultural entity of the decision to be made and the timeframe for a response;
- 7.65.2 **Stage Two:** the Pare Hauraki collective cultural entity will, within the timeframe for response, notify the Director-General of:
- (a) the nature and degree of the Pare Hauraki interest in the relevant decision; and
 - (b) the views of Pare Hauraki in relation to the relevant decision;
- 7.65.3 **Stage Three:** the Director-General will respond to the Pare Hauraki collective cultural entity confirming:
- (a) the Director-General's understanding of the matters conveyed under clause 7.65.2;
 - (b) how the matters conveyed under clause 7.65.2 will be included in the decision-making process; and
 - (c) whether any immediately apparent issues arise out of the matters conveyed under clause 7.65.2;
- 7.65.4 **Stage Four:** the relevant decision maker will make the decision in accordance with the relevant conservation legislation, and in doing so will:
- (a) consider the confirmation of the Director-General's understanding provided under clause 7.65.3, and any clarification or correction provided by the Pare Hauraki collective cultural entity in relation to that confirmation;
 - (b) explore whether, in making the decision, it is possible to reconcile any conflict between the interests and views of the Pare Hauraki collective cultural entity and any other considerations in the decision-making process;
 - (c) in making the decision, where a relevant interest is identified, give effect to the principles of Te Tiriti o Waitangi / Treaty of Waitangi:
 - (i) in a meaningful and transparent manner; and
 - (ii) in a manner commensurate with the nature and degree of the Pare Hauraki interest; and
 - (d) in complying with clause 7.65.4(c), where the Pare Hauraki interests in their taonga justify it, give a reasonable degree of preference to the Iwi interest;
- 7.65.5 **Stage Five:** the relevant decision maker will record in writing as part of a decision document:
- (a) the nature and degree of the Pare Hauraki interest in the relevant decision as conveyed to the Director-General under clause 7.65.2(a);

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- (b) the views of the Pare Hauraki collective cultural entity in relation to the relevant decision as conveyed to the Director-General under clause 7.65.2(b); and
- (c) how, in making that decision, the relevant decision maker complied with clauses 7.65.3 to 7.65.5(b); and

7.65.6 **Stage Six:** the relevant decision maker will communicate the decision to the Pare Hauraki collective cultural entity including the matters set out in clause 7.65.5.

7.66 The Pare Hauraki collective cultural entity and the Director-General will:

- 7.66.1 maintain open communication as to the effectiveness of the process set out in Stage One to Stage Six above; and
- 7.66.2 no later than two years after settlement date, or as otherwise agreed between the Pare Hauraki collective cultural entity and the Director-General, jointly commence a review of the effectiveness of the process set out in Stage One to Stage Six above.

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CUSTOMARY MATERIALS

- 7.67 To avoid doubt:
- 7.67.1 clauses 7.4 to 7.6.1 apply to this section of the Pare Hauraki conservation framework; and
 - 7.67.2 clause 7.6.2 applies to this section of the Pare Hauraki conservation framework to the extent it is not already covered in this section.
- 7.68 The Pare Hauraki collective cultural entity and the Director-General will jointly prepare and agree a plan covering:
- 7.68.1 the customary take of flora material within conservation protected areas within the Pare Hauraki redress area; and
 - 7.68.2 the possession of dead protected fauna that is found within that area
("customary materials plan").
- 7.69 The customary materials plan will:
- 7.69.1 provide a tikanga position on customary materials;
 - 7.69.2 identify species of flora from which material may be taken and species of dead protected fauna that may be possessed;
 - 7.69.3 identify areas for customary take of flora material within conservation protected areas;
 - 7.69.4 identify permitted methods for and quantities of customary take of flora material within those areas;
 - 7.69.5 identify parameters for the possession of dead protected fauna;
 - 7.69.6 identify monitoring requirements;
 - 7.69.7 include the following matters relating to relevant species:
 - (a) taxonomic status;
 - (b) threatened status or rarity;
 - (c) the current state of knowledge;
 - (d) whether the species is the subject of a species recovery plan; and
 - (e) other similar and relevant information; and
 - 7.69.8 include any other matters relevant to the customary take of flora material or possession of dead protected fauna as agreed between the Pare Hauraki collective cultural entity and the Director-General.
- 7.70 The Pare Hauraki collective cultural entity and the Director-General will jointly prepare and agree the first customary materials plan no later than 12 months after settlement

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date, or such later date as agreed between the Pare Hauraki collective cultural entity and the Director-General.

- 7.71 The Pare Hauraki collective cultural entity may issue an authorisation to a member of the Iwi of Hauraki to take flora materials or possess dead protected fauna:
- 7.71.1 in accordance with the customary materials plan; and
 - 7.71.2 without the requirement for a permit or other authorisation under the Conservation Act 1987, Reserves Act 1977 or Wildlife Act 1953.
- 7.72 The Pare Hauraki collective cultural entity and the Director-General will commence a review of the first agreed version of the customary materials plan not later than two years after the approval of the first plan, or at such later date as agreed between the Pare Hauraki cultural redress entity and the Director-General.
- 7.73 The Pare Hauraki collective cultural entity and the Director-General may commence subsequent reviews of the customary materials plan from time to time as agreed between the parties, but at intervals of not more than five years following the completion of the last review.
- 7.74 Where the Pare Hauraki collective cultural entity or the Director-General identify any conservation issue arising from or affecting the take of flora or possession of dead protected fauna pursuant to the customary materials plan:
- 7.74.1 the Pare Hauraki collective cultural entity and the Director-General will engage for the purposes of seeking to address that conservation issue; and
 - 7.74.2 the Pare Hauraki collective cultural entity and the Director-General will endeavour to develop solutions to address that conservation issue, which may include:
 - (a) the Director-General considering restricting the granting of authorisations to persons not covered by the plan for the taking of flora materials or possession of dead protected fauna;
 - (b) the Pare Hauraki collective cultural entity considering restricting the granting of authorisations for the taking of flora materials or possession of dead protected fauna under the plan; and
 - (c) the Pare Hauraki collective cultural entity and the Director-General agreeing to amend the customary materials plan.
- 7.75 Where the Director-General is not satisfied that any conservation issue has been appropriately addressed following the process set out in clause 7.74.2:
- 7.75.1 the Director-General may give notice to the Pare Hauraki collective cultural entity that any identified component of the customary materials plan is suspended; and
 - 7.75.2 from the date set out in the notice under clause 7.75.1, clause 7.71.2 will not apply in respect of any component of the customary materials plan that has been suspended.

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- 7.76 Where the Director-General takes action under clause 7.75, the Pare Hauraki collective cultural entity and the Director-General will continue to engage and will seek to resolve any conservation issue so that any suspension can be revoked by the Director-General as soon as is practicable.
- 7.77 For the purposes of clauses 7.67 to 7.76:
- 7.77.1 **conservation protected area** in relation to the customary take of flora material means an area above the line of mean high water springs that is:
- (a) a conservation area under the Conservation Act 1987;
 - (b) a reserve administered by the Department of Conservation under the Reserves Act 1977; or
 - (c) a wildlife refuge, wildlife sanctuary or wildlife management reserve under the Wildlife Act 1953;
- 7.77.2 **customary take** means the take and use of flora materials for customary purposes;
- 7.77.3 **dead protected fauna** means the dead body or any part of the dead body of any animal protected under the conservation legislation, but excludes marine mammals;
- 7.77.4 **flora material** means parts of plants taken in accordance with the customary materials plan; and
- 7.77.5 **flora** means any member of the plant whānau, and includes any alga, bacterium or fungus, and any plant, or seed or spore from any plant.

MARINE MAMMALS

- 7.78 The Iwi of Hauraki and the Crown acknowledge and agree that:
- 7.78.1 marine mammals are of significant spiritual, cultural and customary importance to the Iwi of Hauraki;
- 7.78.2 consistent with that significance, the Iwi of Hauraki are seeking the right to gather, use and possess materials for customary purposes, from dead marine mammals stranded in their rohe, without having to seek a permit or other authorisation under the Marine Mammals Protection Act 1978 or the Marine Mammals Protection Regulations 1992;
- 7.78.3 the Crown commits to providing for the right sought by the Iwi of Hauraki referred to in clause 7.78.2, but the Crown wishes to do so through policy and legislative review that will provide a nationally consistent approach;
- 7.78.4 the Crown intends to undertake a national review which considers, but will not necessarily be limited to:
- (a) the management of marine mammal strandings and the involvement of iwi in strandings; and

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- (b) enabling iwi to gather, use and possess materials for customary purposes, from dead marine mammals without having to seek a permit or other authorisation under the Marine Mammals Protection Act 1978 or the Marine Mammals Protection Regulations 1992; and

7.78.5 if the proposed national review has not commenced within the two years after settlement date, the Crown must engage with the Pare Hauraki collective cultural entity to discuss and agree how the Crown will provide for the right sought by the Iwi of Hauraki in clause 7.78.2.

7.79 Nothing in this deed or the Pare Hauraki collective redress legislation prevents the Pare Hauraki collective cultural entity from initiating proceedings in the Waitangi Tribunal in relation to the process referred to in clause 7.78.

WĀHI TAPU FRAMEWORK

7.80 To avoid doubt:

7.80.1 clauses 7.4 to 7.6.1 apply to this section of the Pare Hauraki conservation framework; and

7.80.2 clause 7.6.2 applies to this section of the Pare Hauraki conservation framework to the extent it and not already covered in this section.

Background

7.81 The parties have agreed to work together to develop a plan or plans for the management of wāhi tapu including, where appropriate, management by the iwi with customary interests.

7.82 The process set out below is intended to provide the basis for that planning approach, and to ensure that any plan is reflected in strategic and annual conservation planning documents.

7.83 To avoid doubt, a wāhi tapu management plan over any particular area may be entered into by either:

7.83.1 one or more individual iwi member of the Iwi of Hauraki; or

7.83.2 the Pare Hauraki collective cultural entity; and

7.83.3 in clauses 7.84 to 7.92 "Iwi of Hauraki" will have the meaning set out in clause 7.83.1 or 7.83.2 as the case may be.

Wāhi tapu framework

7.84 The Iwi of Hauraki may provide to the Director-General a description of the wāhi tapu on conservation land in the Pare Hauraki redress area, which may include, but is not limited to, a description of:

7.84.1 the general area;

7.84.2 the location of the wāhi tapu;

7.84.3 the nature of the wāhi tapu; and

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- 7.84.4 the associated iwi and hapū kaitiaki.
- 7.85 The Iwi of Hauraki may give notice to the Director-General that a wāhi tapu management plan is to be entered into between those parties in relation to wāhi tapu identified under clause 7.84.
- 7.86 If the Iwi of Hauraki give notice under clause 7.85, the Iwi of Hauraki and the Director-General will discuss and agree a wāhi tapu management plan in relation to that wāhi tapu.
- 7.87 The wāhi tapu management plan agreed between the Iwi of Hauraki and the Director-General may:
- 7.87.1 include such details relating to wāhi tapu on conservation land as the parties consider appropriate; and
- 7.87.2 provide for the persons identified by the Iwi of Hauraki to undertake management activities on conservation land in relation to specified wāhi tapu.
- 7.88 Where in accordance with clause 7.86 a wāhi tapu management plan includes an agreement for persons authorised by the Iwi of Hauraki to undertake management activities:
- 7.88.1 the plan must specify the scope and duration of the work that may be undertaken; and
- 7.88.2 the plan will constitute lawful authority for the work specified in clause 7.88.1 to be undertaken, as if an agreement had been entered into with the Director-General under section 53 of the Conservation Act 1987.
- 7.89 A wāhi tapu management plan will be:
- 7.89.1 prepared in a manner agreed between Iwi and the Director-General and without undue formality;
- 7.89.2 reviewed at intervals to be agreed between those parties; and
- 7.89.3 made publicly available if the parties consider that appropriate.
- 7.90 The Conservation Management Strategy/Plan will:
- 7.90.1 refer to the wāhi tapu framework;
- 7.90.2 reflect the relationship between Iwi and wāhi tapu;
- 7.90.3 reflect the importance of the protection of wāhi tapu; and
- 7.90.4 acknowledge the role of the wāhi tapu management plan.
- 7.91 The discussion between the Iwi of Hauraki and the Director-General in relation to annual planning referred to in the relationship agreement will include a discussion of:
- 7.91.1 management activities in relation to wāhi tapu; and
- 7.91.2 any relevant wāhi tapu management plan.

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- 7.92 Where the Iwi of Hauraki provide any information relating to wāhi tapu to the Director-General in confidence, the Director-General will respect that obligation of confidence to the extent that he or she is able to do under the relevant statutory frameworks.

CONSERVATION BOARDS

- 7.93 To avoid doubt:

7.93.1 clauses 7.4 to 7.6.1 apply to this section of the Pare Hauraki conservation framework; and

7.93.2 clause 7.6.2 applies to this section of the Pare Hauraki conservation framework to the extent it is not already covered in this section.

- 7.94 The Minister of Conservation must, on the nomination of the Pare Hauraki collective cultural entity, appoint one member to a Conservation Board covering all or a significant proportion of the Pare Hauraki Area.

- 7.95 Where there is more than one Conservation Board covering a significant proportion of the Pare Hauraki Area, the Minister of Conservation must:

7.95.1 appoint one member, on the nomination of the Pare Hauraki collective cultural entity, to the Board covering the most significant proportion the Pare Hauraki Area; and

7.95.2 consider the appointment, on the nomination of the Pare Hauraki collective cultural entity, of one member to any other such Board.

- 7.96 In relation to the appointments referred to in clauses 7.94 and 7.95, the Minister of Conservation:

7.96.1 must only appoint a nominee of the Pare Hauraki collective cultural entity; but

7.96.2 may discuss a particular nomination with the Pare Hauraki collective cultural entity and, if necessary, seek a replacement nomination.

- 7.97 Clause 7.98 applies where any Conservation Board covers the Pare Hauraki Area.

- 7.98 A Conservation Board to which clause 7.97 applies must acknowledge and provide for Pare Hauraki values and interests when exercising any function in the Pare Hauraki Area under section 6M of the Conservation Act 1987, including to enable the exercise by Pare Hauraki of kaitiakitanga over public conservation lands and waters.

CAPABILITY BUILDING

- 7.99 To avoid doubt:

7.99.1 clauses 7.4 to 7.6.1 apply to this section of the Pare Hauraki conservation framework; and

7.99.2 clause 7.6.2 applies to this section of the Pare Hauraki conservation framework to the extent it is not already covered in this section.

- 7.100 The Director-General recognises the important role that the Iwi of Hauraki have in protecting the natural, historic, and cultural heritage in the Pare Hauraki redress area.

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- 7.101 The Director-General recognises the Iwi of Hauraki as kaitiaki of their rohe. In order to assist this, the Iwi of Hauraki and the Department will work together to:
- 7.101.1 share skills and knowledge;
 - 7.101.2 provide volunteer opportunities, training, and on-the-ground support for the Iwi of Hauraki;
 - 7.101.3 develop conservation initiatives with schools and young people; and
 - 7.101.4 develop new initiatives, with other agencies, to promote skill development and employment opportunities for the Iwi of Hauraki in natural resource management.

PARE HAURAKI AND DEPARTMENT OF CONSERVATION RELATIONSHIP AGREEMENT

- 7.102 The Crown, through the Department of Conservation, and the Iwi of Hauraki acknowledge and agree that –
- 7.102.1 effective relationships between Pare Hauraki and the Department of Conservation are essential to support the other mechanisms in the deed; and
 - 7.102.2 those relationships will evolve over time.
- 7.103 The Crown, through the Department of Conservation, and the Iwi of Hauraki acknowledge their shared commitment to building a strong, lasting and meaningful partnership with one another through the Pare Hauraki and Department of Conservation Relationship Agreement which the Crown and the Pare Hauraki collective cultural entity are to be treated as having entered into (as set out at the end of this part).
- 7.104 The Pare Hauraki and Department of Conservation Relationship Agreement may be reviewed and amended by agreement of the Minister of Conservation and Pare Hauraki.

PARE HAURAKI AND DEPARTMENT OF CONSERVATION RELATIONSHIP AGREEMENT

This agreement marks an important milestone in the relationship between Te Papa Atawhai and the Iwi of Hauraki, and signifies the shared commitment to build a strong, lasting and meaningful partnership.

OUR VISION

An enduring partnership between Pare Hauraki and Te Papa Atawhai that is founded on Te Tiriti o Waitangi/ Treaty of Waitangi, and aimed at enhancing the condition of the natural, historic, and cultural heritage of Hauraki.

CONTEXT

Pare Hauraki and the Crown have entered into a collective redress deed to settle historical claims under Te Tiriti o Waitangi/ Treaty of Waitangi. The collective redress deed contains various mechanisms that will assist the ongoing partnership between the parties. It represents the first phase of an enduring relationship between the parties.

The conservation section in the collective redress deed establishes a framework for the co-governance, and related co-management, of natural resources and historical and cultural heritage. The co-governance provisions reflect the aspirations of Pare Hauraki to have a meaningful role in influencing policies, not just as another group in the community, but in a way that is consistent with their mana whenua status and their partnership relationship with the Crown under Te Tiriti o Waitangi/ Treaty of Waitangi. The co-management provisions give effect to Pare Hauraki aspirations to share in managing natural resources and historical and cultural heritage in a way that supports kaitiakitanga and mana motuhake.

THE RELATIONSHIP

Te Papa Atawhai and Pare Hauraki recognise that an enduring partnership is fundamental to achieving enhanced conservation of natural resources and historical and cultural heritage. It is also fundamental for the successful implementation of the collective redress deed between the Crown and Pare Hauraki.

Pare Hauraki and Te Papa Atawhai agree that the following principles will guide how they will work together with trust, respect and dignity in the governance and management of the region's natural, historic and cultural resources:

- It will be a dynamic and evolving relationship, with the aspiration that it will become deeper and richer over time;
- Building an enduring relationship requires time, as well as financial and human resources, and there will be an ongoing commitment to learn more about the interests, world views and values of the other;
- Planned approaches to communication will be adopted to minimise the risks of misunderstanding, with the key components of early engagement, consultation before decisions are made, and active listening;

PARE HAURAKI COLLECTIVE REDRESS DEED

7: PARE HAURAKI CONSERVATION FRAMEWORK

- Decision-making processes are seen as opportunities to solve problems; and both partners will remain open to persuasion rather than committing to a particular position; and
- Decision-making processes respect and value different world views – including indigenous, scientific and practical.

ENGAGEMENT PROTOCOLS AND STRATEGIC OBJECTIVES

As soon as is practicable after the signing of this Relationship Agreement the parties will meet to agree long-term strategic objectives for the partnership.

Included in the strategic objectives will be consideration of how Pare Hauraki and Te Papa Atawhai can co-operate and achieve shared conservation outcomes including in the areas of:

- marine conservation (including strandings of marine mammals);
- freshwater fisheries;
- management of taonga species and pest control;
- conservation advocacy; and
- provision of visitor information.

Pare Hauraki and Te Papa Atawhai will meet, at senior levels, at least quarterly to discuss the implementation of the collective redress deed and Relationship Agreement, and the achievement of the long-term strategic objectives.

Te Papa Atawhai's annual business planning process determines its work priorities and commitments for the upcoming year. Te Papa Atawhai and Pare Hauraki will meet at an early stage of this process each year to discuss how the collective redress deed, Relationship Agreement, wāhi tapu management plans and associated management activities and strategic objectives will be reflected in the annual programme, and to identify potential projects to be undertaken together.

REVIEW

This Relationship Agreement can be reviewed and amended by the mutual agreement of the Minister of Conservation and Pare Hauraki.

8 CULTURAL REDRESS: STATUTORY ACKNOWLEDGEMENT

- 8.1 The Pare Hauraki collective redress legislation will, on the terms provided by sections 48 to 59 of the draft collective bill, -
- 8.1.1 provide the Crown's acknowledgement of the statements by the Iwi of Hauraki of their particular cultural, spiritual, historical, and traditional association with the Kaimai Range (as shown on deed plan OTS-100-304);
 - 8.1.2 require relevant consent authorities, the Environment Court and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement; and
 - 8.1.3 require relevant consent authorities to forward to the Pare Hauraki collective cultural entity:
 - (a) summaries of resource consent applications within, adjacent to or directly affecting the statutory area; and
 - (b) a copy of a notice of a resource consent application served on the consent authority under section 145(10) of the Resource Management Act 1991; and
 - 8.1.4 enable the Pare Hauraki collective cultural entity, each governance entity and any member of Pare Hauraki, to cite the statutory acknowledgement as evidence of the association of Pare Hauraki with the statutory area.
- 8.2 The statement of association is in part 1 of the documents schedule.

9 CULTURAL REDRESS: TE REO REVITALISATION

- 9.1 The Crown, through all its relevant agencies, including Te Puni Kōkiri and the Ministry of Education, will support the Iwi of Hauraki in their efforts to revitalise their Te Reo through the development and implementation of a Pare Hauraki strategy for Te Reo revitalisation. The Crown support will include:
- 9.1.1 advice to the Iwi of Hauraki as they scope, develop, implement and monitor their Te Reo revitalisation strategy;
 - 9.1.2 access to quantitative and qualitative research about the health of the Māori language generally, and among the Iwi of Hauraki in particular, and support to interpret and apply this research;
 - 9.1.3 the ability to participate in consultation and other policy development processes undertaken by the Crown to develop Māori language policies, programmes and services;
 - 9.1.4 the ability to apply for contestable funds for Māori language revitalisation administered by government agencies;
 - 9.1.5 brokerage for the Iwi of Hauraki to engage with language planners and experts from other iwi and Māori language organisations to:
 - (a) discuss iwi language planning and revitalisations generally; and
 - (b) access advice about specific funding proposals and applications to government agencies and third-party funders;
 - 9.1.6 a meeting between the Minister for Māori Development, the Minister of Education and the Pare Hauraki collective cultural entity in order to discuss the development of their Hauraki Te Reo revitalisation strategy, and its inter-relationship with relevant Crown agencies, and a further meeting to discuss the strategy's implementation, and its inter-relationship with relevant Crown agencies, once the strategy has been developed;
 - 9.1.7 a payment of \$3 million to be made to the Pare Hauraki collective cultural entity within 5 working days of the later of –
 - (a) the date of this deed; and
 - (b) the date on which the Crown receives notice that the Pare Hauraki collective cultural entity has been established.
- 9.2 For the avoidance of doubt, it is agreed that:
- 9.2.1 the Crown may engage with iwi and Māori language stakeholders about the scoping, development, investment in, implementation and monitoring of Māori language policies, programmes and services other than the Pare Hauraki strategy;
 - 9.2.2 any application to Crown and its agencies by the Iwi of Hauraki will stand on its own merits;

PARE HAURAKI COLLECTIVE REDRESS DEED

9: CULTURAL REDRESS: TE REO REVITALISATION

- 9.2.3 the provision of any and all mainstream funding and programmes will continue to be available to the Iwi of Hauraki; and
 - 9.2.4 the Iwi of Hauraki may continue to seek other forms of funding or support from the Crown or third party organisations;
 - 9.2.5 the Te Reo revitalisation payment of \$3 million will not be used as a basis by any agency to refuse, discount or delay any future funding to the Iwi of Hauraki; and
 - 9.2.6 the Iwi of Hauraki are not precluded from developing and seeking support, including funding, for iwi-specific Te Reo strategies.
- 9.3 The parties record that the Department of Internal Affairs and the Pare Hauraki collective cultural entity will enter into a Letter of Commitment relating to the care and management, access and use, and development and revitalisation of the Iwi of Hauraki Taonga, including Te Reo.

10 CULTURAL REDRESS: MINISTRY OF PRIMARY INDUSTRIES FISHERIES AND RECOGNITION REDRESS

Advisory committee

- 10.1 By or on the settlement date, the Minister for Primary Industries must appoint the Pare Hauraki collective cultural entity as an advisory committee under section 21 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995.
- 10.2 The advisory committee may propose written advice to the Minister for Primary Industries covering any matter relating to the sustainable utilisation of fisheries resources managed under the Fisheries Act 1996, in a place where an Iwi of Hauraki has an interest within the area shown on the map attached as schedule 1 to part 4 of the documents schedule.

Fisheries right of first refusal over quota

- 10.3 The Crown agrees to grant to the Pare Hauraki collective cultural entity a right of first refusal to purchase certain quota as set out in the Fisheries RFR deed over quota.

Delivery by the Crown of a Fisheries RFR deed over quota

- 10.4 The Crown must, by or on the settlement date, provide the Pare Hauraki collective cultural entity with two copies of a deed (the "**Fisheries RFR deed over quota**") on the terms and conditions set out in part 4 of the documents schedule and signed by the Crown.
- 10.5 The Pare Hauraki collective cultural entity must sign both copies of the Fisheries RFR deed over quota and return one signed copy to the Crown by no later than 10 business days after the settlement date.
- 10.6 The Fisheries RFR deed over quota will:
- 10.6.1 relate to the Fisheries RFR area;
 - 10.6.2 be in force for a period of 176 years from the settlement date; and
 - 10.6.3 have effect from the settlement date as if it had been validly signed by the Crown and the Pare Hauraki collective cultural entity on that date.
- 10.7 The Crown and the Pare Hauraki collective cultural entity agree and acknowledge that:
- 10.7.1 nothing in this deed, or the Fisheries RFR deed over quota, requires the Crown to:
 - (a) purchase any provisional catch history, or other catch rights, under section 37 of the Fisheries Act 1996;
 - (b) introduce any applicable species (being the species referred to in Schedule 1 of the Fisheries RFR deed over quota) into the quota management system (as defined in the Fisheries RFR deed over quota);
or

PARE HAURAKI COLLECTIVE REDRESS DEED

10: CULTURAL REDRESS: MINISTRY OF PRIMARY INDUSTRIES FISHERIES AND RECOGNITION REDRESS

- (c) offer for sale any applicable quota held by the Crown except in accordance with the terms of the Fisheries RFR deed over quota;
- (d) the inclusion of any applicable species (being the species referred to in Schedule 1 of the Fisheries RFR deed over quota) in the quota management system may not result in any, or any significant, holdings by the Crown of applicable quota.

Withdrawal from joint mandated iwi organisation

10.8 The Pare Hauraki collective redress legislation will, on the terms provided by section 16 of the draft collective bill, provide that despite section 20(5) of the Maori Fisheries Act 2004, an iwi of Hauraki may withdraw from its joint mandated iwi organisation, provided that the withdrawing group commences their process of withdrawal:

10.8.1 in accordance with the process provided for in section 20(2)(a) of the Maori Fisheries Act 2004; and

10.8.2 no later than one year after the settlement date.

10.9 For the purposes of clause 10.8, “iwi of Hauraki” has the meaning given to it in the definition of “iwi” in section 5 of the Maori Fisheries Act 2004.

Ministry for Primary Industries to have particular regard to Pare Hauraki World View when exercising functions under certain Acts

10.10 The individual protocols between each Iwi of Hauraki and the Ministry for Primary Industries will require the Ministry to have particular regard to the Pare Hauraki World View when exercising functions under the Fisheries Act 1996, the Forests Act 1949 and the Biosecurity Act 1993.

PARE HAURAKI COLLECTIVE REDRESS DEED

11 CULTURAL REDRESS: OFFICIAL GEOGRAPHIC NAMES

11.1 The Pare Hauraki collective redress legislation will, from the settlement date, provide for each of the names listed in the third column to be the official geographic name for the features set out in columns 4 and 5.

No	Existing name	Official geographic name	Location (NZ Topo 50 map and grid references)	Geographic feature type
1.	Bean Rocks	Bean Rocks / Kapetaua	BA32 633 220	Rocks
2.	Black Hill	Motukehu Hill	BC36 536 571	Hill
3.	Browns Island (Motukorea)	Browns Island / Motukōrea	BA32 690 223	Island
4.	Calf Island	Tūhuaiti / Calf Island	BA34 143 235	Island
5.	Cape Colville	Cape Colville / Te Wharekaiatua	AZ34 101 614	Headland
6.	Carina Rock	Orua te Rerei / Carina Rock	BA35 380 112	Rock
7.	Cow Island	Tūhuanui / Cow Island	BA34 143 240	Island
8.	Cuvier Island (Repanga)	Cuvier Island / Repanga	AZ35 484 640	Island
9.	Great Barrier Island (Aotea)	Aotea / Great Barrier Island	AY34 176 934	Island
10.	Great Mercury Island (Ahuahu)	Te Ahuahu / Great Mercury Island	BA35 507 436	Island
11.	Hapuakohe	Te Hapū-a-Kohe	BC34 103 499	Hill
12.	Hapuakohe Range	Te Hapū-a-Kohe Range	BC34 164 488 to BC34 075 691	Range
13.	Hikuai Stream	Hikuwai Stream	BB35 415 966 to BB35 489 941	Stream
14.	Horuhoru Rock (Gannet Rock)	Horuhoru Rock	BA33 938 336	Rock
15.	Hot Water Beach	Te Puia / Hot Water Beach	BA35 511 155 to BA35 516 139	Beach
16.	Kapowai River (recorded)	Kapowai River	BB35 420 986 to BA35 404 115	River
17.	Kauaeranga River	Waiwhakaurunga River	BB35 408 981 to BB34 260 855	River
18.	Kirita Bay	Kiritā Bay	BA34 155 171 to BA34 156 167	Bay

PARE HAURAKI COLLECTIVE REDRESS DEED

11: CULTURAL REDRESS: OFFICIAL GEOGRAPHIC NAMES

19.	Kirita Stream	Kiritā Stream	BA34 188 162 to BA34 159 168	Stream
20.	Motukahaua Island (Happy Jack Island)	Motukahaua Island	BA34 122 407	Island
21.	Motukakarikitahi Island (Rat Island)	Motukākārikītahi Island	BA34 189 291	Island
22.	Motukaramarama Island (Bush Island)	Motukāramarama Island	BA34 139 380	Island
23.	Motuoruhi Island (Goat Island)	Motuoruhi Island	BA34 145 311	Island
24.	Motupohukuo Island (Turkey Island)	Motupohukuo Island	BA34 198 317	Island
25.	Motupotaka (Black Rocks)	Motupōtaka Rocks	BA34 111 424	Rocks
26.	Moturua Island (Rabbit Island)	Moturua Island	BA34 138 360	Island
27.	Motuwī Island (Double Island)	Motuwī Island	BA34 417 383	Island
28.	Needle Rock	Needle Rock / Motutewha	BA36 540 308	Rock
29.	Nga Horo Island	Ngāhoro Island	BB36 740 045	Island
30.	Otautu Bay	Ō-Tautū-i-te-Rangi Bay	BA34 181 456 to BA34 188 452	Bay
31.	Otautu Point	Ō-Tautū-i-te-Rangi Point	BA34 181 455	Point
32.	Port Jackson	Muriwai / Port Jackson	AZ34 089 601 to AZ34 101 611	Bay
33.	Primrose Hill (local use)	Karanga Tūī	BC35 370 595	Hill
34.	Puatamaru Rock	Te Pū Taumaru Rock	BB34 236 924	Rock
35.	Pukeoraka	Te Puke-o- Rakamaomao	BB35 287 856	Hill
36.	Raeotepapa Stream	Kirituna Stream	BC35 359 526 to BC35 336 523	Stream
37.	Red Mercury Island (Whakau)	Whakaū / Red Mercury Island	BA36 622 429	Island
38.	Rotoroa Island	Rātōroa Island	BA33 960 235	Island
39.	Stony Stream	Pūkiore Stream	BB35 485 894 to BB35 474 933	Stream
40.	Table Mountain	Whakairi / Table Mountain	BB35 367 965	Hill

PARE HAURAKI COLLECTIVE REDRESS DEED

11: CULTURAL REDRESS: OFFICIAL GEOGRAPHIC NAMES

41.	Tapapakanga Stream	Te Tāpapakanga-o-Puku Stream	BB33 979 999 to BB33 012 055	Stream
42.	Tararu	Te Tararua o Hinetekakara	BB34 271 934	Hill
43.	Taumaharua	Taumaharua	BC35 402 613	Peak
44.	Te Aroha	Te Aroha-a-uta	BC35 423 424	Hill
45.	Thornton Bay	Te Wharau / Thornton Bay	BB34 243 952	Bay
46.	Tokatara Rock	Te Toko-tarea-ō-Tautū-i-te-Rangi	BA34 179 455	Rock
47.	Union Hill (local use)	Motumanawa Hill	BC36 528 582	Hill
48.	Unnamed	Patutahi	BA32 641 178	Historic site
49.	Unnamed	Pukewā	BC35 517 584	Historic Site
50.	Unnamed	Te Pū Taumarū	BB34 236 922	Historic Site
51.	Waiotahi Stream	Waiotahe Stream	BB34 268 895 to BB34 255 877	Stream
52.	Warahoe Stream	Wharahoe Stream	BB35 343 828 to BB34 279 794	Stream

11.2 The Pare Hauraki collective redress legislation will provide for the official geographic names, on the terms provided by sections 60 to 63 of the draft collective bill.

11.3 The legislation giving effect to the collective redress deed of historical Treaty of Waitangi claims between Ngāti Rehua-Ngātiwai ki Aotea and the Crown will provide for an Aotea / Great Barrier Island name change if it comes into force before the Pare Hauraki collective redress legislation.

12 CULTURAL REDRESS EXCLUSIVITY

- 12.1 The Crown may do anything that is consistent with the cultural redress, including entering into, and giving effect to, a settlement that provides for the same or similar cultural redress.
- 12.2 However, the Crown must not enter into a settlement that provides for the vesting of the Moehau Tupuna Maunga or Te Aroha Tupuna Maunga.

13 CULTURAL REDRESS: LETTER OF INTRODUCTION

- 13.1 The Minister for Treaty of Waitangi Negotiations must, no later than three months after the settlement date, write a letter, as set out in part 5A of the documents schedule to the Minister of Finance and the Minister of Land Information, as the responsible Ministers under the Overseas Investment Act 2005 in relation to sensitive land sales.

14 COMMERCIAL REDRESS: PROPERTIES

FINANCIAL REDRESS TO IWI OF HAURAKI

- 14.1 The Crown has offered the Iwi of Hauraki financial redress in the sum of \$100,000,000 for the settlement of claims in the Hauraki negotiations region.
- 14.2 Each Iwi of Hauraki will receive its financial redress through its own deed of settlement.

PROPERTIES TO BE TRANSFERRED

- 14.3 The following properties, more particularly described in parts 3 to 5 of the property redress schedule, are to be transferred:

14.3.1 the licensed land, being the following forest lands:

- (a) Kauaeranga:
- (b) Tairua:
- (c) Hauraki Waihou Forest:
- (d) Whangamata:
- (e) Whangapoua:
- (f) Hauraki Athenree Forest:

14.3.2 the early release commercial redress properties:

14.3.3 the commercial redress properties.

EARLY RELEASE COMMERCIAL REDRESS PROPERTIES

- 14.4 Within 20 working days after the later of the date of this deed and the date on which the Pare Hauraki collective commercial entity is established, the early release commercial redress properties are to be transferred by the Crown to the Pare Hauraki collective commercial entity in accordance with the early release commercial redress property terms.

COMMERCIAL REDRESS PROPERTIES

- 14.5 Each commercial redress property is to be –

14.5.1 transferred by the Crown to the Pare Hauraki collective commercial entity on the settlement date -

- (a) without any consideration; and

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

(b) on the terms of transfer in part 8 of the property redress schedule; and

14.5.2 as described, and is to have the transfer value provided, in part 4 of the property redress schedule.

14.6 The transfer of each commercial redress property will be subject to, and where applicable with the benefit of, the encumbrances provided in part 4 of the property redress schedule in relation to that property.

SUBSEQUENT TRANSFER BY PARE HAURAKI COLLECTIVE COMMERCIAL ENTITY

14.7 The Crown acknowledges and the parties agree that the Pare Hauraki collective commercial entity must transfer each early release commercial redress property and each commercial redress property in respect of which iwi are specified in tables 1 and 2 respectively below, to the governance entity of that iwi, within 20 working days after the transfer by the Crown to the Pare Hauraki collective commercial entity.

14.8 The Pare Hauraki collective commercial entity shall not derive any financial benefit from its holding of a property to be transferred in accordance with clause 14.7, including from any increase in value of such a property or from any income relating to such a property.

14.9 Where more than one iwi is specified next to a property in the table below, the property will be transferred by the Pare Hauraki collective commercial entity to the governance entities of the specified iwi in undivided equal shares as tenants in common, unless otherwise agreed between the relevant parties.

TABLE 1: EARLY RELEASE COMMERCIAL REDRESS PROPERTIES			
No	Address	Iwi of Hauraki	Agreed transfer value
1	19 Buffalo Beach Road, Whitianga	Ngāti Hei	\$1,877,167
2	22 Nicholas Avenue, Whitianga	Ngāti Hei	\$206,500
3	603 MacKay Street, Thames	Ngāti Maru	\$268,333
4	112 A & B Grafton Road, Thames	Ngāti Maru	\$166,600
5	5 Kopu-Hikuai Road, Thames	Ngāti Maru	\$81,900
6	19 Hayward Road, Ngatea	Ngāti Maru	\$142,333
7	Mahuta Road North / Cross Road SH2, Mangatarata	Ngāti Maru	\$15,633

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

8	400 Woodland Road, Katikati	Ngāti Maru	\$9,333
9	Cnr Stanley Avenue / Ritchie Street, Te Aroha	Ngāti Rāhiri Tumutumu	\$1,222,667
10	8 Hanna Street, Te Aroha	Ngāti Rāhiri Tumutumu	\$126,233
11	132 Park Road, Katikati	Ngāti Tamaterā	\$184,800
12	6 Albert Street, Mackaytown	Ngāti Tara Tokanui	\$106,633
13	Sub Station Lane, Waikino	Ngāti Tara Tokanui	\$4,200
14	119 Whangapoua Road, Coromandel	Te Patukirikiri	\$221,433
15	69 Broadway Road, Waihi Beach	i. Hako ii. Ngāti Tara Tokanui	\$478,333
16	40 Kerepehi Town Road, Kerepehi	i. Hako ii. Ngaati Whanaunga	\$39,667
17	2 Church Road / North Road, Mangatarata	i. Hako ii. Ngāti Maru	\$259,000
18	1857 Kopu-Hikuai Road (SH25A), Thames	i. Ngāti Hei ii. Ngāti Maru	\$20,767
19	465 - 475 Stanley Road South, Te Aroha	i. Ngāti Maru ii. Ngāti Rāhiri Tumutumu	\$267,167
20	Cnr Orchard East Road / SH2, Ngatea	i. Ngāti Maru ii. Ngāti Tamaterā	\$133,700
21	607 MacKay Street, Thames	i. Ngāti Maru ii. Ngaati Whanaunga	\$187,133
22	609 MacKay Street, Thames	i. Ngāti Maru ii. Ngaati Whanaunga	\$141,400
23	416 Brown Street, Thames	i. Ngāti Maru ii. Ngaati Whanaunga	\$189,233

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

24	131 Karaka Road, Thames	i. Ngāti Maru ii. Ngaati Whanaunga	\$215,367
25	28 Waimarei Avenue, Paeroa	i. Ngāti Tamaterā ii. Ngāti Tara Tokanui	\$117,133
26	1679 State Highway 2, Athenree	i. Ngāti Tamaterā ii. Ngāti Tara Tokanui	\$129,733
27	179 Normanby Road, Paeroa	i. Hako ii. Ngāti Tamaterā iii. Ngāti Tara Tokanui	\$392,000
28	Seddon Avenue / Waitete Road / Orchard Road, Waihi	i. Hako ii. Ngāti Tamaterā iii. Ngāti Tara Tokanui	\$469,000
29	105 Isabel Street, Whangamata	i. Hako ii. Ngāti Maru iii. Ngāti Tamaterā iv. Ngaati Whanaunga	\$202,067
30	1-5 Toko Road, Whangamata	i. Hako ii. Ngāti Maru iii. Ngāti Tamaterā iv. Ngaati Whanaunga	\$809,667
31	Feisst Road / Bell Road, Maramarua	i. Ngāti Maru ii. Ngāti Paoa iii. Ngāti Tamaterā iv. Ngaati Whanaunga	\$1,208,667
32	401 Achilles Avenue, Whangamata	i. Hako ii. Ngāti Maru iii. Ngāti Rāhiri Tumutumu iv. Ngāti Tamaterā v. Ngaati Whanaunga	\$204,167
33	107 Ajax Road, Whangamata	i. Hako ii. Ngāti Maru iii. Ngāti Tamaterā iv. Ngāti Tara Tokanui v. Ngaati Whanaunga	\$193,900

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

TABLE 2: COMMERCIAL REDRESS PROPERTIES			
No	Address	Iwi of Hauraki	Agreed transfer values
34	Cnr Coronation Street / Opukeko Road, Paeroa	Hako	\$108,500
35	Lipsey / 37 Burgess Streets, Te Aroha	Ngāti Rāhiri Tumutumu	\$57,167
36	24 Gordon Avenue, Te Aroha	Ngāti Rāhiri Tumutumu	\$56,467
37	1 Terminus Street, Te Aroha	Ngāti Rāhiri Tumutumu	\$80,500
38	6 Gordon Avenue, Te Aroha	Ngāti Tamaterā	\$105,233
39	16 Gordon Avenue, Te Aroha	Ngāti Tamaterā	\$44,333
40	150 Opoutere Road, Opoutere	Ngaati Whanaunga	\$170,333
41	35 Stanley Avenue, Te Aroha	i. Ngāti Rāhiri Tumutumu ii. Ngāti Tamaterā	\$141,633

14.10 The parties agree that –

- 14.10.1 in respect of each property listed in table 1 and table 2 above, each agreed transfer value for that property set out in column 4 of each table will be deducted from the financial redress amount in respect of the historical Treaty of Waitangi claims of each of the iwi listed in column 3 of each table through its individual comprehensive settlements; and
- 14.10.2 where more than one iwi is specified next to a property, the agreed transfer value will be allocated and deducted in equal amounts from the financial redress amounts in the specified iwi settlements, unless otherwise agreed between the relevant parties; and
- 14.10.3 accordingly, the amounts to be deducted in each specified iwi settlement are set out in the table below.

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

Iwi	Early release (On-account) amount	Commercial Redress Amount	Total
Hako	\$1,008,047	\$108,500	\$1,116,547
Ngāti Hei	\$2,094,051	-	\$2,094,051
Ngāti Maru	\$2,025,729	-	\$2,025,729
Ngāti Paoa	\$302,167	-	\$302,167
Ngāti Rāhiri Tumutumu	\$1,523,317	\$264,951	\$1,788,268
Ngāti Tamaterā	\$1,296,797	\$220,383	\$1,517,180
Ngāti Tara Tokanui	\$799,213	-	\$799,213
Ngaati Whanaunga	\$1,021,114	\$170,333	\$1,191,447
Te Patukirikiri	\$221,433	-	\$221,433

LICENSED LAND

14.11 The Crown and the Pare Hauraki collective CFL land entity are to be treated as having entered into an agreement for the sale and purchase of the licensed land.

14.12 The agreement for sale and purchase under clause 14.11 is to be treated as –

14.12.1 providing that the Pare Hauraki collective CFL land entity must, on the settlement date pay to the Crown the transfer value of the licensed land, plus GST if any; and

14.12.2 providing that the terms of transfer in part 8 of the property redress schedule apply and, in particular, the Crown must, subject to the Pare Hauraki collective CFL land entity paying the amount payable under clause 14.12.1, transfer the licensed land on the settlement date on the basis set out in clause 14.16; and

14.12.3 providing that the amount payable under clause 14.12.1 is payable by –

(a) the SCP system, as defined in Guideline 6.2 of the New Zealand Law Society's Property Law Section's Property Transactions and E-Dealing Practice Guidelines (April 2015); or

(b) another payment method agreed in writing by the Pare Hauraki collective CFL land entity and the Crown.

14.13 The transfer of the licensed land will be –

14.13.1 subject to, and where applicable with the benefit of, the encumbrances provided in part 5 of the property redress schedule in relation to that property; and

14.13.2 subject to the Pare Hauraki collective CFL land entity providing to the Crown before the registration of the transfer of the licensed land right of way easements in gross on the terms and conditions set out in "type A" in part 7.1 of the documents schedule (subject to any variations in form necessary only to ensure its registration) to give effect to those descriptions of easements in

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

the third column of part 5 of the property redress schedule that refer to this clause 14.13.2; and

- 14.13.3 subject to the Crown providing to the Pare Hauraki collective CFL land entity before the registration of the transfer of the licensed land, right of way easements on the terms and conditions set out as “type B” in part 7.2 of the documents schedule (subject to any variations in form necessary only to ensure its registration) to give effect to those descriptions of easements in the third column of part 5 of the property redress schedule that refer to this clause 14.13.3; and
- 14.13.4 subject to the Pare Hauraki collective CFL land entity providing to the Crown before the registration of the transfer of the licensed land a right of way easement on the terms and conditions set out in “type C” in part 7.3 of the documents schedule (subject to any variations in form necessary only to ensure its registration) to give effect to those descriptions of easements in the third column of part 5 of the property redress schedule that refer to this clause 14.13.4.
- 14.14 The parties to the easements referred to in clause 14.13.2, 14.13.3 and 14.13.4 are bound by the easement terms from the settlement date.
- 14.15 The Pare Hauraki collective redress legislation will, on the terms provided by sections 136 to 141 of the draft collective bill, provide for the following in relation to the licensed land:
- 14.15.1 the licensed land to cease to be Crown forest land upon registration of the transfer:
- 14.15.2 the Pare Hauraki collective CFL land entity to be, from the settlement date, in relation to the licensed land –
- (a) a confirmed beneficiary under clause 11.1 of the Crown forestry rental trust deed; and
 - (b) entitled to the rental proceeds since the commencement of the Crown forestry licence:
- 14.15.3 despite clause 11.4 of the Crown forestry rental trust deed, the Crown forestry rental trust to pay to Pare Hauraki collective CFL land entity –
- (a) on the settlement date, the rental proceeds held on that date; and
 - (b) any further rental proceeds received after the settlement date, as soon as reasonably practicable after the Crown forestry rental trust receives those funds under the Crown forestry rental trust deed:
- 14.15.4 the Crown to give notice under section 17(4)(b) of the Crown Forests Assets Act 1989 terminating the Crown forestry licence in so far as it relates to the licensed land, at the expiry of the period determined under that section, as if –

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

- (a) the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the licensed land to Māori ownership; and
- (b) the Waitangi Tribunal's recommendation became final on the settlement date:

14.15.5 the Pare Hauraki collective CFL land entity to be the licensor under the Crown forestry licence, as if the licensed land had been returned to Māori ownership on the TSP settlement date under section 36 of the Crown Forest Assets Act 1989, but without section 36(1)(b) applying:

14.15.6 for rights of access to areas that are wāhi tapu.

14.16 The Crown acknowledges that the ownership shares and transfer price allocation for the licensed land among the Iwi of Hauraki is shown in the table below:

Iwi	Ownership Share of Licensed Land	Transfer Price Share from Licensed Land Rental Monies
Hako	9.0%	\$2,348,352
Ngāi Tai ki Tāmaki	1.2%	\$313,114
Ngāti Hei	8.5%	\$2,217,888
Ngāti Maru	20.8%	\$5,427,302
Ngāti Paoa	16.0%	\$4,174,848
Ngāti Porou ki Hauraki	2.5%	\$652,320
Ngāti Pūkenga	2.0%	\$521,856
Ngāti Rāhiri Tumutumu	5.5%	\$1,435,104
Ngāti Tamaterā	18.0%	\$4,696,703
Ngāti Tara Tokanui	6.0%	\$1,565,568
Ngaati Whanaunga	8.5%	\$2,217,888
Te Patukirikiri	2.0%	\$521,856
Total	100%	\$26,092,797

14.17 The Crown also acknowledges that:

- 14.17.1 any rental proceeds payable under clause 14.15.3 that are in excess of the transfer value of the licensed land payable under clause 14.12.1 must be allocated to the Iwi of Hauraki in the same proportions as shown in the second column of the above table; and
- 14.17.2 the New Zealand units associated with the licensed land must be allocated to the Pare Hauraki collective CFL land entity in the same proportions as shown in the second column of the above table.

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

CLIMATE CHANGE

14.18 The parties record that, under the Climate Change Response Act 2002, the Pare Hauraki collective CFL land entity will have the right to apply for New Zealand units (as defined in that Act) associated with its ownership of the licensed land.

DEFERRED SELECTION PROPERTIES

14.19 The Pare Hauraki collective commercial entity may, during the deferred selection period (being five years from the settlement date), give the Crown a written notice of interest in respect of each deferred selection property in accordance with paragraph 7.1 of the property redress schedule.

14.20 Part 7 of the property redress schedule provides for the effect of the notice and sets out a process where the property is valued and may be acquired by the Pare Hauraki collective commercial entity.

14.21 In respect of each of the following deferred selection properties, the Pare Hauraki collective commercial entity must grant a registrable conservation covenant immediately after its purchase:

14.21.1 Tairua Forest Conservation Area:

14.21.2 Conservation Area – Kitahi:

14.21.3 Conservation Area – Hikuai:

14.21.4 Conservation Area – Kitahi site B:

14.21.5 Conservation Area – Mangarehu Stream:

14.21.6 Conservation Area – Oteao Stream.

14.22 Each conservation covenant referred to in clause 14.21 is to be on the terms set out in part 8 of the documents schedule.

14.23 The Pare Hauraki collective redress legislation will, on the terms provided by –

14.23.1 section 133(2) of the draft collective bill, provide that a deferred selection property that becomes a purchased deferred selection property ceases to be a conservation area under the Conservation Act 1987; and

14.23.2 section 133(4) of the draft collective bill, provide that, if the deferred selection property described as Waihou River Conservation Area in part 6 of the property redress schedule becomes a purchased deferred selection property, it continues to be a soil conservation reserve subject to the Soil Conservation and Rivers Control Act 1941 under the control and management of the Waikato Regional Council; and

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

14.23.3 section 134 of the draft collective bill, provide that, if a deferred selection property referred to in clause 14.24 becomes a deferred selection property, its transfer to the Pare Hauraki collective commercial entity does not affect the powers and responsibilities of the Waikato Regional Council under the Soil Conservation and Rivers Control Act 1941 to maintain, access, repair, or construct, without charge to the Council, flood protection assets on, or associated with, the property.

14.24 The deferred selection properties referred to in clause 14.23.3 are the properties described in part 6 of the property redress schedule as –

14.24.1 Piako River Conservation Area; and

14.24.2 Patetonga (Flax Mill Road) Conservation Area.

PARE HAURAKI COLLECTIVE REDRESS LEGISLATION

14.25 The Pare Hauraki collective redress legislation will, on the terms provided by sections 127-132, 133(1) and 133(2) of the draft collective bill, enable the transfer of the licensed land, the commercial redress properties, and the deferred selection properties.

RFR FROM THE CROWN

14.26 The Pare Hauraki collective commercial entity is to have a right of first refusal in relation to a disposal of:

14.26.1 the land listed in the attachments as RFR land that, on the settlement date, –

(a) is vested in the Crown; or

(b) the fee simple for which is held by the Crown, Housing New Zealand Corporation, the University of Waikato, the Waikato District Health Board or Maritime New Zealand; and

14.26.2 that land which is within the RFR area that, on the settlement date, –

(a) is vested in the Crown; or

(b) is held in fee simple by the Crown; or

(c) is a reserve vested in an administering body that derived title to the reserve from the Crown and that would, on the application of section 25 or 27 of the Reserves Act 1977, revert in the Crown.

14.27 The right of first refusal is –

14.27.1 to be on the terms provided by sections 159 to 195 of the draft collective bill; and

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

14.27.2 in particular, to apply–

- (a) for a term of 176 years from the settlement date; but
- (b) only if the RFR land is not being disposed of in the circumstances referred to in section 162(2) of the draft collective bill.

ADDITIONAL PROVISIONS RELATING TO HOUSING NEW ZEALAND RFR LAND

14.28 The Crown acknowledges that, if the Pare Hauraki collective commercial entity receives a notice, as provided by section 163 of the draft collective bill, to dispose of any Housing New Zealand RFR land specified in table 6 of part 5 of the attachments in respect of which an iwi is specified in the fourth column of that table, clauses 14.29 and 14.30 apply.

14.29 The Pare Hauraki collective commercial entity will, as soon as practicable, provide the governance entity of the iwi specified in the fourth column of table 6 of part 5 of the attachments in relation to the Housing New Zealand RFR land (**relevant governance entity**) with the notice referred to in clause 14.28, to enable the relevant governance entity to decide whether to direct the Pare Hauraki collective commercial entity to accept the offer for the Housing New Zealand RFR land on behalf of the relevant governance entity as provided by section 166 of the draft collective bill.

14.30 If the relevant governance entity directs the Pare Hauraki collective commercial entity to accept the offer for the Housing New Zealand RFR land on behalf of the relevant governance entity, the Pare Hauraki collective commercial entity will accept the offer for the Housing New Zealand RFR land on behalf of the relevant governance entity in accordance with section 166 of the draft collective bill.

ADDITIONAL PROVISIONS RELATING TO KING FAMILY RFR LAND

14.31 The Pare Hauraki collective commercial entity is to have a first right to purchase the King Family RFR property specified in table 1 of part 5 of the attachments in the circumstances set out in sections 168 and 169 of the draft collective bill.

LAND REQUIRED FOR COMPREHENSIVE SETTLEMENTS

14.32 The Iwi of Hauraki record their agreement that the RFR is not to apply to any land (including a cultural redress property or land used for commercial redress) that is required for the settling of historical claims under Te Tiriti o Waitangi / the Treaty of Waitangi, being those relating to acts or omissions of the Crown before 21 September 1991.

14.33 To give effect to that agreement, the Pare Hauraki collective redress legislation will, as provided by section 161 of the draft collective bill, provide for the removal of any land (except the King Family RFR property) from the RFR regime required for another Treaty settlement.

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

RFR LAND THAT WAS DSP UNDER IWI-SPECIFIC SETTLEMENT

- 14.34 The Crown acknowledges that, if the Pare Hauraki collective commercial entity receives a notice, as provided by section 163 of the draft collective bill, regarding any land that was a deferred selection property under a deed of settlement of historical Treaty claims of an Iwi of Hauraki, but has ceased to be because it is surplus to the land holding agency's requirements, clauses 14.35 and 14.36 apply.
- 14.35 The Pare Hauraki collective commercial entity will, as soon as practicable, provide the governance entity or entities of the Iwi of Hauraki (**relevant DSP governance entity**) that previously had the right to acquire the property as a deferred selection property with the notice referred to in clause 13.31 to enable the relevant DSP governance entity or entities to decide whether to direct the Pare Hauraki collective commercial entity to accept the offer for the property on behalf of the relevant DSP governance entity or entities as provided by section 166 of the draft collective bill.
- 14.36 If the Pare Hauraki collective commercial entity is directed to accept the offer for the property on behalf of the relevant DSP governance entity or entities, the Pare Hauraki collective commercial entity will accept the offer for the property on behalf of the relevant DSP governance entity or entities in accordance with section 166 of the draft collective bill.

SECOND RIGHT OF REFUSAL

- 14.37 The Pare Hauraki collective commercial entity is to have a second right of refusal in relation to a sale by the Crown of second right of refusal land, being land subject to section 11 of the Waikato Raupatu Claims Settlement Act 1995 (**1995 Act**) and listed in the attachments as second right of refusal land that, on the settlement date, is owned by the Crown.
- 14.38 The second right of refusal is on the terms provided by section 196 to 208 of the draft collective bill, which provide that –
- 14.38.1 the Crown may not sell second right of refusal land under section 11(3)(a) of the 1995 Act to any other person without first offering it to the Pare Hauraki collective commercial entity; and
- 14.38.2 the terms of the offer must be equivalent to those set out in the offer made under section 11(1) of that Act in respect of which a contract for sale and purchase was not constituted; and
- 14.38.3 an offer is not required following a re-offer under section 11(4) of that Act.

STATE OWNED ENTERPRISES

- 14.39 The Crown is supportive of the Pare Hauraki collective commercial entity exploring arrangements on an independent and commercial basis, with State Owned Enterprises in the Hauraki Collective Right of First Refusal area.

PARE HAURAKI COLLECTIVE REDRESS DEED

14: COMMERCIAL REDRESS: PROPERTIES

EXCHANGE OF LICENSED LAND AND COUNCIL LAND

14.40 The Pare Hauraki collective redress legislation will, on the terms provided by section 135 of the draft collective bill, direct the transfer by way of exchange, –

14.40.1 of the Council land (as defined in section 135(7) of the draft collective bill) from the Thames-Coromandel District Council to the Pare Hauraki collective CFL land entity; and

14.40.2 of the fire station land (as defined in section 135(7) of the draft collective bill) from the Pare Hauraki collective CFL land entity to the Thames-Coromandel District Council.

14.41 The Pare Hauraki collective CFL land entity must, as soon as reasonably practical after it has executed the deed of covenant under clause 16.7.1, enter into an agreement with the Thames-Coromandel District Council which will be given effect to by the transfer by way of exchange.

[Note: The agreement referred to in clause 14.41 will be included in the documents schedule by deed signing, and it will provide that the costs of effecting the transfer lie with the Council.]

15 COMMERCIAL REDRESS: MINERALS

Preamble

- 15.1 Mineral extraction, especially gold, is central to the history of Crown-Pare Hauraki relations and its harmful effects are still felt being felt in current times. Pākeha settlement in the Hauraki region was associated with the search for and exploitation of minerals, beginning with the discovery of gold near Coromandel Harbour in 1852.
- 15.2 The first minerals agreement between the Crown and Pare Hauraki rangatira was signed at Patapata in 1852, and involved gold mining at Kapanga. Subsequently, gold and other minerals were mined, on the basis that land would not be alienated, at Kauaeranga from 1866, Ohinemuri from 1875, Te Aroha from 1880, and the east Coromandel Peninsula from Kuaotunu to Waihi from the late 1880s. Each of these transactions involved varying reactions from the Iwi of Hauraki, for example at Ohinemuri.
- 15.3 The Waitangi Tribunal's Hauraki Report estimates that over 1,400 tonnes of gold and silver bullion was extracted from Hauraki in the period 1862-1952. The Iwi of Hauraki received an estimated £89,000 from mining cession agreements between 1867 and 1897 while the value of gold exported in the same period was worth approximately £7.8 million (representing around 1.1% for Pare Hauraki).
- 15.4 Some Pare Hauraki rangatira expressed a desire to derive income from the prospecting of gold in their rohe while continuing to retain control and ownership of those lands, others opposed mining on their lands altogether.
- 15.5 In the twentieth century, mining continued at Waihi. In 1940, the MacCormick commission recommended the Crown make an ex gratia payment to Pare Hauraki in recognition of the unequal nature of the mining agreements made in the nineteenth century. The Crown, however, neglected to implement this recommendation. The Crown also failed to return lands made available for mining and still in Māori ownership (but no longer used for mining purposes) to Māori. Mineral extraction remains a feature of the Hauraki region and the negative consequences for the Iwi of Hauraki continue to this day.
- 15.6 The extent of claims of breaches of the Treaty of Waitangi / Te Tiriti o Waitangi and its principles relating to minerals and mining is unique to Pare Hauraki. The Waitangi Tribunal devoted one third of the Hauraki Report to the Treaty issues arising from mining and the Coromandel goldfields. It found that nowhere else did Māori face the rapid expansion of so large a mining industry and nowhere else was so much Maori land affected. This had long-term impacts on the Iwi of Hauraki.
- 15.7 Over the generations, Hauraki rangatira persistently protested the alienation of mineral-bearing lands, the loss of wāhi tapu, environmental degradation including the deterioration of water quality and damage to waterways, declining revenues from mineral extraction, the loss of livelihood experienced by the iwi as a result of Crown actions, and the Crown's failure to honour minerals agreements. These form the foundation of the Pare Hauraki claims.

PARE HAURAKI COLLECTIVE REDRESS DEED

15: COMMERCIAL REDRESS: MINERALS

- 15.8 The Crown has acknowledged that at various times it breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles when acquiring gold-bearing land in Hauraki, and that it deprived iwi of their rangatiratanga over land subject to mining licences. As a consequence, Pare Hauraki saw little economic benefit from mineral extraction. The Iwi of Hauraki suffered significantly as a result of Crown Treaty breaches relating to minerals.
- 15.9 The Crown has also acknowledged that mineral extraction in Hauraki has resulted in ongoing environmental degradation, changes and pollution to lands, waterways (including contamination from heavy metals), and food sources, including modifications to the course of the Waihou and Ohinemuri Rivers and their tributaries that drained resource-rich wetlands, destroyed wāhi tapu, and caused significant harm to Tikapa Moana and its kaimoana resources.
- 15.10 This part of the deed contains redress provided to the Iwi of Hauraki in respect of minerals.

Transfer of certain Crown-owned minerals and payment of royalties

- 15.11 The Pare Hauraki collective redress legislation will provide, on the terms provided by sections 143 to 158 of the draft collective bill, that despite section 11 of the Crown Minerals Act 1991 (minerals reserved to the Crown) any Crown owned minerals in land vested in or transferred to any Pare Hauraki collective entity under this deed vest or transfer with, and form part of, the land, but that vesting or transfer does not limit section 10 of that Act (petroleum, gold, silver and uranium) or affect other existing lawful rights to subsurface minerals.
- 15.12 To avoid doubt, nothing in any item listed in the third column of the tables listed in parts 3 to 6 of the property redress schedule affects the vesting or transfer of Crown-owned minerals under clause 15.11.
- 15.13 Sections 148 to 158 of the draft collective bill establish a regime for the payment of royalties received by the Crown, in the previous 8 years, in respect of the vested minerals to which clause 15.11 applies.
- 15.14 The Crown acknowledges, for the avoidance of doubt, that it has no property in any minerals existing in their natural condition in Māori customary land (as defined in Te Ture Whenua Maori Act 1993), other than those minerals referred to in section 10 of the Crown Minerals Act 1991 or if provided in any other enactment.

Involvement in any review of ownership of gold and silver

- 15.15 If the Crown decides to initiate a review of the ownership of gold and silver (alone or as part of a wider review of all nationalised minerals), the Crown will:
- 15.15.1 involve representatives of Pare Hauraki in the review process
 - 15.15.2 include Ministerial engagement with representatives of Pare Hauraki;

PARE HAURAKI COLLECTIVE REDRESS DEED

15: COMMERCIAL REDRESS: MINERALS

15.15.3 recognise the importance of the Statement of Pare Hauraki World View and Programme for a Culture of Natural Resources Partnership and ensure it is taken into account in the review; and

15.15.4 acknowledge the unique history that the Iwi of Hauraki have with gold and silver.

Relationship agreement with the Crown through the Ministry of Business, Innovation and Employment

15.16 The Crown through the Ministry of Business, Innovation and Employment and the Pare Hauraki collective cultural entity are to be treated as having entered into the relationship agreement set out in part 2 of the documents schedule.

15.17 A failure by the Crown or the Pare Hauraki collective cultural entity to comply with the relationship agreement is not a breach of this deed.

16 PARE HAURAKI COLLECTIVE REDRESS LEGISLATION, PARE HAURAKI COLLECTIVE ENTITIES, CONDITIONS, AND TERMINATION

PARE HAURAKI COLLECTIVE REDRESS LEGISLATION

- 16.1 The Crown must propose the draft collective bill for introduction to the House of Representatives to give effect to this deed.
- 16.2 The Pare Hauraki collective redress legislation must:
- 16.2.1 provide for all matters for which legislation is required to give effect to this deed; and
 - 16.2.2 be agreed by the Iwi of Hauraki and the Crown.
- 16.3 The Iwi of Hauraki and Crown acknowledge that:
- 16.3.1 the draft collective bill must comply with relevant drafting conventions for a government bill; and
 - 16.3.2 this deed contains significant features to the Iwi of Hauraki that must be given effect to through the draft collective bill.
- 16.4 The draft collective bill proposed for introduction to the House of Representatives may be in the form of an omnibus bill that includes bills settling the claims of the Iwi of Hauraki.
- 16.5 The Crown must not, after introduction to the House of Representatives, propose changes to the draft collective bill other than changes agreed in writing by the Pare Hauraki collective entities and the Crown.
- 16.6 The Iwi of Hauraki and the Pare Hauraki collective entities must support the passage through Parliament of the draft collective bill.

PARE HAURAKI COLLECTIVE ENTITIES

- 16.7 Despite clause 16.1, the Crown is not obliged to propose legislation for introduction to the House of Representatives until:
- 16.7.1 each Pare Hauraki collective entity has executed, and delivered to the Crown, the deed of covenant in the form set out in part 3 of the documents schedule; and
 - 16.7.2 the Iwi of Hauraki have established the Pare Hauraki collective cultural entity by procuring the proper execution of a deed of trust in the form previously approved by the Crown; and
 - 16.7.3 the Iwi of Hauraki have established the Pare Hauraki collective commercial entity and Pare Hauraki collective CFL land entity by procuring the proper

PARE HAURAKI COLLECTIVE REDRESS DEED

16: PARE HAURAKI COLLECTIVE REDRESS LEGISLATION, PARE HAURAKI COLLECTIVE ENTITIES, CONDITIONS, AND TERMINATION

execution of a limited partnership agreement for each of those entities in the form previously approved by the Crown; and

- 16.7.4 the Pare Hauraki collective commercial entity and the Pare Hauraki collective CFL land entity have been registered as limited partnerships under the Limited Partnerships Act 2008.

DEED CONDITIONAL

- 16.8 This deed is conditional on the Pare Hauraki collective redress legislation coming into force.

- 16.9 However, the following provisions of this deed are binding on its signing:

- 16.9.1 clauses 9.1.7, 14.4, 14.7 (to the extent it relates to an early release commercial redress property), 16.1 to 16.6 and 16.9 to 16.12:

- 16.9.2 parts 3 to 6 of the general matters schedule.

EFFECT OF THIS DEED

- 16.10 This deed –

- 16.10.1 is “without prejudice” until it becomes unconditional; and

- 16.10.2 in particular, may not be used as evidence in proceedings before, or presented to, the Waitangi Tribunal, any court, or any other judicial body or tribunal.

- 16.11 Clause 16.9 does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

TERMINATION

- 16.12 The Crown, or the Pare Hauraki collective entities together, may terminate this deed, by notice to the other, if –

- 16.12.1 the Pare Hauraki collective redress legislation has not come into force within 36 months after the date of this deed; and

- 16.12.2 the terminating party has given the other party at least 40 working days’ notice of an intention to terminate.

- 16.13 If this deed is terminated in accordance with its provisions –

- 16.13.1 it is at an end; and

- 16.13.2 subject to this clause, it does not give rise to any rights or obligations; and

PARE HAURAKI COLLECTIVE REDRESS DEED

16: PARE HAURAKI COLLECTIVE REDRESS LEGISLATION, PARE HAURAKI COLLECTIVE ENTITIES, CONDITIONS, AND TERMINATION

16.13.3 it remains “without prejudice”.

17 [ACCESSION]

[Note: If any Iwi of Hauraki does not initial this deed, the final deed will include provisions set out below, and will refer to separate arrangements (to be entered into on deed signing) for the non-signing iwi to receive the cultural and commercial redress held by the collective entities, and in relation to the licensed land that arrangement will be for the share of any non-signing iwi to be held by the Pare Hauraki collective CFL land entity.]

ACKNOWLEDGEMENTS

17.1 The Iwi of Hauraki and the Crown acknowledge and record:

17.1.1 that [] have been part of the Iwi of Hauraki for the purposes of negotiating this deed;

17.1.2 that by the date of this deed, [the Crown was not satisfied that sufficient members of [] had ratified this deed and approved the collective entity receiving the redress] [[] had not "initialled" the deed];

17.1.3 the strong desire of the Iwi of Hauraki for [] to be a party to, and receive the benefits of, this deed;

17.1.4 that the Iwi of Hauraki are therefore fully supportive of [] acceding to this deed; and

17.1.5 [[] are signatories to this deed because [] is an Iwi of Hauraki and in recognition of the parties' strong desire that the members of [] will ratify this deed to the satisfaction of the Crown.]

REFERENCES TO []

17.2 This deed is to be read as if the references to [] (other than in this part) have no effect unless and until [] have fulfilled the requirements in clause 17.3.

ACCESSION OF []

17.3 Clauses 17.4 and 17.5 of this deed are to apply if:

17.3.1 the Crown is satisfied with –

(a) the number and percentage of members of [] that have ratified this deed; and

(b) the number and percentage of members of [] that have approved the collective governance entities receiving the redress; and

PARE HAURAKI COLLECTIVE REDRESS DEED

17: [ACCESSION]

- 17.3.2 the named mandated signatories have signed, on behalf of [], a deed of accession (“**deed of accession**”) binding [] to the deed as if the requirements in clause 17.3.1 had been fulfilled at the date of this deed.

GENERAL EFFECT OF DEED OF ACCESSION

- 17.4 With effect from the date of the deed of accession, [] will be treated by the Crown and the Iwi of Hauraki as having been an original signatory to this deed as an Iwi of Hauraki.

SPECIFIC EFFECTS OF ACCESSION ON THIS DEED

- 17.5 With effect from the date of the deed of accession, clause 17.2 will have no effect.

SPECIFIC EFFECTS OF ACCESSION ON COLLECTIVE LEGISLATION

- 17.6 The Crown must propose to the House of Representatives such amendments to the draft bill or the collective legislation (as the case may be) as may be necessary to reflect the accession of [] to this deed.

18 EFFECT OF THIS DEED

- 18.1 This deed does not settle any of the historical claims of the Iwi of Hauraki.
- 18.2 This deed provides collective Treaty redress for historical claims in respect of the shared interests of the Iwi of Hauraki. The Iwi of Hauraki acknowledge that the redress under this deed will be part of each iwi-specific Treaty settlement.

19 TĪKAPA MOANA – TE TAI TAMAHINE / TE TAI TAMAWAHINE

- 19.1 Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine (and the harbours in those water bodies) are of great ancestral, spiritual, cultural, customary and historical significance to the Iwi of Hauraki.
- 19.2 The Iwi of Hauraki and the Crown acknowledge and agree that this deed does not provide for cultural redress in relation to Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine as that is to be developed in separate negotiations between the Crown and the Iwi of Hauraki.
- 19.3 The Iwi of Hauraki consider, but without in any way derogating from clause 19.10, negotiations with the Crown will not be complete until they receive cultural redress in relation to Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine.
- 19.4 The Crown recognises:
- 19.4.1 the significant and longstanding history of protest and grievance on the Crown's actions in relation to Tīkapa Moana, including the 1869 petition of Tanumeha Te Moananui and other Pare Hauraki rangatira and the Kauaeranga Judgment; and
 - 19.4.2 the Iwi of Hauraki have long sought co-governance and integrated management of Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine.
- 19.5 The Crown acknowledges that the aspirations of the Iwi of Hauraki for Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine include co-governance with relevant agencies in order to:
- 19.5.1 restore and enhance the ability of those water bodies to provide nourishment and spiritual sustenance;
 - 19.5.2 recognise the significance of those water bodies as maritime pathways (aramoana) to settlements throughout the Pare Hauraki rohe; and
 - 19.5.3 facilitate the exercise by the Iwi of Hauraki of kaitiakitanga, rangatiratanga and tikanga manaakitanga.
- 19.6 The Crown and iwi share many goals for natural resource management, including environmental integrity, the sustainable use of natural resources to promote economic development, and community and cultural well-being for all New Zealanders. The Crown recognises the relationships the Iwi of Hauraki have with natural resources, and that the iwi have an important role in their care.
- 19.7 The Crown agrees to negotiate redress in relation to Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine as soon as practicable, and will seek sustainable and durable arrangements involving the Iwi of Hauraki in the natural resource management of Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine that are based on Te Tiriti o Waitangi / the Treaty of Waitangi.

PARE HAURAKI COLLECTIVE REDRESS DEED

19: TĪKAPA MOANA – TE TAI TAMAHINE / TE TAI TAMAWAHINE

- 19.8 This deed does not address the realignment of the representation of iwi on the Hauraki Gulf Forum under the Hauraki Gulf Marine Park Act 2000. This matter will be explored in the negotiations over Tīkapa Moana.
- 19.9 The Crown owes iwi a duty consistent with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi to negotiate redress for Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine in good faith.
- 19.10 The Iwi of Hauraki are not precluded from making a claim to the Waitangi Tribunal in respect of the process referred to in clause 19.7.

20 CULTURAL REDRESS: TAURANGA MOANA

- 20.1 The Crown recognises the Iwi of Hauraki have interests in Tauranga Moana, which are of great spiritual, cultural, customary, ancestral and historical significance to the Iwi of Hauraki.
- 20.2 The Iwi of Hauraki and the Crown acknowledge and agree this deed does not:
- 20.2.1 provide for cultural redress in relation to Tauranga Moana as that is to be confirmed or developed in separate negotiations; nor
 - 20.2.2 prevent the development of cultural redress in relation to Tauranga Moana.
- 20.3 The Iwi of Hauraki consider, but without derogating from clause 20.10, that the Hauraki Treaty settlements will not be complete until they receive cultural redress in relation to Tauranga Moana.
- 20.4 The Crown and the Iwi of Hauraki share many goals for natural resource management, including environmental integrity, the sustainable use of natural resources to promote economic development, and community and cultural well-being for all New Zealanders. The Crown recognises the relationships the Iwi of Hauraki have with natural resources, and that the iwi have an important role in their care.
- 20.5 The Crown acknowledges the Iwi of Hauraki seek co-governance and integrated management of the catchment, harbour and coastal marine area of Tauranga Moana in order to:
- 20.5.1 restore and enhance the ability of Tauranga Moana to provide nourishment and spiritual sustenance;
 - 20.5.2 recognise the significance of Tauranga Moana as a maritime pathway (aramoana); and
 - 20.5.3 facilitate the exercise by the Iwi of Hauraki of kaitiakitanga, rangatiratanga and tikanga manaakitanga.
- 20.6 The Crown acknowledges and affirms the Iwi of Hauraki will be able to participate in any governance and management arrangements for Tauranga Moana to be negotiated between the Crown and relevant iwi (including the Iwi of Hauraki) and included in standalone legislation.
- 20.7 In the event there is continued development of the Tauranga Moana Framework, the Crown:
- 20.7.1 affirms the right of the Iwi of Hauraki, on the basis of its recognised interests in Tauranga Moana, to participate through the seat described in

PARE HAURAKI COLLECTIVE REDRESS DEED

20: CULTURAL REDRESS: TAURANGA MOANA

clause 3.11.4(e) of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed will be preserved;

- 20.7.2 acknowledges, at the time this deed was initialled, it had not agreed to the participation of any other iwi in that seat; and
 - 20.7.3 notes the Waitangi Tribunal's statement that "there is prejudice to Hauraki iwi as a result of the inclusion of clause 10.3" of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed.
- 20.8 In the event the Tauranga Moana Framework is not developed, the Crown:
- 20.8.1 affirms any harbours redress will be negotiated in accordance with Cabinet's parameters for negotiations on harbours and other parts of the coast;
 - 20.8.2 notes the parameters require all iwi with recognised interests in Tauranga Moana (including the Iwi of Hauraki) be given the opportunity to be involved in negotiations and specify matters the Crown will take into account when determining representation on any entity negotiated as redress; and
 - 20.8.3 confirms any future governance and management arrangements over Tauranga Moana will be subject to agreement between the Crown and all relevant iwi (including the Iwi of Hauraki), having regard to the rights of participation set out in clause 20.7.
- 20.9 The Crown agrees to negotiate redress in relation to Tauranga Moana with the Iwi of Hauraki as soon as practicable in accordance with Te Tiriti o Waitangi / the Treaty of Waitangi, and on a basis which gives all iwi with recognised interests in Tauranga Moana the opportunity to be involved.
- 20.10 The Iwi of Hauraki are not precluded from making a claim to the Waitangi Tribunal in respect of the process referred to in clause 20.9.

21 CULTURAL REDRESS: MANGATANGI RIVER, MANGATAWHIRI STREAM AND WHANGAMARINO WETLAND CATCHMENTS

- 21.1 The Crown recognises the Iwi of Hauraki have interests in the upper and lower catchments of the Mangatangi River and Mangatawhiri Stream and in the catchments of the Whangamarino wetland shown in the map in part 9 of the attachments (**Waterways**), which are of great spiritual, cultural, customary, ancestral and historical significance to the Iwi of Hauraki.
- 21.2 The Crown and Iwi of Hauraki acknowledge and agree:
- 21.2.1 this deed does not yet provide for cultural redress providing for the involvement of the Iwi of Hauraki in the governance and management of the Waterways; and
 - 21.2.2 such cultural redress for the Iwi of Hauraki will be agreed as soon as possible between the Crown and Iwi of Hauraki and prior to the signing of the deed in accordance with Te Tiriti o Waitangi / the Treaty of Waitangi.

22 GENERAL, DEFINITIONS, AND INTERPRETATION

GENERAL

20.1 The general matters schedule includes provisions in relation to –

20.1.1 the Crown's –

- (a) payment of interest; and
- (b) tax indemnities in relation to redress; and

20.1.2 giving notice under this deed or deed document; and

20.1.3 amending this deed; and

20.1.4 other miscellaneous matters

IWI OF HAURAKI

20.2 In this deed, **Iwi of Hauraki** means –

- (a) the collective group comprising the following iwi:
 - (i) Hako; and
 - (ii) Ngāi Tai ki Tāmaki; and
 - (iii) Ngāti Hei; and
 - (iv) Ngāti Maru; and
 - (v) Ngāti Paoa; and
 - (vi) Ngāti Porou ki Hauraki; and
 - (vii) Ngāti Pūkenga; and
 - (viii) Ngāti Rāhiri Tumutumu; and
 - (ix) Ngāti Tamaterā; and
 - (x) Ngāti Tara Tokanui; and
 - (xi) Ngaati Whanaunga; and
 - (xii) Te Patukirikiri; and

PARE HAURAKI COLLECTIVE REDRESS DEED

22: GENERAL, DEFINITIONS, AND INTERPRETATION

- (b) includes the individuals who are members of one or more of the iwi listed in paragraph (a); and
- (c) includes any whānau, hapū, or group to the extent that it is composed of those individuals; and
- (d) where the context admits, means each iwi listed in subclause (a) of this definition.

ADDITIONAL DEFINITIONS

- 20.3 The definitions in part 4 of the general matters schedule and in part 10 of the property redress schedule apply to this deed.

INTERPRETATION

- 20.4 The provisions in part 5 of the general matters schedule apply in the interpretation of this deed.

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED as a deed on [***date***]

SIGNED for and on behalf
of **HAKO** by
the mandated signatories in the
presence of –

John Linstead

Josie Anderson

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀI TAI KI TĀMAKI** by
the mandated signatories in the
presence of –

James Brown

Carmen Kirkwood

Lucy Steel

Laurie Beamish

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀTI HEI** by
the mandated signatories in the
presence of –

Joseph John Francis Davies

Peter Matai Johnston

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀTI MARU** by
the mandated signatories in the
presence of –

Walter Ngakoma Ngamane

Paul F Majurey

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀTI PAOA** by
the mandated signatories in the
presence of –

Hauāuru Eugene Raymond Rawiri

Morehu Wilson

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀTI POROU KI HAURAKI** by
the mandated signatories in the
presence of –

John Tamihere

Fred Thwaites

Pine Harrison

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀTI PŪKENGA** by
the mandated signatories in the
presence of –

Harry Haerengarangi Mikaere

Rahera Ohia QSM

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀTI RĀHIRI TUMUTUMU** by
the mandated signatories in the
presence of –

Jill Taylor

Nicola Scott

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀTI TAMATERĀ** by
the mandated signatories in the
presence of –

Liane Ngamane

Terrence John McEnteer

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGĀTI TARA TOKANUI** by
the mandated signatories in the
presence of –

Amelia Williams

Russell Karu

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **NGAATI WHANAUNGA** by
the mandated signatories in the
presence of –

Tipa Compain

Nathan Kennedy

Mike Baker

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf
of **TE PATUKIRIKIRI** by
the mandated signatories in the
presence of –

William Peters

David Williams

WITNESS

Name:

Occupation:

Address:

PARE HAURAKI COLLECTIVE REDRESS DEED

SIGNED for and on behalf of **THE CROWN** by –

The Minister for Treaty of Waitangi
Negotiations in the presence of –

Hon Christopher Finlayson

The Minister of Finance in relation to the tax
indemnities in the presence of –

Hon Steven Leonard Joyce

WITNESS

Name:

Occupation:

Address:

SCHEDULE 1

Pare Hauraki Collective Redress Deed

Provision reference	Redress	Comments
4. Statement of Pare Hauraki World View and Programme for a Culture of Natural Resource Partnership		
Clause 4.1	The spiritually and culturally symbiotic relationship between the people of Pare Hauraki and our world, mai Matakana ki Matakana , is founded on whakapapa links between the cosmos, gods, nature and people. Our world is a holistic unified whole consisting of spiritual and physical interrelated realities.	<p>The phrase mai Matakana ki Matakana has no historical underpinning. It is a contemporary statement that Hauraki have promoted within the past 20 years.</p> <p>Ngāi Te Rangi strongly objects to Hauraki using Matakana Island as an identity marker. Hauraki have no interests on Matakana Island.</p> <p>Ngāi Te Rangi made a request to the Hauraki Collective to stop using this statement in June 2016 in Thames. A Hauraki Collective representative apologised for their use of the phrase and confirmed that they would not use it anymore.</p>
7. Cultural Redress: Pare Hauraki		
Decision making framework Clause 7.60	This section of the Pare Hauraki conservation framework applies to conservation decisions in the Pare Hauraki Area .	<p>This redress provides Hauraki iwi with direct engagement and decision making on matters that relate to Tauranga Moana, thus eroding the rangatiratanga of Ngāi Te Rangi.</p> <p>There is also redress in here that not even Tauranga Moana iwi were provided in their settlements. It is wrong for an iwi with no mana to have more rights in the rohe of an iwi who has mana.</p>
Clause 7.61	To avoid doubt, the decision-making framework will apply to any concession applications under Part 3B of the Conservation Act 1987 that are initiated by the Iwi of Hauraki.	
Customary Materials Clause 7.68	The Pare Hauraki collective cultural entity and the Director-General will jointly prepare and agree a plan covering:	

	<p>7.68.1 the customary take of flora material within conservation protected areas within the Pare Hauraki redress area; and</p> <p>7.68.2 the possession of dead protected fauna that is found within that area</p>	
<p>Marine Mammals Clause 7.78.2</p>	<p>consistent with that significance, the Iwi of Hauraki are seeking the right to gather, use and possess materials for customary purposes, from dead marine mammals stranded in their rohe, without having to seek a permit or other authorisation under the Marine Mammals Protection Act 1978 or the Marine Mammals Protection Regulations 1992;</p>	
<p>Clause 7.78.5</p>	<p>If the proposed national review has not commenced within the two years after settlement date, the Crown must engage with the Pare Hauraki collective cultural entity to discuss and agree how the Crown will provide for the right sought by the Iwi of Hauraki in clause 7.78.2.</p>	
<p>Wahi tapu framework Clause 7.84</p>	<p>The Iwi of Hauraki may provide to the Director-General a description of the wāhi tapu on conservation land in the Pare Hauraki redress area, which may include, but is not limited to, a description of:</p> <p>7.84.1 the general area;</p> <p>7.84.2 the location of the wāhi tapu;</p> <p>7.84.3 the nature of the wāhi tapu; and</p> <p>7.84.4 the associated iwi and hapū kaitiaki.</p>	
<p>Conservation Boards Clause 7.94</p>	<p>The Minister of Conservation must, on the nomination of the Pare Hauraki collective cultural entity, appoint one member to a Conservation Board covering all or a significant proportion of the Pare Hauraki Area.</p>	

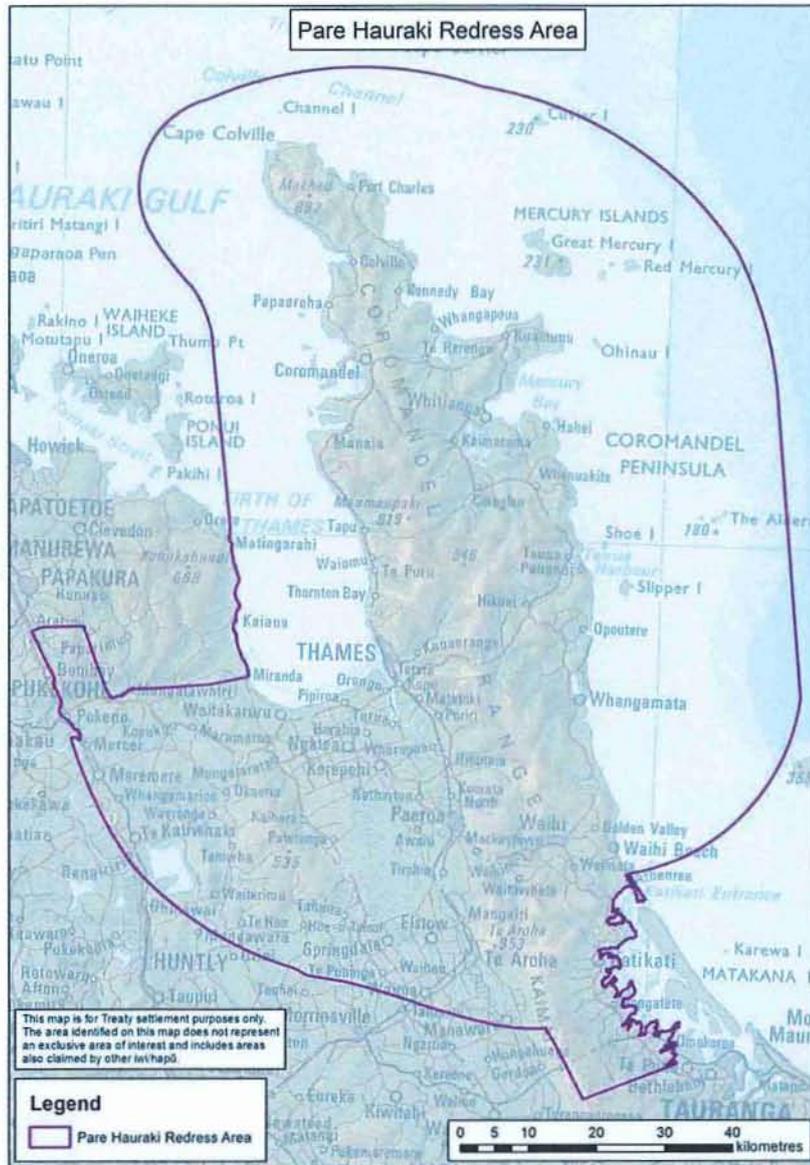
Capability Building Clause 7.100	The Director-General recognises the important role that the Iwi of Hauraki have in protecting the natural, historic, and cultural heritage in the Pare Hauraki redress area .	
10. Cultural Redress: Ministry of Primary Industries Fisheries and Recognition Redress		
Advisory Committee Clause 10.2	The advisory committee may propose written advice to the Minister for Primary Industries covering any matter relating to the sustainable utilisation of fisheries resources managed under the Fisheries Act 1996, in a place where an Iwi of Hauraki has an interest within the area shown on the map attached as schedule 1 to part 4 of the documents schedule.	In accordance with tikanga Māori, access to resources is enabled through relationships between the user and the Iwi who hold mana whenua/moana. Hauraki are seeking rights to acquire fish in Tauranga Moana by legislation. The Crown and Hauraki Iwi are failing to recognise and provide for the rangatiratanga of Ngāi Te Rangi in Tauranga Moana by offering this redress without the consent of Ngāi Te Rangi who has mana in this area. The tika process would be for Hauraki Iwi to meet with Ngāi Te Rangi to seek approval.
Fisheries right of first refusal over fisheries quota Clause 10.3	The Crown agrees to grant to the Pare Hauraki collective cultural entity a right of first refusal to purchase certain quota as set out in the Fisheries RFR deed over quota.	
11. Cultural Redress: Tauranga Moana		
Clause 20.6	The Crown acknowledges and affirms the Iwi of Hauraki will be able to participate in any governance and management arrangements for Tauranga Moana to be negotiated between the Crown and relevant Iwi (including the Iwi of Hauraki) and included in standalone legislation.	A 5th seat on the Tauranga Moana Governance Group for Hauraki is unwarranted. Ngāi Te Rangi tribal knowledge and day to day participation in Tauranga (complimented by tribal knowledge of many other neighbouring tribes), confirms that Hauraki Iwi have never settled or exercised rangatiratanga in Tauranga Moana.
Clause 20.7.1	In the event there is continued development of the Tauranga Moana Framework, the Crown: affirms the right of the Iwi of Hauraki, on the basis of its recognised interests in Tauranga Moana, to participate through the seat described in clause 3.11.4(e) of the	The Tauranga Moana Framework provides, among other things, for Hauraki to participate in decision making and the framing of policy for Tauranga Moana. This kind of decision making is a contemporary expression of rangatiratanga. Hauraki have never

	Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed will be preserved.	exercised rangatiratanga over Tauranga Moana, and the Crown is incorrect to afford Hauraki this authority by legislation.
Clause 20.8.3	In the event the Tauranga Moana Framework is not developed, the Crown: confirms any future governance and management arrangements over Tauranga Moana will be subject to agreement between the Crown and all relevant iwi (including the Iwi of Hauraki), having regard to the rights of participation set out in clause 20.7.	The affirmations included in this Deed ignores the objections of Ngāi Te Rangi and fails to protect the rangatiratanga of Ngāi Te Rangi over Tauranga Moana.
Clause 20.9	The Crown agrees to negotiate redress in relation to Tauranga Moana with the Iwi of Hauraki as soon as practicable in accordance with Te Tiriti o Waitangi / the Treaty of Waitangi, and on a basis which gives all iwi with recognised interests in Tauranga Moana the opportunity to be involved.	
Pare Hauraki Collective Redress Deed Schedule: Attachments		
Pare Hauraki Redress Area Map	See Schedule 1, Annexure 1 for the redress area map.	Ngāi Te Rangi objects to the map extending south of Te Aroha and Waiorooro without an acknowledgement that Hauraki has never held mana or exercised rangatiratanga in the areas extending south of Te Aroha and Waiorooro. Ngāi Te Rangi recognises that this is a statement of interest by Hauraki that the Crown finds it difficult to put restrictions on. However, Hauraki is an extraordinary case of an iwi who are making unfounded claims to other iwi rohe (not isolated to Tauranga Moana) and using the settlement process to give legal effect to their claims. The Crown should not enable this behaviour.
3: Early release commercial redress properties	See Schedule 1, Annexure 2 for a table listing the properties.	Ngāi Te Rangi are currently reconsidering all previous agreements with Hauraki in our rohe. Ngāi Te Rangi only engaged in this process due to the pressures to achieve a timely treaty settlement and with the expectation that there would be no

Table 1		further claims to our rohe. The agreements were not a reflection or acknowledgment of a Hauraki interest in these areas. Ngāi Te Rangi have never and do not accept that Hauraki have any rights to these items
Pare Hauraki Collective Redress Deed Schedule: Documents		
1. Statement of Association	<p>The Kaimai-Mamaku range is located towards the southern part of the Pare Hauraki tribal rohe. The Kaimai-Mamaku range comprises many areas of spiritual, cultural, customary, traditional and historical significance to the Iwi of Hauraki, especially the prominent Pare Hauraki Tūpuna Maunga of Te Aroha, a rugged mountain proliferated with high jagged peaks. At a height of 952 metres, it is the highest feature in the Kaimai-Mamaku range, dominating this landscape and forming a link to Te Paeroa o Toi range to the north:</p> <p>Te Aroha ki uta, Moehau ki waho</p> <p>The Kaimai-Mamaku range was heavily populated and well utilised by the Iwi of Hauraki, with pā and kāinga to the east at Katikati-Te Puna and to the north and west flanked by the densely populated riverbanks of the Ohinemuri and Waihou. The area is highly valued for its natural and geothermal resources by the Iwi of Hauraki, and the myriad streams and waterfalls that descend from its ridges are abundant with unique plant and fish species. Traditionally important to the Iwi of Hauraki, the Kaimai-Mamaku range contains our pā, kāinga, wāhi tapu and urupā. The range is imbued with the histories, places and events of our Pare Hauraki tūpuna which connect them to the footsteps of their tūpuna, of creation and the environment, including Te Kahaha, Waimata, Te Ure Tara, Te Ararimu, Koteahoroa, Mangakiri, Te Hanga, Roretangata and Waipu Mahanga, Karangahake Maunga and Te Aroha Maunga, revered in our tribal oratory and song.</p>	<p>There is no evidence to support claims of mana whenua, practice of kaitiakitanga, or use 'at will' of tracks within the Kaimai ranges as referenced in the supporting statement of association. The statement overall implies that Hauraki have enjoyed mana whakahaere of Kaimai and its surrounds in the past and present. There is no evidence to support Hauraki having this level of authority in this area. In addition all language that refers to Hauraki as having enjoyed authority in Tauranga Moana should be removed. Such statements are an attack on the rohe and mana of Ngāi Te Rangi and the Crown is endorsing this behaviour by the initialling of the Hauraki Deed of Settlement</p>

	<p>The pā and kāinga of the Iwi of Hauraki surrounding and within the Kaimai-Mamaku range include Ngatukituki a Hikawera, Te Ngare and Waipapa to the east, Te Kahakaha, Waitewheta in the Ohinemuri to the north, Whakapipi, Wairongomai, Ngatamahinerua and on to Te Pae o Turawaru to the south-west. Traditionally, our whānau, hapū and iwi settled, held mana and exercised kaitiakitanga over their places of the Kaimai-Mamaku range and surrounding kāinga.</p> <p>The Kaimai-Mamaku range is covered in a myriad of centuries-old tracks fashioned and used by the Iwi of Hauraki to traverse the ranges at will. These tracks were used for daily excursions and ritual by whānau and hapū, and as a means of visiting their different pā and kāinga in the east and west of the range; for war excursions further afield, for the hunting and gathering of the foods of the forest, and for access to wāhi tapu to conduct spiritual and cultural rituals. There are traditionally four well-worn tracks of the Iwi of Hauraki that were used at will - from the track accessed from the Karangahake Gorge and southward to the Maurihoro, Wairere and Tuahu tracks. The pathways were all connected to hapū and whānau pā, kāinga to fortified pā and the tracks with access from the Karangahake was the key route to Hauraki lands in the Katikati area, and on major excursions a large waka would be brought up the Ohinemuri and berthed so the Iwi of Hauraki disembarked and continued their journey by foot towards Katikati and beyond.</p>	
<p>Table 4: Tauranga RFR Land</p>	<p>See Schedule 1, Annexure 3 for a table listing the RFRs</p>	<p>Ngāi Te Rangi are currently reconsidering all previous agreements with Hauraki in our rohe. Ngāi Te Rangi only engaged in this process due to the pressures to achieve a timely treaty settlement and with the expectation that there would be no further claims to our rohe. The agreements were not a reflection or acknowledgment of a Hauraki interest in these areas. Ngāi Te Rangi have never and do not accept that Hauraki have any rights to these items</p>

Annexure 1 – Pare Hauraki Redress Area



Annexure 2 - Pare Hauraki Collective Redress Deed Schedule: Property Redress 3: Early Release Commercial Redress Properties

Table 1 - Properties in respect of which the chief executive of LINZ entered into the early release commercial redress property transfer terms

Address	Description	Encumbrances	Iwi of Hauraki	Land holding agency	Transfer value
132 Park Road, Katikati	0.1474 hectares, more or less, being Lot 1 DP 447399. All computer freehold register 564612	<p>Subject to notice 8978536.1</p> <p>Together with a right to convey telecommunications and computer media created by Easement Instrument 8978536.3</p> <p>The easements created by Easement Instrument 8978536.3 are subject to 243(a) of the Resource Management Act 1991.</p> <p>Subject to an unregistered tenancy agreement in favour of T Davy.</p>	Ngati Tamatera	LINZ Treaty Settlements Landbank	\$184,800
1679 State Highway 2, Athenree	2.2905 hectares, more or less, being Lot 1 DPS 63309. All computer freehold register SA54B/530	<p>Highway 2, Athenree</p> <p>2.2905 hectares, more or less, being Lot 1 DPS 63309. All computer freehold register SA54B/530.</p> <p>Saving and excepting to Her majesty the Queen all minerals, mineral oil. Gas, metals, coal and valuable stone under the surface of the land. See subpart (4) of part (3) of the draft collective bill.</p>	<p>i. Ngāti Tamaterā</p> <p>ii. Ngāti Tara Tokanui</p>	LINZ Treaty Settlements Landbank	\$129,733

400 Woodland Road, Katikati	4.6149 hectares, more or less, being Section 1 SO 33746. All computer freehold register SA51D/38.	Subject to a right of way easement created by Transfer B201630.3. Subject to a right of way easement created by Transfer B478752.1.	Ngāti Maru	LINZ Treaty Settlements Landbank	\$9,333
69 Broadway Road, Waihi Beach	0.0587 hectares, more or less, being Section 1 SO 308381. All computer interest register 108057.	Nil	i. Hako ii. Ngāti Tara Tokanu	LINZ Treaty Settlements Landbank	\$478,333

Annexure 3 - Pare Hauraki Collective Redress Deed Schedule: Attachment 5: Pare Hauraki List RFR

Table 4: Tauranga RFR Land

Parcel ID		Address	Description	Land holding Agency
1.	4533574	Katikati	0.2582 hectares, more or less, being Part Lot 2 DP 14325. Part <i>Gazette</i> notice S291001.	New Zealand Transport Agency
2.	4516502, 4349595, 4427202, 4422262, 4348988 and 4270921	Katikati	0.3194 hectares, more or less, being Parts Lot 1 DPS 18155, Parts Allotment 115 Tahawai Parish and Part Allotment 52 Tahawai Parish. All <i>Gazette</i> notice B298084.	New Zealand Transport Agency
3.	4391965, 4511608 and 4433549	Katikati	0.3587 hectares, more or less, being Section 2 SO 23764/1. Part <i>Gazette</i> notice B616919.1.	New Zealand Transport Agency
4.	4283818	Whakamarama	0.2428 hectares, more or less, being Lot 1 DPS 15263. All computer freehold register SA13B/1106.	New Zealand Transport Agency
5.	4516197	Whakamarama	0.1100 hectares, more or less, being Lot 1 DPS 24491. All computer freehold register SA23A/834.	New Zealand Transport Agency

6.	4342172	Whakamarama	0.7815 hectares, more or less, being Lot 1 DPS 12986. All computer freehold register SA26B/182.	New Zealand Transport Agency
7.	Katikati Primary School	28 Beach Road, Katikati	0.6130 hectares, more or less, being Lot 4 DPS 71113. All computer freehold register SA57A/764.	
8.	Teacher's Residence	33 Park Road, Katikati	0.0999 hectares, more or less, being Lot 4 DP 31304. All computer freehold register 675555.	LINZ Treaty Settlements Landbank
9.	4285628	Tahawai	0.0961 hectares, more or less, being Closed Road Survey Office Plan 45505. Part <i>Gazette</i> notice S578671	New Zealand Transport Agency
10.	4368950	Omokoroa	0.5937 hectares, more or less, being Lot 1 DPS 21267. All computer freehold register SA21B/116.	New Zealand Transport Agency
11.	4451720	Athenree	0.1871 hectares, more or less, being Part Allotment 94 Katikati Parish. All <i>Gazette</i> notice S339966.	New Zealand Transport Agency

12.	4415007*	Aongatete	0.1518 hectares, approximately, being Crown Land Survey Office Plan 18925.	[LINZ]
13.	4559922	Whakamarama	0.1012 hectares, more or less, being Crown Land shown on SO 30872. Part Proclamation 10431.	Department of Conservation
14.	Teacher's Residence**	134 Park Road, Katikati	0.0948 hectares, more or less, being Lot 2 DP 447399. All computer freehold register 564613.	[Ministry of Education]
15.	Teacher's Residence – Katikati College**	23 Fairview Road, Katikati	0.1024 hectares, more or less, being Lot 25 DP 36389. All <i>Gazette</i> notice S331281.	[Ministry of Education]

SCHEDULE 2
Tauranga Moana Iwi Collective Deed

Provision reference	Redress	Comments
Clause 1.1	Tauranga tangata (people) are defined by our location and environment - Tauranga Moana (the sea) and Tauranga whenua (the land). Our collective mana extends over a vast tribal estate. Like a great fishing net with the top strake at the summit of the Kaimai mountain range across to Otawa and the bottom strake reaching out to the many islands and including the marine environs, the area this net encompasses represents the totality of our physical identity and includes traditional and contemporary sources of sustenance and mana.	
Clause 1.2	Every inch of this land holds special significance to our whanau, hapu and iwi whilst the moana nourishes us physically and spiritually. Indeed, we are intertwined with the moana to such an extent that we are identified by it and known as Tauranga Moana, the only tribal groups in New Zealand identified in such a manner. Therefore the restoration of our mana upon our moana and whenua is paramount.	
<p>Tauranga Moana Iwi Collective Deed</p> <p>2 Tauranga Moana Framework</p>		
Clause 2.1	The whanau and hapu of Ngati Pukenga, Ngai Te Rangi and Ngati Ranginui and their hapu comprise a significant community of interest within the Western Bay of Plenty. They are moana-centric people with an enduring thousand year association with Tauranga Moana that is fundamental to their identity and wellbeing, culturally and materially. They are inextricably bound to the entire Tauranga Harbour catchment area and much of the western Bay of Plenty coastline and marine area, as well as inland to the Kaimai Ranges. This relationship is best captured in the following pepeha, "ko tatou te moana ko te moana tatou" - "we are one with the moana".	

Clause 2.2	<p>Tauranga Moana iwi belong to the landscapes in which their whakapapa embeds them. Their ancestral landscapes are those places made sacred by the lives and deaths of their ancestors. These landscapes include natural features such as forests and rivers; physical formations such as mountains, valleys, harbours and estuaries; and cultural features such as pa, kainga, mahinga kai and wahi tapu. The ancestral landscape defines the relationship between Tauranga Moana iwi and the natural environment; it is, quite literally, the embodiment of their cultural heritage. The state of their ancestral landscapes is inextricably linked to the spiritual, emotional, physical and social wellbeing of the people of the Tauranga Moana iwi and is expressed through the ethic and practise of kaitiakitanga. The health and wellbeing of the Moana has a direct correlation to the iwi of Tauranga. If the Moana is unwell then its people are unwell. As kaitiaki, there is an obligation upon Tauranga Moana iwi to protect, enhance and restore the Moana to full health and wellbeing for all current and future generations.</p>	
Clause 2.3	<p>For countless generations this unique and profound association has been and remains central to the cultural, social, economic and environmental wellbeing of the whanau and hapu of these Tauranga Moana iwi and to their identity.</p>	
Clause 2.5	<p>In its 2010 report the Waitangi Tribunal found that Tauranga Maori ought to have had the full protection of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga harbour recognised at all times, unless alienated by freely negotiated agreement, or when strictly necessary in the national interest. The Waitangi Tribunal further found that Crown control over natural resources, and the destruction of forests and fisheries permitted by the Crown, left Tauranga Maori unable to sustain their traditional way of life, and unable to utilise natural resources as a base for economic development.</p>	
Clause 2.6	<p>Tauranga Moana comprises the Tauranga Harbour, the significant number of rivers, streams and wetlands within the harbour catchment, and the coastal marine area from the Waiorooro Stream (to be assigned in legislation giving effect to the Ngai Te Rangi deed of settlement) in the north-west to the Wairakei Stream in the south-east. Tauranga Moana is a significant resource with environmental, conservation, cultural, economic, social and recreational</p>	

	values. Over time, the natural and physical environment has altered and, together with its associated ecosystems, has suffered deterioration.	
Clause 2.8	<p>Recognition of their mana, rangatiratanga and kaitiakitanga over the moana is fundamentally important to Tauranga Moana iwi and hapu who aspire to achieve, among other things:</p> <p>2.8.1 the restoration, protection and maintenance of the health and wellbeing of Tauranga Moana and the health and wellbeing of the people around the moana; and</p> <p>2.8.2 direct involvement in policy development and decision-making affecting Tauranga Moana; and</p> <p>2.8.3 use of the full range of tools available under existing and newly developed regulatory frameworks; and</p> <p>2.8.4 consistent good-faith engagement on relevant issues.</p>	
Clause 2.9	<p>For the Crown, arrangements in respect of Tauranga Moana should</p> <p>2.9.1 meet Treaty of Waitangi obligations and be informed by the reports of the Waitangi Tribunal concerning the Tauranga Moana claims; and</p> <p>2.9.2 be consistent with the principle of public access within marine and coastal area as reflected in sections 26 and 27 of the Marine and Coastal Area (Takutai Moana) Act 2011; and</p> <p>2.9.3 preserve democratic local decision-making and action by and on behalf of communities, including preserving the role of, and final decision-making by, local authorities as provided in relevant legislation; and</p> <p>2.9.4 provide an effective role for iwi and hapu in natural resource management; and</p> <p>2.9.5 promote sustainable management of natural and physical resources; and</p> <p>2.9.6 improve and protect the health of the moana and the connected health of whanau, hapu and iwi; and</p>	

	<p>2.9.7 provide for customary interests and accommodate cultural diversity and more than one world-view; and</p> <p>2.9.8 be characterised by arrangements that are fit for purpose; and</p> <p>2.9.9 be characterised by arrangements that are durable and will endure.</p> <p>2.10 The Crown acknowledges that the Tauranga Moana iwi are the Crown's Treaty partners.</p>	
Clause 2.11	<p>For the purpose of recognising and addressing the foregoing matters the Crown and Tauranga Moana iwi agree</p> <p>2.11.1 that the TMF legislation will, on the terms provided by part 3 of the legislative matters schedule</p> <p>(a) establish a statutory committee called the Tauranga Moana Governance Group; and</p> <p>(b) provide for the preparation, review, amendment and adoption of a Tauranga Moana framework document - Nga Tai ki Mauao; and</p> <p>2.11.2 to the other provisions in this part 2; and</p> <p>2.11.3 within 20 business days of the TMF settlement date the Crown will provide a financial contribution to the Bay of Plenty Regional Council to support the provision of administrative and technical support to the Tauranga Moana Governance Group and the preparation and adoption of Nga Tai ki Mauao (the Tauranga Moana framework document).</p>	
Relationship with Tauranga Moana Iwi Clause 2.12	<p>The documents schedule contains a statement by Tauranga Moana iwi of their relationship with Tauranga Moana.</p>	
Clause 2.13	<p>The parties will discuss how the statement of relationship will be recognised in the TMF legislation.</p>	

<p>Provision for other iwi interests Clause 2.14</p>	<p>The parties acknowledge that:</p> <p>2.14.1 the Crown is at various stages of Treaty of Waitangi settlement negotiations with claimant groups who the Crown considers have or may have interests in Tauranga Moana; and</p> <p>2.14.2 where negotiations with those claimant groups results in redress being provided in relation to parts of Tauranga Moana, that redress will be given effect to through future Treaty of Waitangi settlement legislation.</p>	
<p>Clause 2.15</p>	<p>The Crown agrees that any future redress will be subject to the resolution of overlapping interests (including those of Tauranga Moana iwi) to the satisfaction of the Crown and will</p> <p>2.15.1 be commensurate with matters such as</p> <ul style="list-style-type: none"> (a) the relative strength and nature of the association of the claimant group to Tauranga Moana, taken as a whole; and (b) the nature of the claimant group's grievances in relation to Tauranga Moana; and <p>2.15.2 not undermine the fundamental elements of the Tauranga Moana arrangements set out in this deed; and</p> <p>2.15.3 not derogate from the Crown's recognition of the relationship between Tauranga Moana iwi and hapu and Tauranga Moana referred to in clauses 2.12 and 2.13 of this deed; and</p> <p>2.15.4 be designed to preserve and enhance relationships between Tauranga Moana Iwi and claimant groups.</p>	
<p>Clause 2.16</p>	<p>The Crown agrees that the process for developing any future Tauranga Moana redress will be as follows:</p> <p>2.16.1 the Crown will engage with the Tauranga Moana Iwi Collective as early as is practicable in the negotiation process:</p>	

	<p>2.16.2 the Crown will encourage and facilitate engagement directly between the Tauranga Moana Iwi Collective and the relevant claimant group:</p> <p>2.16.3 the Tauranga Moana Iwi Collective will be kept informed and will be provided with appropriate relevant information to allow informed views to be developed:</p> <p>2.16.4 prior to any redress over Tauranga Moana being agreed with another claimant group, the Tauranga Moana Iwi Collective will have the opportunity to express a view on the proposed redress:</p> <p>2.16.5 the Crown will also engage with the Tauranga Moana Governance Group in relation to any future redress proposals over Tauranga Moana:</p> <p>2.16.6 the Crown will make the final decision on the provision of redress for future claimant groups when settling their historical claims, and will do so in a manner consistent with this deed and the interests in all iwi with historical Treaty of Waitangi claims.</p>	
<p>Definitions</p> <p>Clause 2.17</p>	<p>In this part —</p> <p>2.17.1 "recognised interests" means the interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and are confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims; and</p> <p>2.17.2 "recognised interest area" means an area containing recognised interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and is confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims.</p>	
<p>Crown Commitment</p> <p>Clause 2.18</p>	<p>The Crown is in Treaty settlement negotiations with claimant groups which may result in redress arrangements over areas in which Tauranga Moana iwi consider they have an interest.</p>	
<p>Clause 2.19</p>	<p>The Crown agrees that in developing any such arrangements it will engage with the Tauranga Moana Iwi Collective as early as practicable to provide for appropriate recognition of Tauranga Moana iwi interests, commensurate with</p>	

	the relative strength and nature of those interests, including appropriate participation in relevant natural resource frameworks that are developed through those negotiations.	
Shared principles Clause 2.23	Tauranga Moana iwi and the Crown have negotiated the arrangements for Tauranga Moana set out in this part (including part 3 of the legislative matters schedule) in good faith based on their respective commitments to each other.	
Clause 2.24	<p>The arrangements are intended by Tauranga Moana iwi and the Crown to</p> <p>2.24.1 operate in accordance with their relationship under the Treaty of Waitangi; and</p> <p>2.24.2 provide for Tauranga Moana iwi and hapu to participate meaningfully in decision-making and the framing of policy related to Tauranga Moana; and</p> <p>2.24.3 promote holistic and integrated management of Tauranga Moana; and</p> <p>2.24.4 provide for iwi and hapu values and matakauranga Maori in the management of Tauranga Moana; and</p> <p>2.24.5 not derogate from</p> <ul style="list-style-type: none"> (a) existing arrangements between Tauranga Moana iwi and hapu and the Crown or local authorities; or (b) specific redress obtained by Tauranga Moana iwi under their respective Treaty of Waitangi settlements; and <p>2.24.6 operate within and through existing statutory frameworks; and</p> <p>2.24.7 enable Tauranga Moana iwi and hapu, and local authorities and agencies with responsibilities related to Tauranga Moana to establish and maintain positive, co-operative and enduring relationships based on</p> <ul style="list-style-type: none"> (a) respecting the autonomy of the parties and their individual mandates, roles and responsibilities; 	

	<p>(b) actively working together to</p> <ul style="list-style-type: none"> (i) share knowledge and expertise; and (ii) maintain an effective role for <ul style="list-style-type: none"> (I) Tauranga Moana iwi to participate in the governance of Tauranga Moana; and (II) Tauranga Moana iwi and hapu to participate in co-management arrangements for Tauranga Moana; and (iii) achieve effective and integrated management of Tauranga Moana for the good of all; and <p>(c) co-operating in partnership with a spirit of good faith, integrity, honesty, transparency and accountability; and</p> <p>(d) engaging early on issues of known interest to either of the parties; and</p> <p>(e) understanding that the parties' relationship is evolving.</p>	
Clause 2.25	If issues arise in the application of the principles referred to in clause 2.24 the parties will work together to endeavour to resolve those issues.	
Clause 2.26	The TMF legislation will provide that it will be interpreted in a manner that best furthers the matters set out in clauses 2.23 and 2.24.	
<p>Meaning of Tauranga Moana</p> <p>Clause 2.29</p>	<p>In this part and in part 3 of the legislative matters schedule, "Tauranga Moana" and "moana"</p> <p>2.29.1 mean:</p> <ul style="list-style-type: none"> (a) the waters (including internal waters and tidal lagoons) and other natural resources and the geographic features (including Tauranga Harbour) comprising the coastal marine area marked as "A" on the Tauranga Moana framework plan in the attachments; and 	See Schedule 1, Annexure 1 for the Tauranga Moana Framework Plan

	<p>(b) the waters and other natural resources and the geographic features comprising the rivers, streams, creeks and natural watercourses within the catchment that flow into</p> <p>(i) Tauranga Harbour; or</p> <p>(ii) the sea at any point within the area marked as "A" on the Tauranga Moana Framework plan in the attachments;</p> <p>(c) the waters and other natural resources and the geographic features comprising wetlands, swamps and lagoons within the catchment; and</p> <p>(d) the beds and aquatic margins of the water bodies referred to in clauses (a) to (c); and</p> <p>(e) the ecosystems associated with the waters and natural features referred to in clauses (a) to (d); but</p> <p>2.29.2 do not include</p> <p>(a) the waters and other natural resources situated on offshore islands for which the Minister of Local Government is the territorial authority pursuant to section 22 of the Local Government Act 2002, including Tuhua (current recorded name "Mayor Island (Tuhua)") and Motiti Island (current recorded name "Motiti Island"); or</p> <p>(b) the waters and other natural resources and the geographic features comprising the rivers, streams, creeks and natural watercourses within the catchment that do not flow into:</p> <p>(i) Tauranga Harbour; or</p> <p>(ii) the sea at any point within the area marked as "A" on the Tauranga Moana framework plan in the attachments.</p>	
<p>Effect of cultural redress generally Clause 3.6</p>	<p>The Crown may do anything that is consistent with the cultural redress, including entering into, and giving effect to, another settlement that provides for the same or similar redress.</p>	

Clause 3.7	3.7 However, clause 3.6 is not an acknowledgement by Tauranga Moana iwi that any other iwi has any interests in the areas covered by the cultural redress.	
Tauranga Moana Iwi Collective Deed: Legislative matters 3. Tauranga Moana Framework		
	See Schedule 2, Annexure 2 for the Tauranga Moana Framework	
Tauranga Moana Iwi Collective Deed: Documents 1. Statements of Association		
	<p>The statements of association of Tauranga Moana iwi are set out below. This is a statement of the particular cultural, spiritual, historical and traditional association of Tauranga Moana iwi with identified areas.</p> <p>Ridge lines over the Kaimai Range</p> <p>The Kaimai Range is an iconic land feature that forms the western edge of the Tauranga basin and the mountains, lands and waterways within the ranges are spiritually, traditionally and historically connected to Ngai Te Rangi, Ngati Ranginui and Ngati Pukenga.</p> <p>The historical and traditional association of Tauranga Moana iwi extends from the Mamaku Plateau, in the south east, through to Hautere, the central range, and on to Te Hunga (official name is Te Hanga Ridge) that reaches through from the Wairere Falls through to Hikurangi maunga and the Waiau River.</p> <p>The Kaimai Range is an integral part of the traditional spiritual, cultural and economic resource base for Tauranga Moana iwi. The inland forests on these ranges provided an abundant supply of natural resources to Tauranga Moana iwi, including eels in the waterways, native birds such as kereru that were harvested from the forests and plants that were collected for medicinal purposes and forest fruits that were gathered in season. Many traditional kainga, nohonga, waahi tapu, pa, cultivation sites and harvesting areas were located within the Kaimai Range and these areas were vital to the seasonal migrations of whanau and hapu between the sea and the forests. The prestige</p>	

	<p>of Tauranga Moana and mana of Tauranga iwi was enhanced by the abundance of resources found on these ranges.</p> <p>The abundance of resources illustrates the health of the Kaimai Range environment.</p> <p>The Kaimai Range also contained a number of tracks and pathways, such as Wairere, TeTuhi, Ara Pohatu and Te Kahakaha which were traditionally used to gain access to and from the Waikato and Hauraki Plains. These tracks and pathways were important both for travel and trading of goods between inland and coastal areas. Forested areas also offered places of refuge during times of war and enabled Tauranga Moana iwi, hapu and whanau safe areas in which to rest and protect themselves.</p>	
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2. Statement by Tauranga Moana Iwi of their relationship with Tauranga Moana

	<p>Te Hono Moana, Te Tauranga o Nga Waka, Tauranga Moana</p> <p>No te orokohanga, no te ha o Rangi matua e tu nei raua ko Papatuanukue takoto nei, ka whanau mai nga tama ariki. Ko Tangaroa whakamau tai tena, ko Hinemoana tera, ko Wainui tera, ara ko nga tupuna tena o nga ika, o nga taniwha, o ngam ataitai, o nga ngangara, o te tini o roto, o runga i nga kare o te tai moana.</p> <p>Na Rangi raua ko Papatuanuku ka puta:</p> <p>Ko Tane Ko Tane-tuturi Ko Tane-pepeke Ko Tane-ueha Ko Tane-uetika Ko Tane-takoto Ko Ioiowhenua Ko Te Aomatinitini Ko Tangaroa-i-te-rupetu Ko Maui-tikitiki-a-Taranga</p> <p>Ko Maui i poipoia e tona tupuna e Tangaroa ka whakangungua ki nga kawa tapu o nga ariki, ki nga karakia tapu onamata.</p> <p>Na Maui te ika roa i hi ake i te takere o papa moana, puea rawa ake ko te ika roa e takoto nei! Nana tenei ika, na ona tuakana i haehae, kihei i rukutia ki te ruku tawhito! Na Maui i waiho iho te tamaiti a tana pdtiki a Te Papatitiraumaewa hei pupuri i te mauri o tana ika whenua.</p>	
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Na Maui Tikitiki a Taranga Ko Te Papatitiraumaewa Ko Tiwakawaka Ko
Taranui Ko Tararoa Ko Ngai-nui Ko Ngai-roa Ko Ngai-whare-kiki Ko Ngai-
whare-kaka Ko Ngai-roki Ko Ngai-raka Ko Ngai-peha Ko Ngai-te-hurumanu Ko
Toitehuatahi

Ko Toi te tangata o tenei motu, nona te ingoa nui o tenei wahanga o te moana
mai i Moehau tae atu ki Tihirau-mai-tawhiti. Kaore i arikarika te awe o tona
mana!

Na Toi ka puta:

Ko Rauru

Ko Whatonga

Ko Whatonga i tere mai i Tawhiti pamamao, i Rangiatea, i te marae tapu o
Taputapuatea.

Na Whatonga

Ko Tahatiti



Ko Rakeiora

Ko Tamakitehau

Ko Tamakitera

Ko Tamakitematangi

Ko Tama-ki-reireia-mai-i-Hawaiki

Ko Te Kahu-arero

Ko Ruatapu

Ko Hau

Ko Nuiho

Ko Nuake

Ko Manu

Ko Weka

	<p>Ko Pito</p> <p>↓</p> <p>Ko Rere Ko Maika Ko Toto = Tamatea Arikinui Ko Rongokako Ko Tamatea Pokaiwhenua</p> <p>↓</p> <p>Ko Ranginui</p> <p>Ko Tamateaarikinui te tupuna i hautu i te waka tapu o Takitimu i Hawaiki nui, ko ona taniwha maha tera ki te awatea, ko Hinekorako ki te po.</p> <p>I u mai ki Tauranga Moana, ki te take o Mauao, ki Te Awaiti ka tau. Ka poua iho te mauri ki runga o Mauao, ka tapa te maunga ko Maunganui. He ingoa no Hawaiki mai, i pikitia e Tanenuiarangi ki nga Rangi puhi, i kaketia e Tawhaki ki nga Rangi mamao. Ranginui, Kinonui nga tangata matua, ka hora ko te mana ki uta, ki tai.</p> <p>I u mai Mataatua, ka rere mai a Muriwai, ka paremo ana mahanga ki te moana, ka puta te kupu korero, 'Mai i Nga Kuri a Wharei ki Tihirau, tena te tapu o Muriwai.</p> <p>Haere mai a Pukenga raua ko Ahuru ki Tauranga Moana, 'nana te ki, ko koe ki te tuawhenua, ko au ki te takutai moana'.</p> <p>Ko te aitanga a Te Rangihouhiri tera i hoe mai ki roto ki te moana ki Te Awanui, he ara mahue no te maunga i mau i te ao. Ko Tamapahore ki roto o Rangataua. Ka rere Tauwhao ki waho ki nga motu e tere mai ra, ko Tuhua, ko Motiti.</p>	
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3. Te Kupenga Framework

The following is a statement made by Tauranga Moana Iwi of their association with Tauranga Moana:

TE KUPENGA

Te Orokohanganga ki Tauranga Moana

Ko te Pu

Ko te Weu

Ko te More

Ko te Aka

Ko te Rea

Ko te Waonui

Ko te Kune

Ko te Whe

Ko te Kore

Ko te Po

Ko Ranginui e tu iho nei

Ko Papatuanuku e takoto nei

Nana ka puta ko Tawhiri Matea nana nga hau mirimiri, nga hau hukerikeri. Ko Tangaroa nana te tini ika moana, tona marae horahora kei nga tuatea o Wainui, ko Tumatauenga nana te riri, nana te tangata, ko Rongomaraeroa nana te kura kumara, nana te rongo mau ki tara whare. Na Tane Mataaho nga manu o te wao, nana nga kirehe. Na Tane Mahuta, nana te rakau, nana te waka eke noa. Ko Tanenuiarangi nana te wananga i poua iho ki wharekura, ko Tane Toko Rangi nana i toko ake ko Rangi ki runga ko Papa ki raro kia puta ko te ao marama. Na Tane Te Waiora nana te one kura i kurawaka i poke kia whakaea manawa ai te ira tangata ki te ao. Tihe mauri ora!

Na Ranginui raua ko Papatuanuku ka puta ko Tangotango, nana ko Te Ra, ko Hiwa, ko Matariki, ko Te Aomatinitini, ko Tangaroa i te rupe tu, ko Maui Tikitiki a Taranga nana te Ika Roa e takoto nei i hi ake. Na Maui ka puta ko Te Papatitiraumaewa, ko Tiwakawaka, ko Taranui, ko Tararoa, ko Ngainui, ko Ngai Roa, ko Ngaiwharekiki, ko Ngaiwharekaka, ko Ngai Roki, ko Ngai Raka, ko Ngai Peha, ko Ngai Taketake, ko Ngai Te Hurumanu, ko Toi Te Huatahi te tangata o Te Motu nei ka puta ko nga ariki o runga i nga waka Tamatea no runga Takitimu i o mai ki Te Awaiti, ki Tirikawa, ko Ranginui ka noho ki Pukewhanake. Nga Kuri a Tarawhata, he tupua no Hawaiki mai, ana tuahu tapu kei nga plnakitanga o Maunganui, kei raro ko Te Toka Tapu kei nga wai whakarewanga kauri. Ko Toroa nana a Mataatua i hauto mai kia puta ko nga uri a Romainohorangi, te aitanga a Pukenga, kei Nga Papaka o Rangataua he kauika taramea, paenga tohora no namata. Pahemo ana Te Arawa he taunahatanga mo Waitaha-nui-a-Hei. Tera Hoturoa, tona waka ko Tainui, mahue kau noa Te Ratahi, Te Kuia me te tini o Nga Marama.

Mai i Nga Kuri-a-Wharei ki Tihirau te moana i tapu i a Muriwai, kei uta ko te Pae o Kaimaie tahu ana mai, me ko Te Kuupenga a Kahukura tena hao i te whenua, tona hao i te tangata. Poua iho te pou ki Otawa, te pou ki Waianuanu, ki Te Aroha-a-Tai, ki Hikurangi, ki Nga Kuri a Wharei ki Wairakei. Tena te kaha raro ka karihi atu ki Tuhua te motu koia i hinga ai te mana o Poutini, ki Motiti te papa i tapu ai i a Ngatoroirangi, ki Karewa te nohanga o te tini o Taurikura. Waiho Matakana hei parepare i nga tai o Kiwa. ko Rangiwaea, ko Panepane hei moenga ariki me tuauki ma.

E huri o mata ki uta ki te Hautere, ki Otanewainuku, ki Puwhenua ko te nohanga nui o Ngai Turehu, o Ngati Patupaiarehe, ko te iwi tera nana te pononga maunga nei i ariki ai e tu nei Mauao i te kongutu o Te Awanui taku matarangi atu ki waho ki te paehuakai, taku matarangi ki uta ki te whenua houkura o aku tupuna, No mua iho ne Rangi mai ano toku mana, no nga kawai tapu o nehe ma. Ko Tauranga te moana kuititanga o nga wai e rau, Waiorooro ki Wairoa, Waikareao, Waimapu ki Waitao kotahi au, kotahi moana, kotahi tangata e ho!

Ko te ha tenei o toku reo e tiu atu nei i runga i nga hau o te rangi, ina tenei mana tupu ake taketake no te tupuna kotahi nei a Rangi raua ko Papatuanuku. I whakanohongia ai au ki tenei whenua hei pawhakawairua, hei kahu tauawhi i

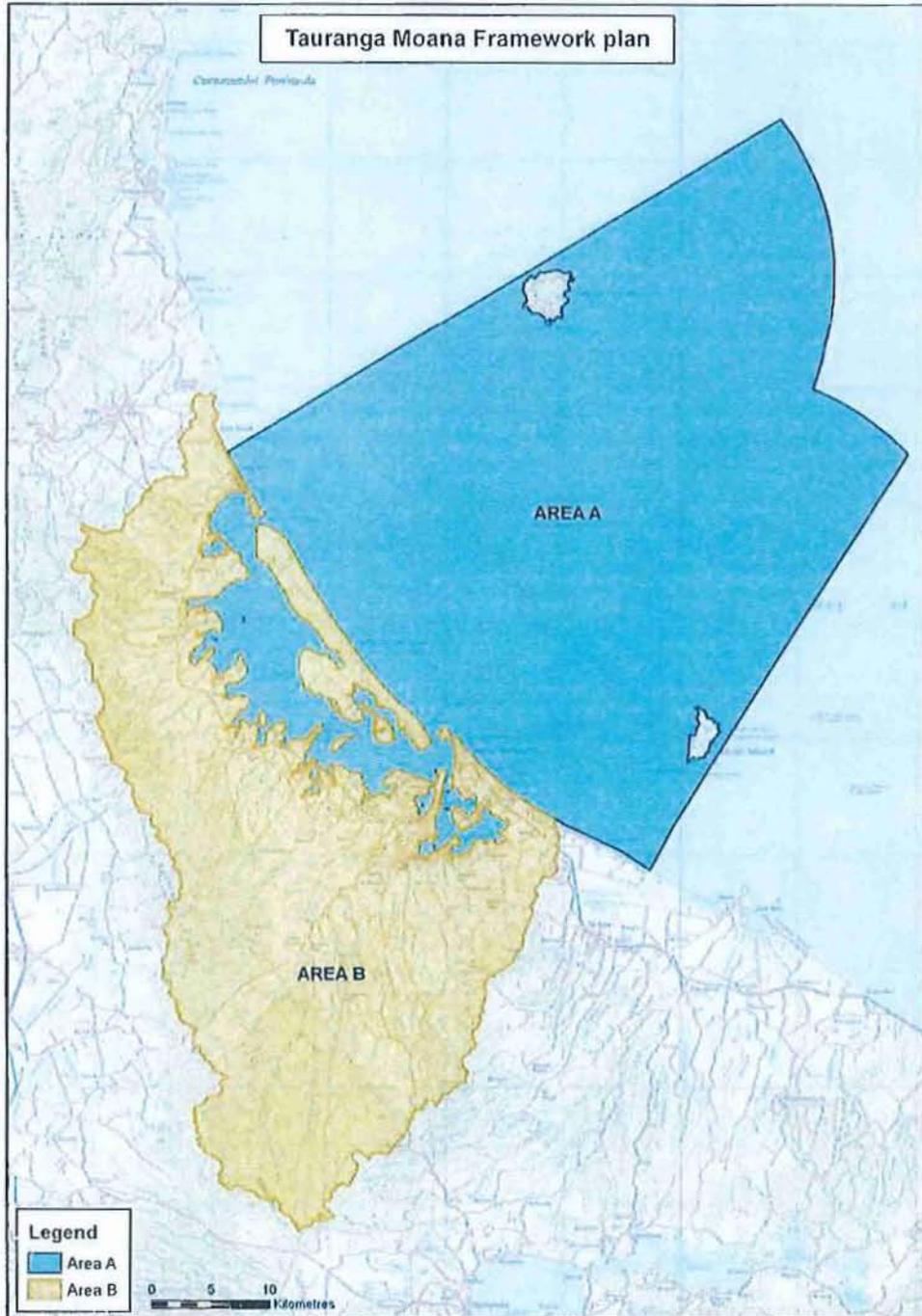
	<p>te mauri o taiao, o te whenua, o te moana, o nga wai, otira o nga uri katoa o Ranginui raua ko Papatuanuku.</p> <p>No te marama o Aperira i te tau 1840 ka waitohungia e o matau tupuna me Te Karauna te kawenata e kia nei ko te Tiriti o Waitangi. No nga tau i muri mai ka ekengia Te Moana o Tauranga e te manua, e te hoia o Kuini, e te pu i paku ki runga o Pukehinahiria o Te Ranga. Ka mauria mai te ture tango whenua ka taoro te hoari a Te Karauna, ka hahae i te kiriwai o Papatuanuku, ka wahia mona nga painga, ka riro nga whenua i te rauo te patu pene, ka takahia te mana o te kawenata e kia nei ko Te Tiriti o Waitangi.</p> <p>Kotahi rau e whitu tekau ma rua tau i muri mai i tera kua noho tahi ano Te Karauna me nga iwi o Tauranga Moana ki te waitohu kawenata hou. Ka noho ko tenei kawenata, tenei ki taurangi hei paihere i Te Karauna ki nga iwi o Tauranga Moana kia taurite ai nga tikanga a oku tupuna Maori me wa Te Karauna tikanga whakahaere i nga whenua me nga taonga kei nga whakahaere a Te Papa Atawhai i tenei wa. Ma te mahi tahi i nga wawahanga katoa o te kaupapa nei e toe tonu ai te mauri o nga marae o nga tupuna atua. Ma konei e uru ai te ora ki taiao, e uru ai te ora ki te tangata, e hoki mai ano ai teteahi wahanga o te mananga o nga ki taurangi i roto i Te Tiriti o Waitangi.</p>	
<p>Clause 1.1</p> <p>Governing principles of Tauranga Moana Iwi</p>	<p>Governing Principles of Tauranga Moana Iwi</p> <p>Every action or activity of Tauranga Moana iwi and hapu is sourced in principles set down by tupuna Maori. In negotiating a settlement over conservation lands, Tauranga Moana iwi and hapu have sought to give effect to key principles that influence the relationship between Tauranga Moana iwi and hapu and their environment, including:</p> <ul style="list-style-type: none"> (a) Wairuatanga/Mauri: Acknowledging and understanding the existence of Mauri and a spiritual dimension to our natural resources that requires regular attention and nourishment. (b) Mana: Each iwi and hapu has its own mana and autonomy to operate within their respective rohe in accordance with manawhenua, manatupuna and manamoana from which emanates the right to participate at all levels of decision making concerning the matters that affect their respective rohe. 	

	<p>(c) Kaitiakitanga: Activity of caring for the health and well-being of our natural resources for present and future generations.</p> <p>(d) Whanaungatanga: Developing and maintaining relationships based on reciprocity and good faith engagement.</p>	
Background Clause 2.1	Tauranga Moana iwi negotiations were premised on the principle "I riro whenua atu, me hoki whenua mai" ("land which was lost must be returned").	
Clause 2.2	Tauranga Moana iwi and hapu were concerned to achieve a level of redress which satisfies the mana and integrity of Tauranga Moana iwi and hapu. Tauranga Moana iwi and hapu were concerned that adequate provision was made to recognise the interests of Tauranga Moana iwi and hapu in conservation land. These lands form the mountains, rivers and significant places of Tauranga Moana iwi and hapu ancestors.	
Clause 2.3	The approach of Tauranga Moana iwi and hapu stems from the grievance of raupatu and the subsequent Crown actions and policies that have impacted on the relationship of Tauranga Moana iwi and hapu to their ancestral lands, waters and taonga. The Waitangi Tribunal acknowledges such impacts in the Tauranga Moana Report 1886- 2006 and goes further to state that "where the wider public also have a strong interest in taonga, as is the case most obviously with Tauranga Moana, significant waterways, and the forests of the Kaimai Range, it is most appropriate to explore the possibilities for joint management".	
Clause 2.4	Tauranga Moana iwi initially sought all 50,000 hectares of public conservation land in Tauranga Moana to be returned. The Crown and iwi have agreed to transfer certain areas of public conservation land to iwi and to enter into a co-governance arrangement over all remaining conservation land within the area of interest of Tauranga Moana iwi.	
Clause 2.5	Te Kupenga is a metaphor which encapsulates all areas of public conservation land in Te Kupenga Area including the Kaimai Ranges to the west and the tupuna maunga (ancestral mountains); Puwhenua, Otanewainuku and Otawa to the South (see map attached in Appendix 1 and described as Te Kupenga	

	<p>Area). Te Kupenga Framework has been co-created by Tauranga Moana iwi and the Crown to capture the significance of public conservation land and conservation taonga to Tauranga Moana iwi and hapu.</p>	
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Annexure 1 – Tauranga Moana Iwi Collective Deed: Legislative matters: 3. Tauranga Moana Framework Plan

1 TAURANGA MOANA FRAMEWORK PLAN



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Annexure 1 – Tauranga Moana Iwi Collective Deed: Legislative matters: 3. Tauranga Moana Framework

3 Tauranga Moana Framework

FRAMEWORK OF ARRANGEMENTS

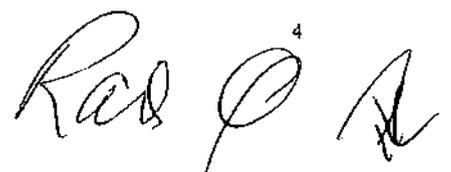
- 3.1 The collective legislation will provide for the arrangements contained in this part including:
- 3.1.1 the establishment of a statutory committee called the Tauranga Moana Governance Group; and
 - 3.1.2 the preparation, review, amendment and adoption of a Tauranga Moana framework document - Ngā Tai ki Mauao.
- 3.2 The collective legislation will:
- 3.2.1 include the provisions relating to the Tauranga Moana Governance Group set out in part 1 of the Appendix to this part; and
 - 3.2.2 include the provisions relating to Ngā Tai ki Mauao (the Tauranga Moana framework document) set out in part 2 of the Appendix to this part.

PURPOSE OF THE TAURANGA MOANA GOVERNANCE GROUP

- 3.3 The collective legislation will provide that the purpose of the Tauranga Moana Governance Group is to provide leadership and strategic direction to restore, enhance and protect the health and wellbeing of Tauranga Moana and achieve sustainable management of Tauranga Moana for present and future generations through:
- 3.3.1 Ngā Tai ki Mauao (the Tauranga Moana framework document);
 - 3.3.2 facilitating an integrated, holistic and co-ordinated approach to the management of Tauranga Moana and the implementation of Ngā Tai ki Mauao (the Tauranga Moana framework document); and
 - 3.3.3 providing for participation by Tauranga Moana iwi and hapū in the management of Tauranga Moana, the implementation of Ngā Tai ki Mauao (the Tauranga Moana framework document) and the functioning of the Tauranga Moana Governance Group.

FUNCTION OF THE TAURANGA MOANA GOVERNANCE GROUP

- 3.4 The collective legislation will provide that:
- 3.4.1 the function of the Tauranga Moana Governance Group is to achieve its purpose;



TAURANGA MOANA IWI COLLECTIVE DEED
LEGISLATIVE MATTERS

3: TAURANGA MOANA FRAMEWORK

3.4.2 in carrying out its function, the Tauranga Moana Governance Group:

(a) must:

- (i) prepare, periodically review and, at the discretion of the Tauranga Moana Governance Group, amend Ngā Tai ki Mauao (the Tauranga Moana framework document);
- (ii) monitor the effectiveness of Ngā Tai ki Mauao (the Tauranga Moana framework document);
- (iii) engage with and involve Tauranga Moana iwi and hapū in matters that affect their respective interests in Tauranga Moana and facilitate the participation of Tauranga Moana iwi and hapū in Resource Management Act 1991 processes by:
 - (I) maintaining a register of accredited commissioners available to sit on hearings committees when appointed to do so in accordance with paragraph 3.9; and
 - (II) establishing working parties jointly with local authorities in accordance with paragraphs 3.7.2, 3.7.3, 3.8.5, 3.17.2 and 3.17.3; and

(b) may:

- (i) provide strategic guidance to local authorities, management agencies, and Ministers who exercise functions under the enactments listed in paragraph 3.4.4, including, but not limited to, recommendations on:
 - (I) the effectiveness of measures related to Ngā Tai ki Mauao (the Tauranga Moana framework document);
 - (II) the effectiveness of management measures for Tauranga Moana;
 - (III) activities occurring within the Tauranga Moana catchment if those activities impact, or are likely to impact, on Tauranga Moana; and
 - (IV) likely threats to the health, wellbeing and sustainable management of Tauranga Moana;
- (ii) provide strategic guidance to local authorities and to management agencies and Ministers who exercise functions under the enactments listed in paragraph 3.4.4 to facilitate and promote the integrated management of Tauranga Moana;
- (iii) obtain, share, and monitor information on the state of Tauranga Moana;

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TAURANGA MOANA IWI COLLECTIVE DEED
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- (iv) assist local authorities and management agencies to:
 - (I) prepare and disseminate information about Tauranga Moana, including educational information; and
 - (II) monitor the state of the Tauranga Moana environment and the effectiveness of the management of Tauranga Moana;
 - (III) engage with Tauranga Moana iwi and hapū concerning their interests in Tauranga Moana and their views on the management of Tauranga Moana;
 - (IV) facilitate participation by Tauranga Moana iwi and hapū in the management of Tauranga Moana;
- (v) receive advice and information of relevance to the purpose of the Tauranga Moana Governance Group from local authorities and agencies with responsibilities related to Tauranga Moana;
- (vi) form alliances and enter into arrangements with:
 - (I) relevant organisations and groups to undertake initiatives to achieve the purpose of the Tauranga Moana Governance Group; and
 - (II) research and education institutes to increase knowledge about Tauranga Moana and raise awareness of matters relevant to the purpose of the Tauranga Moana Governance Group; and
- (vii) undertake any other activity or initiative that, in the opinion of the Tauranga Moana Governance Group, will assist it to achieve its purpose;

3.4.3 to avoid doubt:

- (a) the Tauranga Moana Governance Group has discretion to determine in any particular circumstances:
 - (i) whether to do any of the things identified in paragraph 3.4.2(b); and
 - (ii) how, and to what extent, any of the things identified in paragraph 3.4.2(b) is to be done;
- (b) guidance and recommendations under paragraphs 3.4.2(b)(i) and (ii) may be given by the Tauranga Moana Governance Group on its own initiative or at the request of a relevant local authority, management agency or Minister; and
- (c) paragraph 3.4.2(b) applies subject to the provisions of the collective legislation, any other enactment, and the general law;

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**TAURANGA MOANA IWI COLLECTIVE DEED
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3: TAURANGA MOANA FRAMEWORK

3.4.4 the enactments referred to in paragraph 3.4.2(b)(i) and (ii) are:

Aquaculture Reform (Repeals and Transitional Provisions) Act 2004
Biosecurity Act 1993
Hazardous Substances and New Organisms Act 1996
Health Act 1956
Heritage New Zealand Pouhere Taonga Act 2014
Land Drainage Act 1908
Local Government Act 1974
Local Government Act 2002
Maritime Transport Act 1994
Resource Management Act 1991
River Boards Act 1908
Soil Conservation and Rivers Control Act 1941
Walking Access Act 2008

3.4.5 despite paragraph 3.4.4, nothing in paragraph 3.4.2 applies to:

- (a) the Department of Conservation, the Director-General of Conservation or the Minister of Conservation, the New Zealand Conservation Authority, a Conservation Board or a Fish and Game Council; or
- (b) the Ministry for Primary Industries, the Director-General for Primary Industries or the Minister for Primary Industries.

WORKING PARTIES

3.5 The collective legislation will provide that:

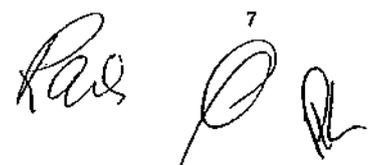
3.5.1 for the purposes of carrying out its function the Tauranga Moana Governance Group:

- (a) may establish working parties jointly with a local authority, management agency or research and education institute;
- (b) must establish working parties jointly with the Bay of Plenty Regional Council in accordance with paragraphs 3.8.5 and 3.17.2; and
- (c) must establish working parties jointly with each local authority in accordance with paragraphs 3.7.2, 3.7.3 and 3.17.3;

3.5.2 terms of reference for working parties established pursuant to paragraph 3.5.1 will be agreed by the parties having regard to the tasks to be carried out by the working party and the function of the Tauranga Moana Governance Group under paragraph 3.4;

3.5.3 members of working parties established pursuant to paragraph 3.5.1:

- (a) must be appointed for their knowledge and experience relevant to the tasks to be carried out by the working party; and
- (b) need not be members of the local authority or the Tauranga Moana Governance Group;



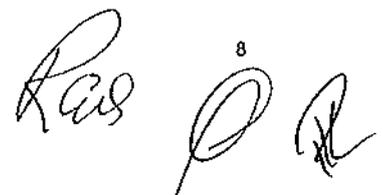
**TAURANGA MOANA IWI COLLECTIVE DEED
LEGISLATIVE MATTERS**

3: TAURANGA MOANA FRAMEWORK

- 3.5.4 when appointing members to a working party established pursuant to paragraph 3.5.1(a) to carry out tasks relating to a particular area or matter within Tauranga Moana, the Tauranga Moana Governance Group must:
- (a) first seek advice from the appointers of the members of the Tauranga Moana Governance Group appointed under paragraphs 1.1.1 to 1.1.5 of part 1 of the Appendix to this part as to which Tauranga Moana iwi and/or Tauranga Moana hapū are most closely associated with the area or matter; and
 - (b) consult with the particular Tauranga Moana iwi and/or Tauranga Moana hapū identified under paragraph 3.5.4(a) and appoint one or more working party members identified by those particular Tauranga Moana iwi and/or Tauranga Moana hapū unless good reason exists to do otherwise;
- 3.5.5 appointments by the Tauranga Moana Governance Group to working parties established pursuant to paragraphs 3.5.1(b) and (c) must:
- (a) be made only by the members of the Tauranga Moana Governance Group appointed under paragraphs 1.1.1 to 1.1.5 of part 1 of the Appendix to this part; and
 - (b) provide for the participation of members of Tauranga Moana iwi and hapū;
- 3.5.6 a working party established pursuant to any one of paragraphs (a), (b) or (c) of paragraph 3.5.1 may be the same as, or combined with, a working party established for any other or others of those paragraphs if:
- (a) the parties establishing the working parties consider it expedient to do so; and
 - (b) doing so would be an effective means of carrying out the function of the Tauranga Moana Governance Group; and
- 3.5.7 recommendations made by a working party established pursuant to paragraph 3.5.1(b) and (c) are to be made to the relevant local authority which remains the decision-maker.

INFORMATION SHARING AND COLLABORATION

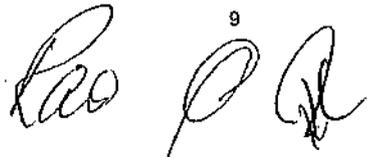
- 3.6 The collective legislation will provide that:
- 3.6.1 the Tauranga Moana Governance Group, local authorities and Tauranga Moana iwi must use reasonable endeavours to exchange and share information relevant to the purpose of the Tauranga Moana Governance Group;
 - 3.6.2 paragraph 3.6.1 applies subject to the provisions of the collective legislation, any other enactment, and the general law;

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TAURANGA MOANA IWI COLLECTIVE DEED
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3: TAURANGA MOANA FRAMEWORK

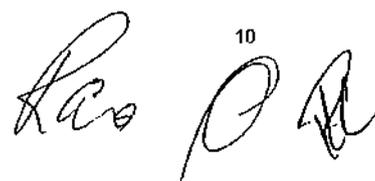
- 3.6.3 for the purpose of carrying out its function, the Tauranga Moana Governance Group may make a reasonable request of a local authority or management agency to:
- (a) provide information or advice to the Tauranga Moana Governance Group on matters relevant to the Tauranga Moana Governance Group's purpose; and/or
 - (b) provide for a representative of a management agency to attend a meeting of the Tauranga Moana Governance Group;
- 3.6.4 in respect of requests under paragraph 3.6.3(a) for information or advice:
- (a) where reasonably practicable, the local authority or management agency will provide the information or advice; and
 - (b) in deciding whether it is reasonably practicable to provide the information or advice, a local authority or management agency may have regard to any relevant consideration, including:
 - (i) whether, if the request had been made under the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987, there are permitted reasons for withholding the information;
 - (ii) whether making the information available would contravene the provisions of an enactment; and
 - (iii) the time and cost involved in researching, collating and providing the information or advice;
- 3.6.5 in respect of requests under paragraph 3.6.3(b) for a representative of a management agency to attend a meeting of the Tauranga Moana Governance Group:
- (a) where reasonably practicable, the management agency will comply with the request;
 - (b) the management agency may determine the appropriate representative to attend any meeting; and
 - (c) in deciding whether it is reasonably practicable to comply with the request, the management agency may have regard to any relevant consideration, including:
 - (i) the number and frequency of such requests the management agency has received from the Tauranga Moana Governance Group;
 - (ii) the time and place of the meeting and the adequacy of notice given; and
 - (iii) the time and cost involved in complying with the request.

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3: TAURANGA MOANA FRAMEWORK

ENVIRONMENTAL AND EFFECTIVENESS MONITORING

- 3.7 The collective legislation will provide that:
- 3.7.1 paragraph 3.7.2 applies to monitoring relating to Tauranga Moana and activities within the catchment affecting Tauranga Moana;
 - 3.7.2 at least once a year the Tauranga Moana Governance Group must establish a working party with each local authority to consider:
 - (a) priorities for the monitoring of those matters set out in section 35(2)(a)-(c) of the Resource Management Act 1991;
 - (b) methods for and the extent of the monitoring of those matters set out in section 35(2)(a)-(c) of the Resource Management Act 1991;
 - (c) appropriate responses to address the outcomes of the monitoring of those matters set out in section 35(2)(a)-(c) of the Resource Management Act 1991; and
 - (d) procedures for reporting back to the Tauranga Moana Governance Group on actions taken to address the outcomes of the monitoring of those matters set out in section 35(2)(a)-(c) of the Resource Management Act 1991; and
 - 3.7.3 prior to the commencement of the 5 yearly review provided for in section 35(2A) of the Resource Management Act 1991 the Tauranga Moana Governance Group must establish a working party with each local authority to discuss and agree what role the Tauranga Moana Governance Group should have in the conduct of the review;
 - 3.7.4 each local authority must:
 - (a) participate at least once a year in a working party established pursuant to paragraph 3.7.2;
 - (b) if requested by the Tauranga Moana Governance Group, consider participating in more than one working party a year under paragraph 3.7.2 if it is reasonably practicable to do so having regard to:
 - (i) the number and frequency of such requests received from the Tauranga Moana Governance Group during the year; and
 - (ii) the time and cost involved in complying with the request;
 - 3.7.5 the Tauranga Moana Governance Group must establish procedures for communicating with Tauranga Moana iwi and hapū on:
 - (a) the matters considered under paragraph 3.7.2; and
 - (b) reports received from local authorities as a consequence of procedures established pursuant to paragraph 3.7.2(d).

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**TAURANGA MOANA IWI COLLECTIVE DEED
LEGISLATIVE MATTERS**

3: TAURANGA MOANA FRAMEWORK

RESOURCE CONSENT PROCESS

- 3.8 The collective legislation will provide that:
- 3.8.1 paragraphs 3.8.2 to 3.8.8 apply only to applications to the Bay of Plenty Regional Council for resource consent for any activity referred to in sections 12, 13, 14, 15(1)(a) and (b), 15A and 15B of the Resource Management Act 1991 in relation to waters within Tauranga Moana;
 - 3.8.2 not less than quarterly, the Bay of Plenty Regional Council must provide the Tauranga Moana Governance Group with resource consent activity reports;
 - 3.8.3 no later than 5 business days after receiving an application for resource consent referred to in paragraph 3.8.1, the Bay of Plenty Regional Council must provide Tauranga Moana iwi and hapū with a complete physical or electronic copy of the application unless, within that time, the Bay of Plenty Regional Council has:
 - (a) returned the application to the applicant pursuant to section 88(3) of the Resource Management Act 1991; or
 - (b) made a determination under section 91(1) of the Resource Management Act 1991 to defer the application;
 - 3.8.4 to avoid doubt:
 - (a) the requirements of paragraphs 3.8.2 and 3.8.3:
 - (i) do not confer affected person status on the Tauranga Moana Governance Group or Tauranga Moana iwi and hapū; but
 - (ii) do not affect any entitlement of Tauranga Moana iwi and hapū to:
 - (I) make a submission to the Bay of Plenty Regional Council about an application for a resource consent in accordance with section 96 of the Resource Management Act 1991; or
 - (II) otherwise participate in any resource consent hearing process;
 - (b) compliance by the Bay of Plenty Regional Council with paragraphs 3.8.2 and 3.8.3 does not amount to a decision that the Tauranga Moana Governance Group or Tauranga Moana iwi and hapū, or any of them has or does not have affected person status; and
 - (c) any decision by the Bay of Plenty Regional Council as to whether the Tauranga Moana Governance Group or Tauranga Moana iwi and hapū are affected persons must be made in accordance with section 95E of the Resource Management Act 1991; and

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TAURANGA MOANA IWI COLLECTIVE DEED
LEGISLATIVE MATTERS

3: TAURANGA MOANA FRAMEWORK

- 3.8.5 at least once every two years the Bay of Plenty Regional Council and the Tauranga Moana Governance Group must jointly establish a working party to develop and/or review criteria and policies for procedural matters related to resource consent applications, such as:
- (a) pre-application processes;
 - (b) section 87D (request that an application be determined by the Environment Court rather than the consent authority);
 - (c) section 88(3) (incomplete application for resource consent);
 - (d) section 91 (deferral pending additional consents);
 - (e) section 92 (requests for further information);
 - (f) section 95 to 95F (notification of applications for resource consent); and
 - (g) processes consistent with the requirements of the Resource Management Act 1991 for engaging with Tauranga Moana iwi and hapū;
- 3.8.6 when developing or reviewing criteria, the working party established under paragraph 3.8.5 must consult with Tauranga Moana iwi and hapū;
- 3.8.7 to avoid doubt:
- (a) the criteria developed and agreed under paragraph 3.8.5:
 - (i) are additional to, and must not derogate from, the existing criteria to be applied by the Bay of Plenty Regional Council under the Resource Management Act 1991;
 - (ii) do not impose any requirement on a consent authority to change, cancel or review consent conditions; and
 - (iii) must not be inconsistent with the requirements of the Resource Management Act 1991; and
 - (iv) must meet the requirements of natural justice; and
 - (b) the working party established under paragraph 3.8.5 may agree not to propose criteria additional to the existing criteria to be applied by the Bay of Plenty Regional Council under the Resource Management Act 1991; and
- 3.8.8 if requested by the Tauranga Moana Governance Group, the Bay of Plenty Regional Council may consider establishing a working party for the purposes of paragraph 3.8.5 more frequently than once every two years if it is reasonably practicable to do so having regard to:
- (a) the number and frequency of such requests received from the Tauranga Moana Governance Group; and
 - (b) the time and cost involved in complying with the request.

TAURANGA MOANA IWI COLLECTIVE DEED
LEGISLATIVE MATTERS

3: TAURANGA MOANA FRAMEWORK

RESOURCE CONSENT HEARING COMMISSIONERS

- 3.9 The collective legislation will provide that:
- 3.9.1 paragraphs 3.9.2 to 3.9.7 apply only to applications to the Bay of Plenty Regional Council for resource consent for any activity referred to in sections 12, 13, 14, 15(1)(a) and (b), 15A and 15B of the Resource Management Act 1991 in relation to waters within Tauranga Moana;
 - 3.9.2 the Tauranga Moana Governance Group must establish and maintain a register of persons who:
 - (a) are qualified Resource Management Act 1991 decision-makers; and
 - (b) have been appointed to the register by Tauranga Moana iwi and hapū;
 - 3.9.3 if a hearing is to be held under the Resource Management Act 1991 in relation to an application for resource consent referred to in paragraph 3.9.1 (other than a hearing solely in relation to objections under section 357 of the Resource Management Act 1991) the Bay of Plenty Regional Council must:
 - (a) as soon as practicable serve notice on the Tauranga Moana Governance Group that a hearing is to be held;
 - (b) exercise its power under section 34A(1) of the Resource Management Act 1991 to delegate its functions, powers and duties required to hear and decide the application to one or more commissioners; and
 - (c) appoint as the commissioner or commissioners:
 - (i) only persons who are qualified Resource Management Act 1991 decision-makers; and
 - (ii) at least one person whose name appears on the register established and maintained by the Tauranga Moana Governance Group under paragraph 3.9.2;
 - 3.9.4 a person must not be appointed as a commissioner, or continue to be a commissioner referred to in paragraph 3.9.3(b) or paragraph 3.9.9:
 - (a) if that person:
 - (i) is or becomes a party or the parent, child, spouse, civil union partner, or de facto partner of a party in the proceeding before commissioner or commissioners;
 - (ii) has or develops a relationship or connection with a party in the proceeding before commissioner or commissioners that is or may be in conflict with the person's duties and responsibilities as a commissioner;
 - (iii) has or acquires a financial interest in, or is or becomes a director, officer, member, or trustee of, a party in the proceeding before the commissioner or commissioners;

TAURANGA MOANA IWI COLLECTIVE DEED
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3: TAURANGA MOANA FRAMEWORK

- (iv) has an interest in, or connection with, the subject-matter of the proceeding before the commissioner or commissioners of such a nature that any decision in which that person participated would be, or would have the appearance of being, improperly influenced by the interest or connection;
 - (v) is affected by some other interest or duty that is or may be in conflict with the person's duties and responsibilities as a commissioner; or
 - (vi) without limiting the application of sub-paragraphs (i) to (iv) of paragraph (a) of paragraph 3.9.4, would be prohibited under section 6 of the Local Authorities (Members' Interests) Act 1968 from voting on or taking part in the discussion of any matter before commissioner or commissioners; or
- (b) if there are grounds upon which a fair minded observer might reasonably apprehend that that person:
- (i) has predetermined the outcome of the application; or
 - (ii) is biased;
- 3.9.5 the following circumstances do not, of themselves, disqualify a person under paragraph 3.9.4 or any rule of law from being appointed as a commissioner:
- (a) the person is a ratepayer;
 - (b) the person is a member of a local authority;
 - (c) the person is descended from an ancestor of an iwi or hapū; or
 - (d) the, social, cultural or spiritual values of any iwi or hapū are, or may be considered:
 - (i) relevant to the subject-matter of the proceeding before the commissioner or commissioners; or
 - (ii) reflected in the person's membership of the commissioner or commissioners;
- 3.9.6 if a question arises as to whether a person is ineligible to be appointed as a commissioner, or continue to be a commissioner, under paragraph 3.9.4, the Bay of Plenty Regional Council may refer the question to the Tauranga Moana Governance Group which may provide advice and guidance to the Bay of Plenty Regional Council to assist the Bay of Plenty Regional Council to determine whether a person is ineligible;
- 3.9.7 the requirements of paragraph 3.9.3 will not apply if:
- (a) no-one has been appointed by Tauranga Moana iwi and hapū to the register established and maintained by the Tauranga Moana Governance Group under paragraph 3.9.2; or

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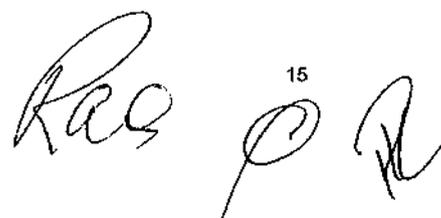
TAURANGA MOANA IWI COLLECTIVE DEED
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- (b) there is no person on the register established and maintained by the Tauranga Moana Governance Group under paragraph 3.9.2 who is eligible to be appointed as a commissioner under paragraphs 3.9.3(b) or 3.9.9; or
 - (c) the Tauranga Moana Governance Group has, in respect of a particular hearing, waived in writing the requirements of paragraph 3.9.3;
- 3.9.8 if an application for resource consent is lodged with the Environment Protection Authority under section 145 of the Resource Management Act 1991, and a direction is made under section 147(1)(c) to refer the matter to Bay of Plenty Regional Council, then paragraph 3.9.3 will apply; and
- 3.9.9 if a request is made under section 100A of the Resource Management Act 1991 for the Bay of Plenty Regional Council to delegate its functions, powers and duties required to hear and decide an application for resource consent referred to in paragraph 3.9.1 to a commissioner or commissioners, then the commissioner (if the delegation is to a single commissioner) or at least one commissioner (if the delegation is to more than one commissioner) must be a qualified Resource Management Act 1991 decision-maker whose name appears on the register established and maintained by the Tauranga Moana Governance Group under paragraph 3.9.2.

REPORTING BY THE TAURANGA MOANA GOVERNANCE GROUP

- 3.10 The collective legislation will provide that:
- 3.10.1 the Tauranga Moana Governance Group must report on an annual basis to:
- (a) the Ngā Hapū o Ngāti Ranginui governance entity;
 - (b) the Ngāi Te Rangi governance entity;
 - (c) the Ngāti Pūkenga governance entity;
 - (d) the governance entity of the iwi with recognised interests in Tauranga Moana;
 - (e) the Bay of Plenty Regional Council;
 - (f) the Tauranga City Council;
 - (g) the Western Bay of Plenty District Council; and
 - (h) the Minister of Māori Affairs and the Minister for the Environment, on behalf of the Crown;
- 3.10.2 the report referred to in paragraph 3.10.1 will:
- (a) describe the activities of the Tauranga Moana Governance Group over the preceding 12 months and the outcomes of those activities; and
 - (b) explain how those activities relate to the purpose and functions of the Tauranga Moana Governance Group.


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REVIEW OF THE TAURANGA MOANA GOVERNANCE GROUP

- 3.11 The collective legislation will provide that:
- 3.11.1 meetings of the parties referred to in paragraph 3.11.4 will be held five yearly for the purposes set out in paragraph 3.11.2;
- 3.11.2 the purposes of meetings held pursuant to paragraph 3.11.1 are to:
- (a) review the operation and outcomes of the Tauranga Moana Governance Group;
 - (b) review how effectively the Tauranga Moana Governance Group has achieved its purpose and functions; and
 - (c) consider what action might be taken to enable the Tauranga Moana Governance Group to achieve more effectively its purpose and functions, and any other purposes or functions that the participants in the meeting may consider appropriate;
- 3.11.3 the first meeting is to be held on a date to be agreed by the Crown and Tauranga Moana iwi that is within six months of the submission by the Tauranga Moana Governance Group of the fifth annual report under paragraph 3.10.1, with subsequent meetings to be held within six months of the fifth anniversary of the previous meeting;
- 3.11.4 the participants in the meetings are to be:
- (a) one individual nominated by the Ngā Hapū o Ngāti Ranginui governance entity;
 - (b) one individual nominated by the Ngāi Te Rangi governance entity;
 - (c) one individual nominated by the Ngāti Pūkenga governance entity;
 - (d) one individual nominated by the Tauranga Moana Iwi Collective;
 - (e) one individual nominated by the governance entity of the iwi with recognised interests in Tauranga Moana;
 - (f) the Minister of Māori Affairs or nominee;
 - (g) the chairperson of the Bay of Plenty Regional Council or nominee;
 - (h) the mayor of Tauranga City or nominee;
 - (i) the chairperson of the Western Bay of Plenty District Council or nominee; and
 - (j) any other individuals that Tauranga Moana iwi and the Crown agree should attend a particular meeting; and
- 3.11.5 for the avoidance of doubt, at any meetings held in accordance with this paragraph 3.11, there will be equal representation at all times between individuals appointed in accordance with paragraphs 3.11.4(a) to (e) and individuals appointed in accordance with paragraphs 3.11.4(f) to (i).

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ADMINISTRATIVE AND TECHNICAL SUPPORT

- 3.12 Administrative support for the Tauranga Moana Governance Group will be provided by the Bay of Plenty Regional Council.
- 3.13 The local authorities will provide technical support for the Tauranga Moana Governance Group.

NGĀ TAI KI MAUAO - THE TAURANGA MOANA FRAMEWORK DOCUMENT

Purpose

- 3.14 The collective legislation will provide that the purpose of Ngā Tai ki Mauao (the Tauranga Moana framework document) is to contribute to achieving the purpose of the Tauranga Moana Governance Group by identifying a vision, objectives and desired outcomes for Tauranga Moana.

Content

- 3.15 The collective legislation will provide that Ngā Tai ki Mauao (the Tauranga Moana framework document):

3.15.1 must include provisions that:

- (a) the Tauranga Moana Governance Group considers are relevant to and further the purpose of Ngā Tai ki Mauao (the Tauranga Moana framework document);
- (b) identify the significant environmental management issues for Tauranga Moana from the perspective of the Tauranga Moana Governance Group;
- (c) identify and reflect iwi and hapū values and mātauranga Māori relating to Tauranga Moana; and
- (d) describe objectives to achieve the purpose of Ngā Tai ki Mauao (the Tauranga Moana framework document), which, without limitation, may include objectives for:
 - (i) preserving and improving the natural character and heritage of the Tauranga Moana environment;
 - (ii) integrating and co-ordinating the management of natural, historical and traditional resources within Tauranga Moana;
 - (iii) providing for the relationship of Tauranga Moana iwi and hapū and their culture and traditions with Tauranga Moana and protecting and enhancing those characteristics of the Tauranga Moana environment that are of special value to Tauranga Moana iwi and hapū;
 - (iv) maintaining and improving indigenous biological diversity and the biological diversity of the aquatic environment of Tauranga Moana;

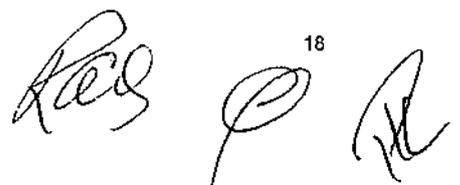
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- (v) protecting and enhancing the habitats of significance for fisheries management and sustainable customary fishing;
 - (vi) sustaining and developing the potential of the natural and physical resources of Tauranga Moana to meet the reasonably foreseeable needs of present and future generations including their social, economic, and cultural well-being;
 - (vii) avoiding natural hazards and adverse effects from the storage, use, disposal and transportation of hazardous substances;
 - (viii) protecting the marine environment from pollution; and
 - (ix) measuring the health of the Tauranga Moana environment;
- 3.15.2 must only include provisions that are consistent with the purpose of Ngā Tai ki Mauao (the Tauranga Moana framework document); and
- 3.15.3 will not apply to any part of Tauranga Moana which is a customary marine title area in respect of which a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 has effect.

Relationship to Resource Management Act 1991 planning documents

- 3.16 The collective legislation will provide that:
- 3.16.1 when preparing, reviewing, varying or changing the Bay of Plenty regional policy statement, the Bay of Plenty Regional Council must recognise and provide for Ngā Tai ki Mauao (the Tauranga Moana framework document);
- 3.16.2 the obligation under paragraph 3.16.1:
- (a) applies each time the Bay of Plenty Regional Council prepares, reviews, varies or changes the Bay of Plenty regional policy statement;
 - (b) does not apply to a review, variation or change that does not relate to Tauranga Moana;
 - (c) is deemed to have been satisfied if the contents of Ngā Tai ki Mauao (the Tauranga Moana framework document) relating to the resource management issues of the region:
 - (i) are already recognised and provided for in the Bay of Plenty regional policy statement; or
 - (ii) in relation to the content of the Bay of Plenty regional policy statement, have been considered by the Bay of Plenty Regional Council or the Environment Court within the previous two years; and


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- (d) applies only to the extent that:
 - (i) the contents of Ngā Tai ki Mauao (the Tauranga Moana framework document) relate to the resource management issues of the region which are within the scope of the regional policy statement; and
 - (ii) complying with the obligation is the most appropriate way of achieving the purpose of the Resource Management Act 1991, having regard to efficiency and effectiveness and the matters set out in section 32(4) of the RMA; and
- (e) to avoid doubt, must be carried out in accordance with:
 - (i) the requirements of the Resource Management Act 1991 relating to processes for the preparation, review or change of a Resource Management Act 1991 planning document including, without limitation, the requirement to carry out an evaluation under section 32 of that Act; and
 - (ii) the requirements and procedures in Schedule 1 of the Resource Management Act 1991;

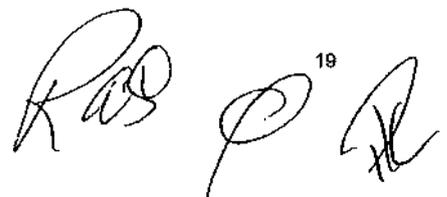
3.16.3 until such time as the obligation under paragraph 3.16.1 is complied with, where a consent authority is processing or making a decision on an application for resource consent within the areas marked "A" and "B" on the Tauranga Moana framework plan in the attachments, that consent authority must have regard to Ngā Tai ki Mauao (the Tauranga Moana framework document) if:

- (a) the contents of Ngā Tai ki Mauao (the Tauranga Moana framework document) relate to the resource management issues of the region or district;
- (b) complying with the obligations is consistent with the purpose of the Resource Management Act 1991; and
- (c) the consent authority considers that section 104(1)(c) applies to Ngā Tai ki Mauao (the Tauranga Moana framework document).

3.17 The collective legislation will provide that:

3.17.1 paragraphs 3.17.2 and 3.17.3 apply in relation to the preparation, review or change of a Resource Management Act 1991 planning document to the extent that those processes relate to:

- (a) the obligation under paragraph 3.16.1; or
- (b) the obligations under sections 67(3)(c) and 75(3)(c) of the Resource Management Act 1991 to give effect to those parts of the Bay of Plenty regional policy statement that relate to the obligation under paragraph 3.16.1;


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- 3.17.2 prior to the commencement of any preparation, review or change process in respect of the Bay of Plenty regional policy statement, the Bay of Plenty Regional Council and the Tauranga Moana Governance Group will jointly convene a working party to:
- (a) consider how the obligation under paragraph 3.16.1 should be treated including, if the working party considers it appropriate, recommending:
 - (i) the process to be adopted in relation to the preparation, review or change of the Bay of Plenty regional policy statement; and
 - (ii) the general form and content of any document to be drafted for the purposes of consultation or notification under clause 5 of Schedule 1 to the Resource Management Act 1991;
 - (b) develop and make the recommendation on whether to commence a review of, and whether to make an amendment to, the Bay of Plenty regional policy statement; and
 - (c) develop and make the recommendation on the content of the Bay of Plenty Regional policy statement to be notified under clause 5 of Schedule 1 to the Resource Management Act 1991;
- 3.17.3 prior to the commencement of any preparation, review or change process in respect of a regional or district plan, a local authority and the Tauranga Moana Governance Group will jointly convene a working party to:
- (a) consider how the obligations under sections 67(3)(c) and 75(3)(c) of the Resource Management Act 1991, to the extent they apply to giving effect to those parts of the Bay of Plenty regional policy statement that relate to the obligation under paragraph 3.16.1, should be treated including, if the working party considers it appropriate, recommending:
 - (i) the process to be adopted in relation to the preparation, review or change of the regional or district plan; and
 - (ii) the general form and content of any document to be drafted for the purposes of consultation or notification under clause 5 of Schedule 1 to the Resource Management Act 1991;
 - (b) develop and make the recommendation on whether to commence a review of, and whether to make an amendment to, the regional or district plan; and
 - (c) develop and make the recommendation on the content of the regional or district plan to be notified under clause 5 of Schedule 1 to the Resource Management Act 1991;
- 3.17.4 to avoid doubt:
- (a) paragraphs 3.17.2 and 3.17.3 also apply to a variation to a proposed policy statement or proposed plan;

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- (b) the requirements of the Resource Management Act 1991 relating to processes for the preparation, review or change of a Resource Management Act 1991 planning document must be complied with; and
 - (c) the requirements of the Resource Management Act 1991 relating to the content of a Resource Management Act 1991 planning document must be complied with;
- 3.17.5 recommendations of a working party under paragraphs 3.17.2 and 3.17.3 are to be made to the local authority which remains the decision-maker;
- 3.17.6 the Bay of Plenty Regional Council and the Tauranga Moana Governance Group will discuss the potential for Tauranga Moana iwi to participate in:
- (a) the making of the decisions on a relevant Resource Management Act 1991 planning document under clause 10 of Schedule 1 to the Resource Management Act 1991; and
 - (b) processes under Part 2 of Schedule 1 of the Resource Management Act 1991.

Relationship to decision-making on local government matters

- 3.18. The collective legislation will provide that, to the extent that the content of Ngā Tai ki Mauao (the Tauranga Moana framework document) has a bearing on local government matters within the boundaries of a local authority, the local authority must give consideration to Ngā Tai ki Mauao (the Tauranga Moana framework document) when making any decision under the Local Government Act 2002.
- 3.19. To avoid doubt the requirements of the Local Government Act 2002 relating to decision-making by a local authority must be complied with.

Duty to have regard to Ngā Tai ki Mauao (the Tauranga Moana framework document)

- 3.20. The collective legislation will provide that:
- 3.20.1 persons carrying out functions or exercising powers under an enactment specified in paragraph 3.20.2 must have regard to Ngā Tai ki Mauao (the Tauranga Moana framework document) if the functions or powers:
- (a) relate to Tauranga Moana or activities within the areas marked "A" and "B" on the Tauranga Moana framework plan in the attachments that affect Tauranga Moana; and
 - (b) are not covered by paragraphs 3.16 and 3.18;
- 3.20.2 the enactments referred to in paragraph 3.20.1 are:
- Aquaculture Reform (Repeals and Transitional Provisions) Act 2004
Hazardous Substances and New Organisms Act 1996
Health Act 1956
Heritage New Zealand Pouhere Taonga Act 2014
Land Drainage Act 1908

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Local Government Act 1974
Maritime Transport Act 1994
River Boards Act 1908
Soil Conservation and Rivers Control Act 1941
Walking Access Act 2008

3.20.3 the obligation under paragraph 3.20.1:

- (a) applies only to the extent that:
 - (i) Ngā Tai ki Mauao (the Tauranga Moana framework document) relates to the carrying out of functions or the exercise of powers under the enactments referred to in paragraph 3.20.2; and
 - (ii) it is consistent with the purpose of the relevant enactment to have regard to Ngā Tai ki Mauao (the Tauranga Moana framework document); and
- (b) does not apply to the Minister of Conservation, the Director-General of Conservation, any person in their capacity as an officer or official employed by the Department of Conservation, or any agent of the Department of Conservation acting in that capacity.

INTERPRETATION

3.21 In this part 3:

3.21.1 "bed" in relation to the water bodies referred to in paragraph 3.21.10:

- (a) has the same meaning as "bed" in section 2(1) of the Resource Management Act 1991; and
- (b) includes reefs, ridges, bars, shelves, rifts, trenches and other topographical features;

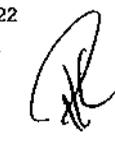
3.21.2 "business day" has the same meaning as "working day" in section 2(1) of the Resource Management Act 1991;

3.21.3 "catchment":

- (a) means the area marked as "B" on the Tauranga Moana framework plan in the attachments;
- (b) does not include Tūhua (Mayor Island), Motūi Island or any other offshore island for which the Minister of Local Government is the territorial authority pursuant to section 22 of the Local Government Act 2002;

3.21.4 "coastal marine area" has the meaning given in section 2(1) of the Resource Management Act 1991;

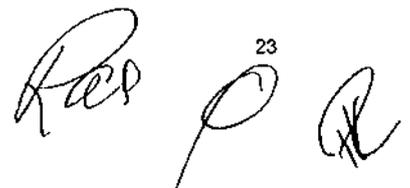
3.21.5 "coastal water" has the meaning given in section 2(1) of the Resource Management Act 1991;

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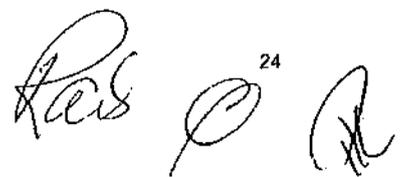
- 3.21.6 "collective legislation" means, if the bill proposed for introduction to the House of Representatives under clause 5.1 of the main body of the deed is passed, the resulting Act or Acts;
- 3.21.7 "consent authority" has the meaning given in section 2(1) of the Resource Management Act 1991;
- 3.21.8 "customary marine title area" has the meaning given to it under section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011;
- 3.21.9 "environment" has the meaning given in section 2(1) of the Resource Management Act 1991;
- 3.21.10 "geographic feature" means:
- (a) a natural feature such as a lagoon, swamp, creek, stream, river, ford, lake, bay, island or harbour; and
 - (b) a part of the ocean floor or seabed that has measurable relief or is delimited by relief;
- 3.21.11 "local authority":
- (a) means the Bay of Plenty Regional Council, the Tauranga City Council, and the Western Bay of Plenty District Council; and
 - (b) does not include the Minister of Local Government in the Minister's capacity as a territorial authority under section 22 of the Local Government Act 2002;
- 3.21.12 "management agency" means:
- (a) a department within the meaning of section 2 of the State Sector Act 1988 if the department has powers, functions or duties in relation to Tauranga Moana; and
 - (b) a statutory entity within the meaning of section 7 of the Crown Entities Act 2004 if the statutory entity has powers, functions or duties in relation to Tauranga Moana;
- 3.21.13 "natural resource":
- (a) means:
 - (i) plants and animals of all kinds;
 - (ii) the air, water, and soil in or on which any plant or animal lives or may live;
 - (iii) landscape and landform;
 - (iv) geological features; and
 - (v) systems of interacting living organisms, and their environment; and

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- (b) includes any interest in a natural resource;
- 3.21.14 "offshore island" means a naturally formed area of land that, at mean high-water tides, is surrounded by coastal water but is not submerged by water;
- 3.21.15 "public notice" has the meaning given to it by the Resource Management Act 1991;
- 3.21.16 "qualified Resource Management Act 1991 decision-maker" means a person accredited under a programme approved and notified under section 39A of the Resource Management Act 1991;
- 3.21.17 "relevant Resource Management Act 1991 planning document" means each of the following, as defined in the Resource Management Act 1991, if it applies to Tauranga Moana:
- (a) a district plan;
 - (b) a proposed district plan;
 - (c) a regional plan;
 - (d) a proposed regional plan;
 - (e) a regional policy statement;
 - (f) a proposed regional policy statement;
- 3.21.18 "shared principles" means the principles referred to in clause 2.23 of the main body of the deed;
- 3.21.19 "Ngā Tai ki Mauao" and "Tauranga Moana framework document" mean the document prepared and amended pursuant to part 2 of the Appendix to this part;
- 3.21.20 "Tauranga Moana hapū" means the hapū of the Tauranga Moana iwi;
- 3.21.21 "Tauranga Moana iwi" has the meaning provided in clause 8.3 of the main body of the deed;
- 3.21.22 "Tauranga Moana iwi and hapū" means Tauranga Moana iwi and Tauranga Moana hapū; and
- 3.21.23 "Tauranga Moana Iwi Collective" means governance entities of Ngā Hapū o Ngāti Ranginui, Ngāi Te Rangī and Ngāti Pūkenga acting jointly.


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APPENDIX TO PART 3

PART 1: TAURANGA MOANA GOVERNANCE GROUP

Membership

1 The collective legislation will provide that:

Composition of membership

- 1.1 the Tauranga Moana Governance Group consists of 10 members being:
 - 1.1.1 1 member appointed by the Ngā Hapū o Ngāti Ranginui governance entity;
 - 1.1.2 1 member appointed by the Ngāi Te Rangi governance entity;
 - 1.1.3 1 member appointed by the Ngāti Pūkenga governance entity;
 - 1.1.4 1 member appointed by the Tauranga Moana Iwi Collective;
 - 1.1.5 1 member appointed by the governance entity of the iwi with recognised interests in Tauranga Moana;
 - 1.1.6 1 member appointed by the Minister for the Environment;
 - 1.1.7 the chair of the Bay of Plenty Regional Council or the chair's delegate;
 - 1.1.8 the mayor of the Tauranga City Council or the mayor's delegate;
 - 1.1.9 the mayor of the Western Bay of Plenty District Council or the mayor's delegate; and
 - 1.1.10 1 member appointed by the Bay of Plenty Regional Council to reflect paragraph 10.4;
- 1.2 in appointing a person as a member under paragraphs 1.1.1 to 1.1.6, the appointers must have regard to the person's standing, knowledge, experience and expertise relevant to the purpose and functions of the Tauranga Moana Governance Group;
- 1.3 delegates under paragraphs 1.1.7 to 1.1.9 and the member appointed under paragraph 1.1.10 must be elected members of the relevant local authorities;
- 1.4 membership of the Tauranga Moana Governance Group by persons who are members of a local authority does not have the effect of making the Tauranga Moana Governance Group a council organisation or a council-controlled organisation;

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Method of appointment and length of membership

- 1.5 a member is appointed under paragraphs 1.1.1 to 1.1.6 by the appointer(s) of the member giving a written or electronic notice to:
- 1.5.1 the other appointers;
 - 1.5.2 the local authorities; and
 - 1.5.3 the Tauranga Moana Governance Group;
- 1.6 a notice given under paragraph 1.5 must state the date on which the appointment starts;
- 1.7 each member appointed under paragraphs 1.1.1 to 1.1.6:
- 1.7.1 is appointed for a term of up to 3 years; and
 - 1.7.2 may be reappointed for further terms of up to 3 years each;
- 1.8 each ex officio member under paragraphs 1.1.7 to 1.1.10:
- 1.8.1 remains a member for so long as the member holds the office referred to in paragraphs 1.1.7 to 1.1.10; and
 - 1.8.2 ceases to be a member when they cease to hold the relevant office;
- 1.9 each member pursuant to a delegation under paragraphs 1.1.7 to 1.1.9 ceases to be a member on the earlier of:
- 1.9.1 the expiry or termination of the delegation; or
 - 1.9.2 the ex officio member who made the delegation ceasing to hold the office referred to in paragraphs 1.1.7 to 1.1.9;
- 1.10 the member appointed under paragraph 1.1.10 ceases to be a member on the earlier of:
- 1.10.1 the expiry or termination of the appointment; or
 - 1.10.2 the member ceasing to hold the office referred to in paragraph 1.3;
- 1.11 any fees or reimbursing allowances paid to members by their appointers or by the administering authority must be at the rates determined by the Minister of Finance in accordance with the framework determined by the government for the classification and remuneration of statutory and other bodies in which the Crown has an interest;
- 1.12 appointers or the administering authority may reimburse members for actual and reasonable expenses incurred in undertaking the duties and functions of the Tauranga Moana Governance Group;
- 1.13 a member is not liable for anything done or omitted in good faith in the carrying out of the functions of the Tauranga Moana Governance Group or the exercise of its powers;

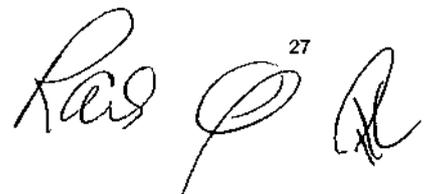
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Cessation of membership

- 1.14 paragraphs 1.15 to 1.21 apply to members appointed under paragraphs 1.1.1 to 1.1.6.
- 1.15 a member whose term of appointment has ended under paragraph 1.7.1 continues to hold office until:
- 1.15.1 the member is reappointed; or
 - 1.15.2 the appointer of the member appoints a successor for the member;
- 1.16 a member may resign from the Tauranga Moana Governance Group by giving 4 weeks' written or electronic notice to:
- 1.16.1 the appointers; and
 - 1.16.2 the other members;
- 1.17 a member is removed as a member of the Tauranga Moana Governance Group by the appointer of the member giving a written or electronic notice to:
- 1.17.1 the other appointers; and
 - 1.17.2 the Tauranga Moana Governance Group;
- 1.18 a notice given under paragraph 1.17 must state the date on which the appointment stops;
- 1.19 an appointer may give notice under paragraph 1.17 only if the appointer is satisfied that the member:
- 1.19.1 is unable to perform the functions of office;
 - 1.19.2 is bankrupt;
 - 1.19.3 has neglected his or her duty as a member; or
 - 1.19.4 has been guilty of misconduct;
- 1.20 paragraph 1.21 applies if:
- 1.20.1 a member dies;
 - 1.20.2 a member's term of appointment ends and the member is not reappointed;
 - 1.20.3 a member resigns; or
 - 1.20.4 a member is removed as a member;
- 1.21 the appointer of the member must appoint a successor to the member as soon as reasonably practicable and within 4 weeks.

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Co-chairs

- 2 The collective legislation will provide that:
- 2.1 two members of the Tauranga Moana Governance Group are to be co-chairs;
 - 2.2 the appointers of members under paragraph 1.1.1 to 1.1.4 must designate one of those members to be one of the co-chairs;
 - 2.3 the appointed and ex officio members under paragraphs 1.1.6 to 1.1.9 must designate one of their number to be one of the co-chairs;
 - 2.4 a co-chair:
 - 2.4.1 holds office for a term of up to 3 years unless before his or her term as co-chair ends he or she ceases to be a member of the Tauranga Moana Governance Group; and
 - 2.4.2 may hold office for further terms of up to 3 years each for so long as he or she continues to be a member of the Tauranga Moana Governance Group;
 - 2.5 when designating a person to be a co-chair under paragraphs 2.2 and 2.3 those responsible for making the designation must consider the person's standing, knowledge, experience, and expertise relevant to the purpose and functions of the Tauranga Moana Governance Group.

Standing orders

- 3 The collective legislation will provide that:
- 3.1 the Tauranga Moana Governance Group will adopt a set of standing orders;
 - 3.2 the standing orders must not contravene the collective legislation, any other enactment, or the general law.

Setting up meetings

- 4 The collective legislation will provide that:
- 4.1 the Tauranga Moana Governance Group:
 - 4.1.1 must hold at least one meeting a year; and
 - 4.1.2 may hold as many meetings as are necessary to enable the Tauranga Moana Governance Group to perform its functions and exercise its powers properly;
 - 4.2 at least 5 business days' notice must be given for a meeting of the Tauranga Moana Governance Group;
 - 4.3 the notice must be given to each member;
 - 4.4 the notice must state the date, time, and place of the meeting; and

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- 4.5 the notice must be given by hand, by post, or by an electronic means;
- 4.6 a member may waive the requirement of giving notice of a meeting to him or her;
- 4.7 a member may request leave of absence from a particular meeting.

At meetings

- 5 The collective legislation will provide that:
 - 5.1 the Tauranga Moana Governance Group must keep and approve the minutes of its meetings;
 - 5.2 the properly kept and approved minutes are prima facie evidence of the business transacted at the meetings;
 - 5.3 a resolution of the Tauranga Moana Governance Group is valid when the co-chairs certify it;
 - 5.4 a member has the right to attend any meeting, unless lawfully excluded;
 - 5.5 a member unable to attend a meeting in person may attend by way of an electronic means;
 - 5.6 the quorum for meetings is 5 members, who must include:
 - 5.6.1 at least one of the co-chairs; and
 - 5.6.2 two members appointed under paragraphs 1.1.1 to 1.1.5; and
 - 5.6.3 two members referred to in paragraphs 1.1.6 to 1.1.10;
 - 5.7 a meeting is properly constituted if a quorum is present;
 - 5.8 at least a quorum must be present during the whole of the time at which the business is transacted at the meeting;
 - 5.9 members may bring to meetings such advisers as the Tauranga Moana Governance Group considers necessary to facilitate the efficient transaction of the meeting's business;
 - 5.10 the Minister for the Environment may, at the Minister's sole discretion, attend any meeting of the Tauranga Moana Governance Group and must attend the first meeting of the Tauranga Moana Governance Group following its establishment; and
 - 5.11 to avoid doubt, when the Minister for the Environment attends a meeting of the Tauranga Moana Governance Group the Minister will not participate or vote in decision-making by the Tauranga Moana Governance Group but may be present when decisions are made.

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Decision-making

- 6 The collective legislation will provide that:
- 6.1 members must reach decisions pursuing:
 - 6.1.1 the highest level of good faith engagement; and
 - 6.1.2 consensus decision-making;
 - 6.2 if, in the opinion of one or both of the co-chairs consensus is not practicable after reasonable discussion, a decision may be made by the Tauranga Moana Governance Group by:
 - 6.2.1 a minimum majority of 6 of those members present and voting at the meeting; or
 - 6.2.2 if less than 6 members are present and voting, a minimum majority of 5 of those members present and voting at the meeting;
 - 6.3 the co-chairs may vote on any matter but do not have a casting vote; and
 - 6.4 members must approach decision-making in a manner that is consistent with, and reflects, the purpose of the Tauranga Moana Governance Group.

Validity and invalidity

- 7 The collective legislation will provide that:
- 7.1 the appointment of a member is not invalid because of a defect in the appointment;
 - 7.2 a meeting is not invalid if a member does not receive a notice of the meeting or does not receive it in time unless:
 - 7.2.1 the person responsible for giving the notice is proved to have acted in bad faith or without reasonable care; and
 - 7.2.2 the member concerned did not attend the meeting; and
 - 7.3 nothing done by the Tauranga Moana Governance Group is invalid because of:
 - 7.3.1 a vacancy in the membership of the Tauranga Moana Governance Group at the time the thing was done; or
 - 7.3.2 the subsequent discovery of a defect in the appointment of a person acting as a member; or
 - 7.3.3 the subsequent discovery that the person was incapable of being a member;
 - 7.3.4 a member contravenes paragraph 8.1; or
 - 7.3.5 the absence of a member appointed under paragraphs 1.1.5 or 1.1.10.

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Conflicts of interest

- 8 The collective legislation will provide that:
- 8.1 a member of the Tauranga Moana Governance Group is required to disclose any actual or potential interest in a matter;
 - 8.2 the Tauranga Moana Governance Group will maintain an interests register and will record any actual or potential interests that are disclosed to it by members;
 - 8.3 a member of the Tauranga Moana Governance Group is not precluded from discussing or voting on a matter:
 - 8.3.1 merely because the member is descended from an ancestor of a Tauranga Moana iwi; or
 - 8.3.2 merely because the economic, social, cultural, and spiritual values of any iwi or hapū and their relationships with the Tauranga Moana Governance Group are reflected in:
 - (a) the subject matter under consideration;
 - (b) any decision by or recommendation of the Tauranga Moana Governance Group; or
 - (c) participation in the matter by the member;
 - 8.4 to avoid doubt, the affiliation of a member of the Tauranga Moana Governance Group to a Tauranga Moana iwi is not an interest that must be disclosed or recorded under paragraph 8.1;
 - 8.5 in paragraphs 8.1 to 8.7, **matter** means:
 - 8.5.1 the performance by the Tauranga Moana Governance Group of its functions or exercise of its powers; or
 - 8.5.2 an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by or on behalf of the Tauranga Moana Governance Group;
 - 8.6 a member of the Tauranga Moana Governance Group has an actual or potential interest in a matter, in terms of paragraphs 8.1 to 8.7, if he or she:
 - 8.6.1 may derive a financial benefit from the matter; or
 - 8.6.2 is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
 - 8.6.3 may have a financial interest in a person to whom the matter relates; or
 - 8.6.4 is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - 8.6.5 is otherwise directly or indirectly interested in the matter;

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8.7 despite paragraph 8.6, a person is not interested in a matter if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities as a member of the Tauranga Moana Governance Group.

Status for purposes of certain enactments

9 The collective legislation will provide that:

9.1 the Tauranga Moana Governance Group is:

9.1.1 a public authority for the purposes of the definition of public authority in the Resource Management Act 1991;

9.1.2 a public body for the purposes of clause 30 of schedule 7 of the Local Government Act 2002; and

9.2 any information or document obtained or created for the purposes of, or in the course of business of, the Tauranga Moana Governance Group:

9.2.1 is to be treated as "official information" for the purposes of the Local Government Official Information and Meetings Act 1987 if it is held by a local authority or a member of a local authority; and

9.2.2 is to be treated as "official information" for the purposes of the Official Information Act 1982 if it is held by:

(a) a Minister;

(b) a department or organisation as those terms are defined in section 2 of the Official Information Act 1982; or

(c) an official or member of a department or organisation referred to in paragraph 9.2.2(b).

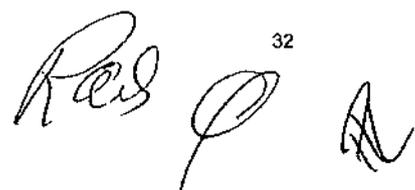
MEMBERSHIP TO PROVIDE FOR RECOGNISED INTERESTS

10 The collective legislation will provide that:

10.1 the member under paragraph 1.1.5 may only be appointed by iwi with recognised interests;

10.2 the member under paragraph 1.1.5 is entitled to participate whenever the Tauranga Moana Governance Group is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a recognised interest area;

10.3 in the event of any disagreement on whether paragraph 10.2 applies, the Tauranga Moana Governance Group will make a decision on the matter in accordance with paragraph 6 and the members under paragraph 1.1.5 and 1.1.10 will be entitled to participate in that process;


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Additional local government member

- 10.4 the member appointed by the Bay of Plenty Regional Council under paragraph 1.1.10 may attend those parts of the meetings that are attended by the member appointed under paragraph 1.1.5.

Definitions

"**recognised interests**" means the interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and are confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims;

"**recognised interest area**" means an area containing recognised interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and is confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims.

PROVISION FOR RECOGNISED INTERESTS

- 10.5 Subject to paragraph 10.6, where in any paragraph in this part 3 and Appendix part 1 and 2 there is a reference to Tauranga Moana iwi or Tauranga Moana iwi and hapū, that paragraph will also apply to iwi with recognised interests insofar as that paragraph relates to the recognised interest area.

- 10.6 Paragraph 10.5 does not apply to paragraph 3.17.6 or paragraphs 3.21.20 to 3.21.23.



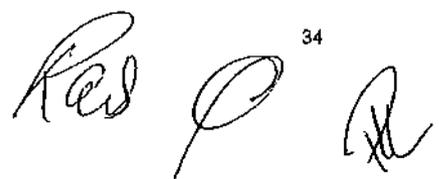
3: TAURANGA MOANA FRAMEWORK

PART 2: NGĀ TAI KI MAUAO - THE TAURANGA MOANA FRAMEWORK DOCUMENT

The collective legislation will provide as follows:

Preparation of Draft of Ngā Tai ki Mauao (the Tauranga Moana framework document)

- 1 After its first meeting, the Tauranga Moana Governance Group will:
 - 1.1 commence the preparation of a draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) no later than six months after the first meeting following its establishment; and
 - 1.2 complete the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) no later than three years after the first meeting following its establishment.
- 2 During the preparation of a draft of Ngā Tai ki Mauao (the Tauranga Moana framework document), the Tauranga Moana Governance Group must consult with:
 - 2.1 governance entities representing iwi and hapū who have interests within the areas marked "A" and "B" on the Tauranga Moana framework plan in the attachments;
 - 2.2 the local authorities; and
 - 2.3 the management agencies.
- 3 During the preparation of a draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) the Tauranga Moana Governance Group may:
 - 3.1 consult with any other person or organisation; and
 - 3.2 seek any information, commission any reports or take any other action considered appropriate by the Tauranga Moana Governance Group.
- 4 The Tauranga Moana Governance Group must ensure that the contents of the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) comply with paragraph 3.15 of part 3;
- 5 During the preparation of the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document), the Tauranga Moana Governance Group must:
 - 5.1 take into account any relevant planning document recognised by a Tauranga Moana iwi or Tauranga Moana hapū authority and lodged with the Tauranga Moana Governance Group, to the extent that its content has a bearing on the purpose of Ngā Tai ki Mauao (the Tauranga Moana framework document); and
 - 5.2 consider:
 - 5.2.1 whether to include any of the matters set out in paragraph 3.15.1(d) of part 3;

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- 5.2.2 the extent to which the discretionary matters to be included in the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) are the most appropriate way to achieve the purpose of Ngā Tai ki Mauao (the Tauranga Moana framework document);
- 5.2.3 potential alternatives to the discretionary matters included in the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document); and
- 5.2.4 the potential benefits and costs of the matters to be included in the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document).
- 6 The Tauranga Moana Governance Group must document the matters referred to in paragraphs 5.1 and 5.2.
- Public Notice of Draft of Ngā Tai ki Mauao (the Tauranga Moana framework document)**
- 7 Within one month after preparing the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document), the Tauranga Moana Governance Group must notify the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) by:
- 7.1 giving public notice;
- 7.2 giving written notice to the persons and organisations who provided comment under paragraphs 2 and 3;
- 7.3 any other means the Tauranga Moana Governance Group considers appropriate; and
- 7.4 ensuring the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) and any other document the Tauranga Moana Governance Group considers relevant are available for public inspection.
- 8 The public notice of the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) must state that:
- 8.1 the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) is available for inspection at the places and times specified in the notice;
- 8.2 interested persons or organisations may lodge submissions on the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document):
- 8.2.1 in written or electronic form;
- 8.2.2 with the Tauranga Moana Governance Group;
- 8.2.3 at the place specified in the notice;
- 8.2.4 before the date specified in the notice; and
- 8.2.5 specifying whether the submitter wishes to be heard in person in support of their submission.
- 8.3 Submissions may be given in Māori.

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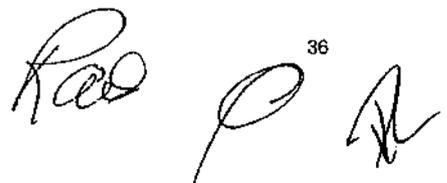

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8.4 The date specified in the public notice for lodging submissions must be at least 40 business days after the public notice required under paragraph 7:1.

Hearing of Submissions

- 9 The Tauranga Moana Governance Group must:
- 9.1 give every person and organisation who asked to be heard in support of their submission:
 - 9.1.1 notice in writing of not less than 10 business days stating the dates, times and places of any hearings; and
 - 9.1.2 a reasonable opportunity of appearing before and being heard by the Tauranga Moana Governance Group; and
 - 9.2 give public notice of the dates, times and places where hearings will be held.
- 10 The Tauranga Moana Governance Group:
- 10.1 may appoint a committee to fulfil the duty of the Tauranga Moana Governance Group to hear submissions;
 - 10.2 may appoint to that committee any person that the Tauranga Moana Governance Group considers to be appropriately qualified to hear submissions whether or not they are a member of the Tauranga Moana Governance Group, and
 - 10.3 must not appoint to that committee any person if there are grounds upon which a fair minded observer might reasonably apprehend that that person has predetermined the outcome of the hearing or is biased.
- 11 At any hearing of submissions on the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document):
- 11.1 every person and organisation who asked to be heard in support of their submission may speak, either personally or through a representative, and call evidence;
 - 11.2 submissions and evidence may be given in Māori;
 - 11.3 the Tauranga Moana Governance Group or the hearing committee (if one is appointed) may:
 - 11.3.1 apply to the hearing such rules of kawa and tikanga as it considers appropriate;
 - 11.3.2 if it considers there is likely to be excessive repetition, limit the circumstances in which persons or organisations having the same interest in the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) may speak or call evidence;
 - 11.3.3 request any person or organisation to provide further information or evidence in support of a submission;


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11.3.4 commission reports, or take any other action considered appropriate by the Tauranga Moana Governance Group in relation to the hearing of submissions; and

11.3.5 otherwise regulate its procedures as it sees fit; and

11.4 the following provisions of the Commissions of Inquiry Act 1908 apply:

11.4.1 section 4 which gives power to maintain order;

11.4.2 section 4B which relates to evidence; and

11.4.3 section 6 which relates to the protection of witnesses.

Protection of sensitive information

12 The Tauranga Moana Governance Group or the hearing committee (if one is appointed) may, of its own motion or on the application of a person making a submission on the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document), make an order described in paragraph 13 where it is satisfied:

12.1 the order is necessary to avoid:

12.1.1 serious offence to tikanga Māori or to avoid disclosure of the location of wāhi tapu or other sites of significance; or

12.1.2 disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and

12.2 in the circumstances; the importance of avoiding such offence, disclosure or prejudice outweighs the public interest in making the information available.

13 The Tauranga Moana Governance Group or the hearing committee (if one is appointed) may:

13.1 make an order under paragraph 12 that the whole or any part of any hearing at which the information (including any document or evidence) is likely to be referred to shall be held with the public excluded and, for the purposes of section 48 of the Local Government Official Information and Meetings Act 1987, the order is deemed to be a resolution passed under that section;

13.2 make an order under paragraph 12 prohibiting or restricting the publication or communication of any information (including a document or evidence) supplied to it, or obtained by it, in the course of receiving or hearing submissions, whether or not the information may be material to its determination and approval of Ngā Tai ki Mauao (the Tauranga Moana framework document);

13.3 express an order made for the purposes of paragraph 12.1.1 to have effect from the commencement of any hearing to which the order relates and for an indefinite period or until such date as it considers appropriate in the circumstances; and


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13.4 express an order made for the purposes of paragraph 12.1.2 to have effect from the commencement of any hearing to which the order relates but shall cease to have any effect at the conclusion of the hearing.

Approval of Ngā Tai ki Mauao (the Tauranga Moana framework document)

14 The Tauranga Moana Governance Group:

14.1 to the extent that a submission is relevant to the purpose of Ngā Tai ki Mauao (the Tauranga Moana framework document), must consider each written or oral submission received by it;

14.2 may amend that draft of Ngā Tai ki Mauao (the Tauranga Moana framework document) where such an amendment relates to a matter raised in a written and/or oral submission and is consistent with and furthers the purpose of Ngā Tai ki Mauao (the Tauranga Moana framework document); and

14.3 must complete a written report setting out:

14.3.1 the reasons for:

(a) the Tauranga Moana Governance Group's responses to submissions (without being required to address every submission individually); and

(b) any amendments to the draft of Ngā Tai ki Mauao (the Tauranga Moana framework document); and

14.3.2 any other matter arising from the submissions that the Tauranga Moana Governance Group considers relevant to Ngā Tai ki Mauao (the Tauranga Moana framework document).

15 Having completed the steps referred to in paragraph 14, the Tauranga Moana Governance Group must:

15.1 approve Ngā Tai ki Mauao (the Tauranga Moana framework document);

15.2 make the approved Ngā Tai ki Mauao (the Tauranga Moana framework document) and the written report required under paragraph 14.3 available for public inspection;

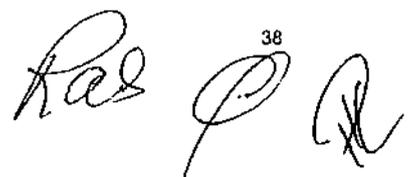
15.3 notify the approved Ngā Tai ki Mauao (the Tauranga Moana framework document) by:

15.3.1 giving public notice;

15.3.2 giving written notice to the persons and organisations who made submissions; and

15.3.3 any other means the Tauranga Moana Governance Group considers appropriate.

16 The notification of the approved Ngā Tai ki Mauao (the Tauranga Moana framework document) required under paragraph 15.3 must state:


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- 16.1 when the approved Ngā Tai ki Mauao (the Tauranga Moana framework document) comes into force; and
- 16.2 where the approved Ngā Tai ki Mauao (the Tauranga Moana framework document) is available for public inspection.
- 17 The approved Ngā Tai ki Mauao (the Tauranga Moana framework document) comes into force on the date specified in the notification required under paragraphs 15.3 and 16.1.
- Reviewing and amending Ngā Tai ki Mauao (the Tauranga Moana framework document)**
- 18 The Tauranga Moana Governance Group must commence a review of Ngā Tai ki Mauao (the Tauranga Moana framework document):
- 18.1 no earlier than 5 years and no later than 10 years after Ngā Tai ki Mauao (the Tauranga Moana framework document) comes into effect; and subsequently
- 18.2 no earlier than 5 years and no later than 10 years after the previous review, including reviews under paragraph 19.
- 19 In addition to reviews required under paragraph 18, the Tauranga Moana Governance Group may commence a review of Ngā Tai ki Mauao (the Tauranga Moana framework document) at any time the Tauranga Moana Governance Group considers necessary to address changing environmental conditions or new issues of significant relevance to Ngā Tai ki Mauao (the Tauranga Moana framework document).
- 20 During a review of Ngā Tai ki Mauao (the Tauranga Moana framework document) under paragraph 18 or paragraph 19, the Tauranga Moana Governance Group:
- 20.1 must:
- 20.1.1 consult with:
- (a) governance entities representing iwi and hapū who have interests within the areas marked "A" and "B" on the Tauranga Moana framework plan in the attachments;
 - (b) the local authorities; and
 - (c) the management agencies; and
- 20.1.2 comply with the requirements of paragraph 4 to 6; and
- 20.3 may:
- 20.3.1 consult with any other person or organisation; and
- 20.3.2 seek any information, commission any reports or take any other action considered appropriate by the Tauranga Moana Governance Group.
- 21 If the Tauranga Moana Governance Group considers as a result of a review that Ngā Tai ki Mauao (the Tauranga Moana framework document) should be amended in a

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material manner, the amendment must be prepared and approved in accordance with paragraphs 7 to 17.

22 The Tauranga Moana Governance Group may approve any amendment to Ngā Tai ki Mauao (the Tauranga Moana framework document) that the Tauranga Moana Governance Group considers is of minor effect and having done so must:

22.1 make the amended Ngā Tai ki Mauao (the Tauranga Moana framework document) available for public inspection;

22.2 notify the amended Ngā Tai ki Mauao (the Tauranga Moana framework document) by:

22.2.1 giving public notice; and

22.2.2 any other means the Tauranga Moana Governance Group considers appropriate; and

22.3 the notification of the amended Ngā Tai ki Mauao (the Tauranga Moana framework document) required under paragraph 22.2 must state:

22.3.1 when the amended Ngā Tai ki Mauao (the Tauranga Moana framework document) comes into force; and

22.3.2 where the amended Ngā Tai ki Mauao (the Tauranga Moana framework document) is available for public inspection.



Schedule 3

Ngai Te Rangi and Nga Potiki Deed of Settlement

Provision reference	Redress	Comments
2. Historical Account		
<p>Environmental and cultural sites of significance</p> <p>Clause 2.57</p>	<p>Ngai Te Rangi have always regarded Tauranga Moana (Tauranga Harbour) as an integral part of their rohe and a taonga over which they exercise kaitiakitanga. Ngai Te Rangi held numerous pa and other sites of significance at strategic locations encircling the entire harbour. Its mahinga kai provided sustenance for Ngai Te Rangi hapu. For Ngai Te Rangi traditional use of the harbour is part of their cultural identity, and is embodied in oral traditions, whakatauki, tauparapara, pepeha, kiwaha and waiata. In 1885 Hori Ngatai told Native Minister Ballance that he considered the moana, 'the land below high-water mark immediately in front of where I live' as well as particular 'fishing-grounds within the Tauranga Harbour,' part of their customary land:</p> <p><i>My mana over these places has never been taken away. I have always held authority over these fishing places and preserved them; and no tribe is allowed to come here and fish without my consent being given. But now, in consequence of the word of the Europeans that all the land below high-water mark belongs to the Queen, people have trampled upon our ancient Maori customs and are consequently coming here whenever they like to fish. I ask that our Maori custom shall not be set aside in this manner, and that our authority over these fishing-grounds may be upheld....I am speaking of the fishing-grounds where hapuku and tarakihi are caught. Those</i></p>	

	<p><i>grounds have (been handed down to us by our ancestors. This Maori custom of ours is well established, and none of the inland tribes would dare to go to fish on those places without obtaining the consent of the owners. I am not making this complaint out of any selfish desire to keep all the fishing-grounds for myself; I am only striving to regain the authority which I inherited from my ancestors. I ask that the Queen's sovereignty shall not extend to those fishing-grounds of ours, but remain out in the deep water away beyond Tuhua.</i></p>	
Clause 2.58	<p>However, over the nineteenth century and most of the twentieth century the Crown made no provision for the recognition of Ngai Te Rangi mana, rangatiratanga, kaitiakitanga and interests in the management of Tauranga Moana and its fisheries. The Crown assumed that it owned the harbour and later delegated authority for harbour development to local authorities. During the twentieth century many major projects were undertaken to develop Tauranga Harbour as a deep-water international port. Some of these, such as the construction of the Mount Maunganui deep-water wharf, channel deepening, and the reclamation of Sulphur Point, altered both the moana and the landscape. The Crown did not recognise the customary importance of the resources Ngai Te Rangi lost in and around the harbour or provide any compensation for the loss of access to those resources.</p>	
Clause 2.59	<p>Since at least 1928 Tauranga Maori have protested to the Crown and local authorities that discharges of untreated effluent and other waste products were polluting Tauranga Moana. However, it was not until the late 1960s that the first steps were taken to treat sewage before discharging it into the harbour, and such practices were not stopped completely until the end of the century. Matakana Island Maori did not discover that the island's outfall discharged untreated sewage</p>	

	<p>until 1991. Ngai Te Rangi have witnessed a severe and continuing decline in their fisheries since the 1960s, which has impacted on the ability of hapu to sustain their traditional way of life.</p>	
<p>Clause 2.60</p>	<p>Efforts to clean up the harbour have sometimes created new problems. In the early 1970s Tauranga Maori led by Wiremu Ohia, Turirangi Te Kani and kaumatua of Nga Potiki protested against plans to construct effluent treatment ponds adjacent to Maori land on the Rangataua mudflats. These plans were offensive to Ngai Te Rangi, but the Mount Maunganui Borough Reclamation and Empowering Act 1975 provided for the construction of the ponds which destroyed valuable shellfish beds.</p>	
<p>3. Acknowledgement and apology</p>		
<p>Clause 3.18</p>	<p>The Crown acknowledges:</p> <p>3.18.1 the significance of the land, forests, harbours, and waterways of Tauranga Moana to Ngai Te Rangi and Nga Potiki as a physical and spiritual resource; and</p> <p>3.18.2 that the development of the Port of Tauranga, the disposing of sewerage and wastewater into the harbours and waterways of Tauranga Moana, and the construction of effluent treatment ponds on Te Tahuna o Rangataua, have resulted in the environmental degradation of Tauranga Moana and reduction of biodiversity and food resources which remain a source of great distress to Ngai Te Rangi and Nga Potiki.</p>	

Deed of Settlement Schedule: Documents

1.1 Statements of Association
(Areas listed in clause 5.16)

Waiororo ki Maketu (as shown on deed plan OTS-078-13)

Ngai Te Rangi are a coastal people and for centuries have lived along the coastline in particular, from Waiororo through to Te Tumu. The area is significant as it tells a story about the existence of Ngai Te Rangi over time. In particular, Te Whanau a Tauwhao were sentinels for the most northern region of our rohe. All along the coastline from that point, we see symbols of residence, occupation, and active living by our hapu members and our people. From Mauao, our residence stretches unhindered along the shoreline to Waikarei and Te Tumu.

There is a saying for Ngai Te Rangi that goes, said of a people truly of the water, of the sea and of the people.

“Ko te moana ko au, ko au te moana”.

It is therefore part of Ngai Te Rangi culture and heritage to source much traditional learning and knowledge building from the moana; and the sea is as important if not more so than the land. The moana was the source of food and the means of access and continuing communication between the village communities around its shores.

This is expressed in the whakatauki which describes this tribal area:

“Ko Mauao te maunga, Ko Tauranga te moana, Ko Tupaea te tangata”.

Our people are often described as kaimoana, for instance, Tauwhao are patiki, Ngati He are the papaka, Matapihi is sometimes referred to as titiko, and the island hapu known asm ako. This association with taonga of the sea is an essential aspect of our character as Ngai Te Rangi.

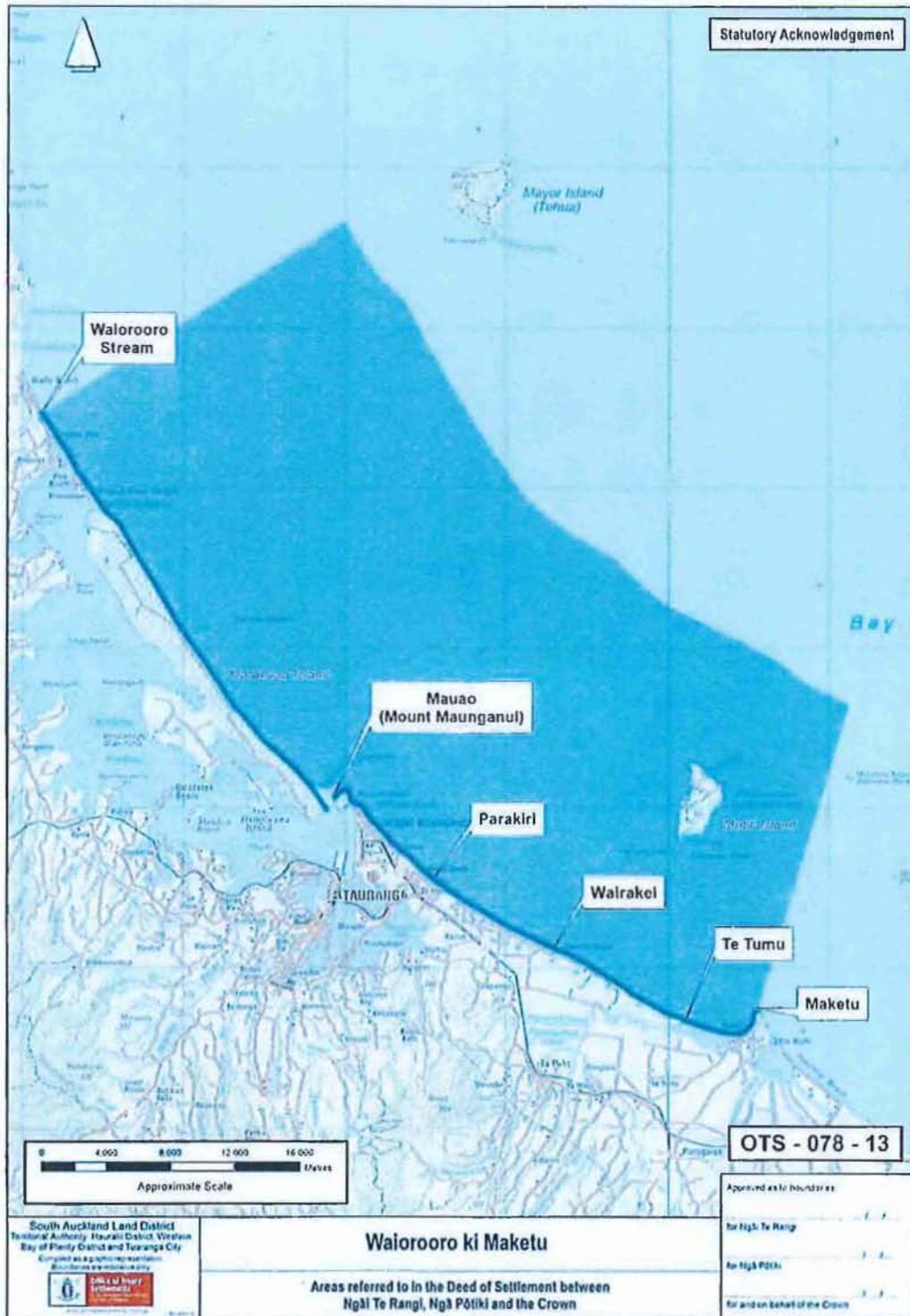
See Schedule 3, Annexure 1 for deed plan OTS-078-13.

Annexure 1 – Waiorooro ki Maketu (as shown on deed plan OTS-078-13)

NGĀI TE RANGI AND NGĀ PŌTIKI DEED OF SETTLEMENT
ATTACHMENTS

2.2: STATUTORY ACKNOWLEDGEMENT AREAS

WAIOROORO KI MAKETU (OTS-078-13)



APPENDIX E

Relevant Te Tiriti o Waitangi principles

(extracted from Te Arawa Settlement Process Reports)

The principle of reciprocity

1. The Maori cession of kawanatanga to the Crown was made in exchange for the Crown's recognition of tino rangatiratanga. In the words of the Mohaka ki Ahuriri Tribunal, the 'Crown's exercise of kawanatanga ("sovereignty" in the English text) has to be constrained by respect for Maori rangatiratanga'. The Crown's right to govern, which must include the right to make decisions regarding public expenditure, the resourcing of Treaty settlements, and setting criteria for determining priorities for negotiations, is not an absolute right. The right to govern was in exchange for the protection of the 'rangatiratanga' of hapu over all their lands, villages, and taonga. Therefore, the Crown must provide for hapu and iwi to exercise their tino rangatiratanga in the settlement of their claims. It follows that the Crown must also consider its Treaty obligation to a particular group or groups, if their circumstances warrant an alternative approach to the Government negotiation policy, processes, and targets for the settlement of claims.
2. To attain true reciprocity, there must be consultation and negotiation in practice as well as in name, and flexibility in the application of policies where shown to be strictly necessary. Such reciprocity is the key to durable Treaty settlements. We think that the aspirations of the Te Arawa tribes, and their preferred mode of exercising their tino rangatiratanga in the settlement process, emerged clearly during the reconfirmation process and other hui, and at our January hearing. The Crown now knows whether most Te Arawa wish to negotiate their claims through the kaihautu. Reciprocity requires a careful, fair, and practical response from the Crown. This is the context for our findings later with regard to Ngati Makino, Waitaha, Tapuika, the Ngati Whakaue cluster, and other claimants outside the executive council's mandate.

The principle of partnership

3. The principle of partnership carries with it an obligation for each Treaty partner to act towards the other with the utmost good faith. Fundamentally, the principle of partnership is about the post-1840 relationships between Maori and the Crown, based on the reciprocal obligations of each partner to the other. The Muriwhenua fishing Tribunal described the Treaty's ongoing role in mediating future relationships between the Crown and Maori in these terms:

It was a basic object of the Treaty that two people would live in one country. That in our view is also a principle, fundamental to our perception of the Treaty's terms. The Treaty extinguished Maori sovereignty and established that of the Crown. In so doing it substituted a charter, or a covenant in Maori eyes, for a continuing relationship between the Crown and Maori people, based upon their pledges to one another. It is this that lays the foundation for the concept of a partnership.

4. Similarly, the Motunui–Waitara Tribunal found that:

The Treaty was also more than an affirmation of existing rights. It was not intended to merely fossilise a status quo, but to provide a direction for future growth and development. The broad and general nature of its words indicates that it was not intended as a finite contract but as the foundation for a developing social contract. We consider then that the Treaty is capable of a measure of adaptation to meet new and changing circumstances provided there is a measure of consent and an adherence to its broad principles.

5. Thus, we consider that the principle of partnership envisages that, far from ending relationships, a Treaty settlement will lay the foundation of an ongoing mutually beneficial partnership. The Crown risks significantly curtailing its ability to forge such a renewed partnership with some Te Arawa, if they are left too far behind in the settlement process. We address this important point below. We note here that the obligations of partnership are not one-sided, and nor should negotiation and settlement processes be decided unilaterally. Both Treaty partners should make reasonable decisions during the settlement process. In order to ensure that their future relationship is mutually beneficial, the Crown should not pursue its nationwide Treaty settlement targets at the expense of some of its Treaty partners. Where the particular circumstances of a group or groups warrant a more flexible approach, the Crown must be prepared to apply its policies in a flexible, practical, and natural manner. We accept that the Crown has financial and other practical constraints. In our assessment of the claims below, we suggest a practical way forward for the Crown, to assist it in meeting its partnership obligations.

The principle of active protection

6. The principle of active protection arises from reciprocity and partnership. The Crown's obligation to protect Maori rights under the Treaty was discussed by the president of the Court of Appeal in 1987:

The Treaty signified a partnership between Pakeha and Maori requiring each to act towards the other reasonably and with the utmost good faith. The relationship between the Treaty partners creates responsibilities analogous to fiduciary duties. The duty of the Crown is not merely passive but extends to active protection of Maori people in the use of their lands and waters to the fullest extent practicable.

7. We have had particular regard to this principle in determining whether the reconfirmation process met our August 2004 suggestions. Our findings on the reconfirmation process, and the Crown's monitoring and acceptance of it, are set out below. Here, we note the Crown's obligation to actively protect the just rights and tino rangatiratanga of all Te Arawa.

The principles of equity and equal treatment

8. The principles of equity and equal treatment were neatly summarised by the Foreshore and Seabed Tribunal:

The principle of equity is that the protections of citizenship apply equally to Maori and non-Maori. Sometimes expressed as the principle of equal

treatment, it requires the Crown to treat Maori and non-Maori fairly and equally, and to treat Maori tribes fairly vis-a-vis each other.

9. This principle places an obligation on the Crown to act fairly and impartially towards Maori by ensuring it treats Maori hapu/iwi fairly vis-a-vis each other. This logically extends to not allowing one iwi an unfair advantage over another. Under this principle, in seeking to negotiate a comprehensive settlement of all the historical claims of Te Arawa, the Crown must deal fairly with all claimant groups within Te Arawa, and not allow one group an unfair advantage over another. This does not mean treating all groups exactly the same, where they have different populations, interests, leadership structures, and preferences. Tino rangatiratanga must be respected. What it does mean is that the Crown must treat each group fairly vis-a-vis the others, and in doing so, it must do all in its power not to create (or exacerbate) divisions and damage relationships.

10. In practical terms, this principle consists of two duties: the duty to act fairly and impartially towards Maori and the duty to preserve amicable tribal relations. Both of these duties have been discussed in Tribunal reports. In relation to the first, the duty of the Crown to act fairly and impartially towards Maori, the Maori Development Corporation Tribunal stated:

There is, in our view, a duty arising from the Treaty that the Crown act fairly and impartially towards Maori. This Treaty principle derives from the large concession made by Maori in 1840 of the gift of governance to the Crown, in return for which it is reasonable to assume that Maori would receive good governance and laws and policies that would be beneficial to them all. The guarantee of rangatiratanga then, with which the Crown responded, was a guarantee to all of the iwi, not to a selected number. Implicit in this is a guarantee that the Crown would not, by its actions, allow one iwi an unfair advantage over another.

... The onus of fairness and impartiality was thus created. Transported to modern times, the principle remains the same but is now to be applied in different circumstances. A critical feature of today's circumstances, however, is the continuing vitality of Maori tribal organisation and identification. From our own knowledge and experience we are able to confirm to the Crown a fact of which it is no doubt already aware: tribal rivalry remains healthy and dynamic.

The Court of Appeal has characterised the Crown's Treaty relationship to Maori as that of a fiduciary thereby setting a very high standard of performance for its Treaty obligations (*New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641). It is fundamental that a fiduciary must act fairly as between beneficiaries rather than allowing one of the group to be favoured.

11. In the context of this inquiry, we consider that to fulfil its duty to act fairly and impartially towards Maori, the Crown must not prefer to negotiate and settle with one group of Te Arawa over another. It must act fairly and impartially towards all groups in Te Arawa.

12. The second duty – the duty of the Crown to preserve amicable tribal relations – is closely related to the first. Should it fail in the first duty, the Crown will run the

risk of entrenching or worsening extant tensions and divisions between groups within Te Arawa. The Crown's duty to preserve amicable tribal relations is discussed in the *Ngati Awa Settlement Cross-Claims Report*.

We think that the Crown should be pro-active in doing all that it can to ensure that the cost of arriving at settlements is not a deterioration of inter-tribal relations. The Crown must also be careful not to exacerbate the situations where there are fragile relationships within tribes.

Inevitably, officials become focused on getting a deal [in seeking to settle cross-claims]. But they must not become blinkered to the collateral damage that getting a deal can cause. A deal at all costs might well not be the kind of deal that will effect the long-term reconciliation of Crown and Maori that the settlements seek to achieve.

... The simple point is that where the process of working towards settlement causes fall-out in the form of deteriorating relationships either within or between tribes, the Crown cannot be passive. It must exercise an 'honest broker' role as best it can to effect reconciliation, and to build bridges wherever and whenever the opportunity arises. Officials must be constantly vigilant to ensure that the cost of settlement in the form of damage to tribal relations is kept to the absolute minimum.

We do not underestimate the difficulty of this task. But neither do we underestimate the potential for harm to Crown–Maori relations if this area of risk is not carefully and positively managed.

13. While the comments of the Ngati Awa settlement crossclaims Tribunal relate mainly to the cross-claims of different iwi, rather than different overlapping groups within an iwi, we consider that their analysis of the Crown's duty remains relevant to our present inquiry.

APPENDIX F

Crown's overlapping claims policy

Need for extra research

1. During negotiations, the Crown and claimant negotiators may need to agree whether particular breaches of the Treaty and its principles occurred – for example, if the claimants want the Crown to apologise for a particular action. If the Crown does not initially accept that there has been a breach in that case, it will discuss its reasons with claimants. It may be that more research or analysis needs to be done. Extra research may also be needed on specific issues arising from a claim, for example, to find out whether more than one group is making claims over the same area or a particular site – what are known as overlapping claims or cross-claims. (In Waitangi Tribunal proceedings 'overlapping' is used for minor overlaps and 'opposing' is used for a high degree of overlap). How overlapping claims can be addressed is discussed on pages 53–54. In any event, negotiations on cultural redress will be assisted by any research or information on a claimant group's associations with a particular site.
2. As part of the development of their Negotiating Brief, claimant groups are asked to identify the interests they wish to have addressed in the settlement, including identifying key sites or food gathering places and Crown properties claimant groups may wish to include in some way in their settlement redress. Some of the interests identified may also be shared by other claimant groups or may be subject to claims by other groups and, as a result, processes will need to be established as early as possible in the negotiations process to address overlapping claims or shared interests between claimant groups. Developing these processes may be critical in ensuring a settlement is completed in a timely manner.

Negotiating brief for the claimant group and the Crown's negotiating parameters

Claimant group negotiating brief

3. The mandated representatives need to identify the interests that they want to promote through the negotiations for the settlement of their historical claims. This is usually referred to as a Negotiating Brief. A detailed explanation of 'interests' in the context of negotiations is set out on page 91. To prepare their Negotiating Brief, the mandated representatives need to:
 - (a) Clarify what breaches and prejudice they consider should be included in discussions on the Crown's acknowledgements and apology;
 - (b) Identify the area of land affected by the claims;
 - (c) Identify culturally important sites and interests relating to them;
 - (d) Identify commercial Crown assets in their area of interest that they want the Crown to consider for potential use in settlement;

- (e) Keep the wider claimant group informed of progress and consult with it as necessary; and
- (f) Resolve any issues that arise because other claimant groups also have an interest in a site or area. The Crown can only provide redress if it is satisfied that any overlapping claims have been addressed.

Overlapping claims or shared interests

4. An overlapping claim exists where two or more claimant groups make claims over the same area of land that is the subject of historical Treaty claims. Such situations are also known as 'cross claims'. Addressing overlapping claims is a key issue for settlements, particularly in the North Island where there are many valid overlapping claims. The settlement process is not intended to establish or recognise claimant group boundaries. Such matters can only be decided between claimant groups themselves. For example, any maps used during the settlement process or in subsequent communications are use only for specific purposes, such as determining the area where protocols with government departments might apply. The Crown can only settle the claims of the group with which it is negotiating, not other groups with overlapping interests. These groups are able to negotiate their own settlements with the Crown. Nor is it intended that the Crown will resolve the question of which claimant group has the predominant interest in a general area. That is a matter that can only be resolved by those groups themselves. The Waitangi Tribunal has discussed the nature of Māori boundaries in its Ngāti Awa Raupatu Report 1999. In that report, the Tribunal stated, 'the essence of Māori existence was founded not upon political boundaries, which serve to divide, but upon whakapapa or genealogical ties, which served to unite or bind. The principle was not that of exclusivity but that of associations. Indeed, the formulation of dividing lines was usually a last resort.' The Tribunal applied this approach when considering overlapping claims between Ngāti Maniapoto and Ngāti Tama. It upheld a revised Crown settlement offer to Ngāti Tama that provided for non-exclusive redress and the transfer of particular sites to Ngāti Tama in an area claimed by both groups, where Ngāti Tama's interests justified this (see the Tribunal's Ngāti Maniapoto/Ngāti Tama Settlement Cross-Claims Report 2001).
5. In areas where there are overlapping claims, the Crown encourages claimant groups to discuss their interests with neighbouring groups at an early stage in the negotiation process and establish a process by which they can reach agreement on how such interests can be managed. Addressing overlapping claims at an early stage will avoid delays – and the possibility of a challenge to the settlement package – at a later stage in the settlement process. The Crown will assist this process by providing information on proposed redress items to all groups with a shared interest in a site or property. Disagreements relating to overlapping claims may arise from the Crown proposing a particular form of redress, such as the transfer of a site or property to one claimant group to the exclusion of another. Where there are overlapping claims, such exclusive redress may not always be appropriate. Often both groups have an interest, such as historical or cultural associations, in a site or property and these interests can be accommodated by a form of redress which is non-exclusive. This allows the interests of different groups to be recognised and accommodated. Clearly, the Crown would prefer that disagreements over redress were settled by mutual agreement between claimant groups. However, in the absence of agreement

amongst them, the Crown may have to make a decision. In reaching any such decision on overlapping claims, the Crown will be guided by two general principles:

- (a) The Crown's wish to reach a fair and appropriate settlement with the claimant group in negotiations; and
- (b) The Crown's wish to maintain, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims.

Exclusive redress

6. Managing overlapping claims is an important issue for both the Crown and claimant groups. Some forms of redress that the Crown can offer claimant groups is only available in exclusive form. In other words, if the Crown provides this redress to one claimant group it is not available as redress for other claimant groups. Examples of exclusive redress might be a commercial office building owned by the Crown or licensed Crown forest land. If it is provided to one claimant group in a settlement, it is clearly not available as redress for another claimant group. Similarly, if the Crown agrees to an overlay classification (tōpuni or taki poipoia) for one group, that site will not usually be available to another claimant group (see Part 3 for a full discussion of redress options).
7. Where there are valid overlapping claims to a site or area, the Crown will only offer exclusive redress in specific circumstances. For example, when several groups claim an area of licensed Crown forest land, the Crown considers the following questions:
 - (a) Has a threshold level of customary interest been demonstrated by each claimant group?
 - (b) If a threshold interest has been demonstrated:
 - (i) What is the potential availability of other forest land for each group?
 - (ii) What is the relative size of likely redress for the Treaty claims, given the nature and extent of likely Treaty breaches?
 - (iii) What is the relative strength of the customary interests in the land?; and
 - (iv) What are the range of uncertainties involved?
8. The Crown is likely to take a cautious approach where uncertainties exist, particularly where overlapping claimants may be able to show breaches of the Treaty relating to the land, and would lose the opportunity to seek resumptive orders from the Tribunal. The relative weightings given to each of these considerations will depend on the precise circumstances of each case. Broadly, a claimant group would not have to show the dominant interest in the forest land to be eligible to receive that land in redress, only a threshold level of interest. The strength of relative customary interests in the land is only likely to be the primary factor when there is limited forest land available.

9. The Waitangi Tribunal has found that this approach to addressing overlapping claims to licensed Crown forest land is consistent with the Treaty of Waitangi and its principles (see the Tribunal's Ngāti Awa Settlement Cross-Claims Report 2002, chapter 4).
10. Although this approach was developed in the context of licensed Crown forest land, similar principles would be expected to apply to other commercial redress. Exclusive redress may also be considered where a claimant group has a strong enough association with a site to justify this approach (taking into account any information or submissions about the association of overlapping claimants with that site). This exception would apply to sites, such as wāhi tapu, where no other site could be used as alternative redress.

Non-exclusive redress

11. Where overlapping claims exist and there is no agreement among groups about how these should be dealt with in a settlement, the Crown may offer non-exclusive redress. This may include legal instruments such as Statutory Acknowledgements, Deeds of Recognition and Protocols with government departments and agencies. These forms of redress, which allow more than one claimant group to gain redress in relation to a site or property, are explained fully in Part 3. The Crown does not require the agreement of other claimant groups when it is offering non-exclusive redress in areas with overlapping claims, but such agreement is preferable.
12. Important principles guiding the Crown's approach to cultural redress are:
 - (a) Redress must be a meaningful expression of the relationship of the claimant group with the site, animal, plant or resource;
 - (b) The Crown cannot provide redress over resources it does not own and (in almost all cases) manage; and
 - (c) Overlapping claims must be addressed to the satisfaction of the Crown.

APPENDIX G

This chronology covers the 10-year period from 2007 to 2017, during which time Ngai Te Rangi has been involved in Treaty settlement negotiations with the Crown. Please note that this chronology is to be read in conjunction with the Document Bank (Appendix H).

CHRONOLOGY OF EVENTS	
DATE	EVENTS
1840	Te Tiriti o Waitangi signed
July 2007	Te Runanga o Ngai Te Rangi Iwi Trust established
2008	Ngai Te Rangi (“NTR”) seek a Deed of Mandate (“DOM”)
2008	Hauraki seek a DOM
October 2008	Crown recognise NTR DOM
2009	Crown recognise Hauraki DOM
1 October 2010	The Crown and the Hauraki Iwi Collective signed an agreement in principle equivalent establishing the broad parameters of a redress package to be further negotiated and finalised by way of a Deed of Settlement (“DOS”).
July 2011	The Crown and Marutuahu signed an agreement in principle equivalent outlining the broad redress package to be negotiated in respect of the constituent groups of Marutuahu.
19 September 2012	The Hauraki Collective filed an application for an urgent hearing in relation to the impending initialling of the TMIC Deed (Wai 215, #2.682 & #2.683) claiming that: <ul style="list-style-type: none"> • The Crown had provided undertakings that the Hauraki Collective would receive contemporaneous redress alongside the TMIC; and • The Collective did not receive any indication of redress to be offered to TMIC, there was a very strong likelihood that the TMIC Deed could irreversibly prejudice the customary interests of Hauraki iwi.
23 October 2012	The Tribunal received a joint memorandum from the Crown and the applicants that an urgent hearing would not be required as an agreeable position had been met, but both parties sought leave to resume proceedings if necessary (Wai 215, #2.696).
November 2012	TMIC DOS initialled, which included the Tauranga Moana Framework (“TMF”). No 5 th seat initialled by Tauranga Moana iwi.
July 2013	Ngai Te Rangi Settlement Trust (NTS) established.
4 October 2013	Letter from OTS to NTR re Hauraki Iwi Collective Treaty Settlement (see 1-4 of Appendix H): <ul style="list-style-type: none"> • Letter notifies that Crown and Hauraki are entering final stages to negotiations; • NTR likely to have interests in areas where redress is proposed for Hauraki; • Letter seeks feedback on proposed redress; • Agreement reached between NTR and Hauraki in recent AIP will be relevant to Crown overlapping claims; • Crown preference is for iwi to engage directly to reach agreement. If matters are not resolved, the Crown will make a decision; <p>In recent decisions, Crown is guided by three principles:</p> <ul style="list-style-type: none"> • Reaching a fair and appropriate settlement with the claimant group in negotiations

	<ul style="list-style-type: none"> • Maintaining as far as possible its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims; and • Fairness towards those iwi who have settled their historical Treaty of Waitangi claims. <p>Process and timeframes for engagement:</p> <ul style="list-style-type: none"> • 9 October 2013 – Crown to send NTR letter identifying overlapping claims; • 18 October 2013 – NTR to advise of any engagement with Hauraki; • 29 October 2013 – Minister to advise of preliminary views on unresolved overlapping claims and whether any of the redress proposals are being amended; • 29 October – 5 November 2013 – NTR opportunity to respond; and • 19 November 2013 – Minister’s final decision.
18 October 2013	<p>Letter from Office of Treaty Settlements to Ngai Te Rangi providing a catalogue of the redress proposed for the Hauraki Collective and the various Hauraki groups (see 5-37 of Appendix H). The redress relevant to Ngai Te Rangi was highlighted. In addition:</p> <ul style="list-style-type: none"> • Letter notes proposed redress is subject to the resolutions of overlapping claims to the Crown’s satisfaction. This includes redress being offered to Hauraki in the area of interest of NTR. The Crown seeks feedback by 30 October 2013; • Minister advises that if agreement cannot be reached he will make a preliminary decision; • Minister seeks information on historical and cultural information whether and how NTR consider their interests are affected – any other information that would help the Crown in assessing the appropriateness of the offer to Hauraki when balanced in NTR’s interest; and • Crown notes that it is an open process and any information will be provided to Hauraki
14 December 2013	Ngai Te Rangi DOS signed (see Appendix J).
10 April 2014	Email from counsel for NTR to OTS requesting outline of Hauraki redress.
20 April 2014	Email from OTS to counsel for NTR noting additional sites under cultural redress vesting to be included.
16 July 2014	<ul style="list-style-type: none"> • TMC provided OTS with a draft position on the TMF (see 33-39 of Appendix H); • OTS then turned the TMF draft into a term sheet and that document was used by Hauraki negotiators to advance natural resource discussions; • Hauraki feedback on TMIC draft position; • Crown suggests that while positions are far apart, there are some matters that are agreed on; calls a teleconference for 22 July; and • Crown notes mammoth efforts being made to resolve overlapping claims in each settlement.
21 July 2014	<p>Email from OTS to NTR noting current status of overlapping claims, which notes/states that:</p> <ul style="list-style-type: none"> • In 2012, the Waitangi Tribunal sought the assurances of the Crown and TMIC that NTR would not prejudice any interest of Hauraki in those areas; • The undertaking was that the Crown will not prevent iwi of Hauraki and the Crown from negotiating any less favourable co-governance

	<p>arrangements in areas of which iwi of Hauraki have spiritual, cultural, ancestral, customary and historical interests. This includes part of the Tauranga Moana catchment; and</p> <ul style="list-style-type: none"> • In order to be fair and consistent with undertaking, OTS suggests a way to consider Hauraki's relationship in the TMF, namely that Hauraki iwi shall have the right to be informed of and participate in, and make decisions in respect of, activities that affect the agreed area of customary interests consistent with the purpose of Tauranga Moana governance group.
30 July 2014	Email from Willie Te Aho to NTR noting major hold up on TMIC DOS because of Hauraki requesting seat on TMF.
31 July 2014	<p>Letter from OTS to NTR regarding preliminary decision coming after an intensive period of engagement between the Crown, which (see 40-41 of Appendix H):</p> <ul style="list-style-type: none"> • Confirms Minister's position that the 5th seat on the TMF provides appropriate recognition for the interests of Hauraki iwi in Tauranga Moana, and: <ul style="list-style-type: none"> ○ Has the potential to be acceptable to both Tauranga and Hauraki; ○ Is consistent with the joint-undertaking the Crown and the Hauraki collective made to the Waitangi Tribunal in October 2012; and ○ Is supported by local authorities and relevant Crown agencies. <p>Minister's preliminary decision is to include an additional iwi seat within the Tauranga Moana Governance Group to represent the interests of overlapping claimants, including but potentially not limited to Hauraki iwi.</p>
11 August 2014	<p>Letter from OTS to TMIC notifying final decision on how to recognise interests of overlapping claims in TMF (see 41-43 of Appendix H):</p> <ul style="list-style-type: none"> • 30 July 2014 – Minister noted preliminary decision to add 5th iwi seat to provide for the participation of iwi with recognised interests in the Tauranga Moana catchment; • Minister notes yet to receive formal response to preliminary decision from TMIC or Hauraki but both collectives provided feedback directly to Chief Crown negotiator and OTS; • Maintains preliminary decision that providing the additional seat is the best available option for reaching durable settlement with TMIC while preserving the ability of the Crown to provide appropriate redress to recognise the interests of Hauraki and potentially Ngati Hinerangi; • Minister advises TMIC settlement cannot proceed without amending TMF to provide additional seat for other iwi; • Minister notes if decision is accepted, the extra seat will be created through TMIC settlement, it would then be a matter of negotiation between the Crown and other affected iwi including Hauraki to determine how the seat would operate in relation to their interests. The Crown will involve TMIC in the overlapping claims process in the normal manner; and • Crown says it will provide for Tauranga Moana interests in other areas beyond Tauranga catchment.
13 August 2014	<p>Email from OTS to TMIC summarising actions from teleconference:</p> <ul style="list-style-type: none"> • Drafting of 5th seat with TMIC; and • Note drafting to Hauraki for consultation only.

19 August 2014	Email from OTS to TMIC re update on TMIC actions. Advises that Crown is consulting Hauraki on draft TMIC amendment for fifth seat.
22 August 2014	Email from OTS to TMIC noting that work is continuing to finalise TMF. Attaches an updated version for feedback.
23 August 2014	Letter from TMIC to OTS re TMF (see 44-49 of Appendix H): <ul style="list-style-type: none"> • Notes reluctant acceptance of 5th iwi seat with conditions; • No more seats will be added; • The fifth iwi seat will only take effect if the Crown recognises that another iwi has interests in Tauranga Moana following an overlapping claims process in which Tauranga Moana iwi will be entitled to participate; • If the fifth iwi seat does take effect, it will only be occupied when Tauranga Moana Governance Group (“TMGG”) considers matters relating to the area in which other iwi share interests with the three Tauranga iwi; and • In relation to Hauraki, this would be limited to Katikati and Te Puna blocks at the north-western end of Tauranga Moana.
29 August 2014	Email from counsel for NTR to OTS re revised TMF draft. Feedback notes (see 50-66 of Appendix H): <ul style="list-style-type: none"> • That NTR cannot sign anything that provides an explicit or implicit agreement by TMIC that any other iwi has interest in Tauranga Moana nor should they be required to; and • Addition that both consent of TMIC and TMGG is required.
29 August 2014	Email from NTR to counsel noting disappointment that NTR did not comment on document before being sent to the Crown.
29 August 2014	Email from OTS to TMIC acknowledging tight timeframes for feedback on TMF amendments. Notes drafting walks the careful line between all parties used including our own and presents our best chance of achieving a signed Deed of Settlement.
August 2014	TMIC, Crown, Hauraki agree to changes to include 5 th seat. This includes 10.3.
1 September 2014	Hauraki and interested parties sought to have the application adjourned sine die, with leave to revive, should it be necessary (Wai 215, #2.703).
9 September 2014	The Tribunal issued a memo-directions adjourning the Tribunal proceedings.
17 September 2014	Letter from OTS to TMIC re TMF, TMIC Deed and next steps (see 67-69 of Appendix H)
12 December 2014	Hauraki Collective again sought to revive the application (Wai 215, #2.704, #2.705, #2.706, & #2.707).
12 December 2014	Judicial teleconference held. <ul style="list-style-type: none"> • Hauraki Collective sought to obtain Crown’s current position in relation to negotiations and to timetable the filing of submissions for these Tribunal proceeding. Leave and timetable granted. • Hauraki Collective directed to file submissions by 16 January 2015 and the Crown and interested parties by 9 February 2015 (Wai 215, #2.710).
21 January 2015	TMIC Deed signed with TMF, with fifth seat and 10.3 included (see Appendix H).
28 January 2015	Hauraki Collective submissions in support of urgency application filed (Wai 215, #2.711) (see 70-111 of Appendix H)
20 February 2015	The Crown and TMIC filed response to application for urgency (Wai 215, #2.716 & #2.717).

23 February 2015	Tribunal Memo-Directions directed Hauraki Collective to file submissions in reply to Crown and TMIC by 9 March 2015 (Wai 215, #2.718).
12 March 2015	Hauraki Collective filed submissions in reply to Crown and TMIC response to urgency application (Wai 215, #2.719).
3 April 2015	A joint memorandum from the Crown and Hauraki Collective filed, seeking to adjourn the application (Wai 215, #2.721). The adjournment was granted and parties were directed to update the Tribunal by 15 May 2015 (Wai 215, #2.722).
20 May 2015	Ngai Te Rangī, Ngati Pukenga and Hauraki video conference. No resolution regarding 10.3 agreed.
29 May 2015	The Crown filed a memorandum stating that no solution had been achieved and that the Tribunal should now consider whether the application for an urgent hearing should be granted (Wai 215, #2.723).
9 June 2015	Hauraki Collective responded to the Crown's memorandum dated 29 May 2015 (Wai 215, #2.725): <ul style="list-style-type: none"> • Saying that the mutual desire to achieve resolution, attempts had continued to find common ground; and • Sought to maintain the adjournment. The adjournment was granted and parties were directed to update the Tribunal again by 17 June 2015 (Wai 215, #2.726) (see 120-121 of Appendix H).
12 June 2015	Tribunal adjourns application as counsel for Hauraki and Crown continue to attempt to resolve issues.
22 June 2015	Motiti Island file application for urgency against TMIC – TMF framework.
23 June 2015	Counsel for Hauraki filed a memorandum updating the Tribunal on their progress (Wai 215, #2.728) saying that during the adjournment, meetings with Crown Ministers did not eventuate and Hauraki iwi were now faced with the Crown taking the parties back to litigation despite the attempts of Hauraki to find a solution.
29 June 2015	TMIC file a MOC in response to Hauraki MOC (see 112-113 of Appendix H).
30 June 2015	Letter from Minister to Hauraki Counsel stating that Crown offered to facilitate meeting is unlikely to lead to shift in positions and a resolution of the matter saying that Tribunal should move to determine application (see 122 of Appendix H).
30 June 2015	Crown counsel responded to Hauraki Collective memorandum of 30 June 2015 saying: <ul style="list-style-type: none"> • The Minister had considered Hauraki Collective's request, but had declined to offer the facilitation of a further meeting as he was not persuaded that it would aid resolution of the matter (Wai 215, #2.731); and • Letter from Minister to Hauraki Counsel noted that the Crown is unable to force agreement on the parties and attached to Crown response (Wai 215, #2.731 (a)).
30 June 2015	Letter from Minister to Hauraki Counsel stating that Crown offered to facilitate meeting is unlikely to lead to shift in positions and a resolution of the matter saying that Tribunal should move to determine application.
1 July 2015	TMIC Counsel submitted that this application should be determined without further adjournments as the delay is causing prejudice to TMIC (Wai 215, #2.732): <ul style="list-style-type: none"> • Counsel for Hauraki was directed to file information indicating the size of Hauraki Collective as a whole;

	<ul style="list-style-type: none"> • Crown counsel was directed to file an explanation of how it sees judicial review as an alternative remedy and to clarify certain terms in the TMIC Deed; and • Further information filed as requested (Wai 215, #2.735 & #2.737).
9 July 2015	Tribunal issued memo-directions outlining preliminary thoughts on urgency application seeking further information from parties (Wai 215, #2.733) (see 114-119 of Appendix H).
9 July 2015	Memorandum of Hauraki Counsel re Crown letter of 30 June 2015 (see 123-125 of Appendix H).
9 July 2015	Email from Hauraki Counsel to Minister clarifying Hauraki position on Minister's letter dated 30 June 2015 (see 126-128 of Appendix H)
15 July 2015	Memorandum of Hauraki iwi in response to Wai 215, #2.733 (see 129-133 of Appendix H)
21 July 2015	Memorandum of Crown Counsel regarding responses to Tribunal questions (see 134-148 of Appendix H)
23 July 2015	TMIC Counsel filed a response to the applicants and Crown's submissions (Wai 215, #2.738).
23 July 2015	Memorandum of Hauraki iwi re urgent hearing.
31 July 2015	Memorandum of Hauraki iwi re urgent hearing (see 149-157 of Appendix H)
3 August 2015	Hauraki Collective filed reply to TMIC and Crown submissions (Wai 215, #2.739).
10 August 2015	Email from OTS to TMIC regarding options of removing TMF from TMIC legislation advising steps for option of removal. Note: <ul style="list-style-type: none"> • OTS will work and consult with TMIC and other interested parties to complete the TMF as soon as practicable.
6 August 2015	Tribunal urgency granted. TMIC and Minister agree to remove TMF from TMIC Bill subject to conditions. See 31 August letter. These conditions have not been completed (Wai 215, #2.740) (see 158-173 of Appendix H).
24 August 2015	Memorandum of Hauraki iwi re urgent hearing (see 174-175 of Appendix H).
25 August 2015	Memorandum-Directions re Crown request to pause proceedings (Wai 2538, #2.5.17) (see 176-177 of Appendix H).
31 August 2015	<p>Letter from OTS to TMIC re resolving litigation in relation to Tauranga Moana framework (see 178-181 of Appendix H):</p> <ul style="list-style-type: none"> • Thanks TMIC for engaging with OTS on options for responding to Tribunal decision granting urgency; • Tribunal limited urgency to consideration of 10.3; • Minister proposes that best way forward for resolving litigation and progressing TMIC Bills is to remove TMF. Notes this would require amendment to TMIC Deed to remove TMF; • Minister considers TMF to be critical element of Tauranga Moana settlement package and offers removal of TMF so that individual settlements can progress; • Notes removal of TMF is a significant decision for TMIC; and • The only other alternative is to delay individual settlements. <p>Crown commitments to Tauranga Moana iwi in this letter:</p> <ul style="list-style-type: none"> • Crown acknowledges significant interest that Tauranga Moana iwi have in Tauranga Moana; • TMIC Deed acknowledges findings of Tribunal 2010 that Tauranga Moana ought to have full protection of Treaty rights to

rangatiratanga and kaitiakitanga over Tauranga Harbour, recognised at all times unless alienated by freely negotiated agreement or when strictly necessary in National interests;

- Crown notes that TMIC Deed cannot be changed without prior agreement of TMIC and the Crown;
- Minister considers TMF to be a critical element of the settlement package and as such, the TMF can only be given effect through a specific Tauranga Moana Bill;
- In September 2014, TMIC and the Crown agreed for the TMF to include an additional 5th seat for other iwi with recognised interests in Tauranga Moana;
- Minister reiterates that he considers the 5th seat will be able to provide for more than one iwi with recognised interests;
- When the TMIC and the Crown agree specific revisions to the TMF, OTS will draft a Deed to amend the TMIC to permit the relevant TMF provisions to be provided into a new bill and make this available for TMIC review;
- Once the Deed to amend has been signed, TMIC has approved the new TMF bill, Crown will introduce the new TMF Bill; and
- Minister confirms that he has outlined a plan to complete the TMF in attachment 1, which includes Crown agreement to contribute towards the cost of 3 specific matters relating to the litigation.

Attachment One

- a) Whether there should be a process, and the nature of that process if required, for resolving any disagreement on whether paragraph 10.2 of the TMIC Legislative Matters Schedule applies (10.3 in the signed TMIC Deed Legislative Matters Schedule);
- b) In the event that there is more than one iwi that the Crown determines has recognised interests within the Tauranga Moana, how the legislation will provide for the participation of two or more iwi with recognised interests where their interests overlap, through one seat on the Tauranga Moana Governance Group;
- c) The waters surrounding Motiti Island within the coastal marine area marked as "A" on the Tauranga Moana framework plan in the TMIC attachments; and
- d) Confirmation of the recognised interest areas or iwi with recognised interests (limited to the Hauraki Collective, and if recognised, Ngāti Hinerangi and a Motiti group), to the extent that they have recognised interests).

The Crown will seek TMIC's agreement on matters a-c within 6 months of the plan being agreed:

- Crown funding;
- Minister notes the offer of any redress to a particular iwi is subject to overlapping claims;
- If groups can't agree and matters remain unresolved, the Crown may have to make decisions; and
- Minister instructs officials to consult with TMIC by mid-September on a detailed plan that outlines the process for progressing work on matters a-c. The plan will also outline how TMIC will be involved in the overlapping claims process for (d).

2 September 2015	TMIC then wrote to the Minister on 2 September 2015 agreeing to park the TMF and making some key points about the conditions upon which the decision was based.
30 October 2015	<p>Letter from OTS to TMIC re TMF process to resolve specific matters with the TMF (see 182-184 of Appendix H).</p> <p>The proposal outlined a two-step process:</p> <ul style="list-style-type: none"> - The Minister would make a decision on the right of other unsettled LNGs to participate in the fifth seat of the TMGG based on the factors outlined; - OTS would then engage with TMIC on issues (a)-(c) and seek to confirm the Hauraki recognised area of interest and the interests of any other groups who are identified in Stage One. <ul style="list-style-type: none"> • TMIC Bill provides separate legislation will be introduced for TMF; • TMF legislation will be developed once specific matters arising through litigation on TMF have been resolved to the satisfaction of TMIC and the Crown and in accordance with the principles of Te Tiriti. • Those outstanding matters include: <ul style="list-style-type: none"> ○ Whether a process is required, and if so the nature of that process for resolving the disagreements referred to in Part 1, Para 10.3 of the appendix to Part 3 TMIC Deed Legislative Matters Schedule; ○ In the event that there is more than one iwi that the Crown determines has recognised interests within Tauranga Moana, how the legislation will provide for the participation of two or more iwi with recognised interests where their interests overlap through one seat on the Tauranga Moana governance group, and ○ The waters surround Motiti Island under the coastal marine area marked as A on the TMF plan in the TMIC attachments. • As you are aware, the Crown has provided the iwi of Hauraki with the ability to participate on the 5th seat with the negotiation of the recognised area on the Tauranga catchment area still to be resolved. This recognised interest area will be subject to overlapping claims resolved to the satisfaction of the Crown to be recorded in the Hauraki Deed. <p>Stage One</p> <p>OTS will seek the Ministers decision regarding the right to participate on the fifth iwi seat of the TMGG for any remaining unsettled Large Natural Groups with recognised interests within the Tauranga Moana catchment. The right to participate on the 5th seat will be subject to the resolution of overlapping interests (including those of Tauranga Moana iwi) to the satisfaction of the Crown and will:</p> <ol style="list-style-type: none"> 1) Be commensurate with matters such as: <ol style="list-style-type: none"> a) The relative strength and nature of the association of the claimant group to the Tauranga Moana catchment, taken as a whole; and b) The nature of the claimant group's grievances in relation to the Tauranga Moana catchment; 2) Not undermine the fundamental elements of the Tauranga Moana arrangements set out in the TMIC Deed;

	<p>3) Not derogate from the Crown’s recognition of the relationship between Tauranga Moana iwi and hapū and Tauranga Moana referred to in clauses 2.12 and 2.13 of the TMIC Deed; and</p> <p>4) Be designed to preserve and enhance relationships between Tauranga Moana Iwi and other iwi.</p> <p>In reaching decisions on overlapping claims the Crown is guided by two principles:</p> <ul style="list-style-type: none"> • Reaching a fair and appropriate settlement with the claimant group in negotiations; and • Maintaining, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims. <p>Stage Two</p> <ul style="list-style-type: none"> • Once the Minister’s final decision has been made on the participation of remaining groups, OTS will seek to engage with the TMGG members and others as appropriate on the resolution of matters a), b), and c) as detailed in the main letter. As it is important for the members of the TMGG to work together, we will seek to engage with the TMGG together as a group to resolve the specific outstanding matters; • OTS will also seek at this time to confirm with the Hauraki iwi recognised interest area in the Tauranga Moana catchment and the recognised interest area of any other group with the right to participate on the fifth seat. The recognised interest area will be subject to the resolution of overlapping interests (including those of Tauranga Moana iwi) to the satisfaction of the Crown; • OTS will seek to work with all TMGG members to resolve the outstanding TMF matters and to confirm the recognised interest area/s. Should it be helpful in the resolution of these matters, the Crown can provide a facilitator for the Minister’s consideration and will seek your views on potential candidates; and • As with the Crown’s standard overlapping claims process, the strong preference is for the parties to reach agreement amongst themselves. If all avenues of engagement are exhausted and matters remain unresolved between iwi, the Crown will make the final decision on these matters.
3 November 2015	Tauranga Moana Iwi Collective Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Bill 2015 introduced to the house.
9 December 2015	TMIC met with OTS and discussed a process for resolving issues with TMF but no agreements were reached (see 185-186 of Appendix H).
22 December 2015	Letter from OTS to NTR notifying overlapping claims for Ngati Rahiri Timutimu in NTR rohe (see 187-207 of Appendix H).
January and February 2016	TMIC and OTS met to discuss the prospect of an independent review process. Further hui were held and the discussion concerning the value and appropriateness of the Crown’s proposed process was discussed.
25 February 2016	TMIC meeting and teleconference where the discussion was about the TMIC leadership leading the process (not the Crown). This was to find a way forward without the need to the independent review and Crown process.
16 March 2016	TMIC form a working party and meeting to review TMF. It was agreed that TMF needed to be amended to provide a clear distinction between Tauranga Moana Iwi and the iwi with recognised interest.

21 March 2016	TMIC meeting
2015 - 2016	<p>TMIC made several requests for information from the Crown regarding the proposed redress packages for the Hauraki Collective and the constituent Hauraki groups:</p> <ul style="list-style-type: none"> - 22 July 2016 – minutes of OTS and TMIC teleconference. OTS apologises for not being able to provide a thorough picture of Hauraki redress. Action agreed for OTS to provide this information. - 5 August 2016 – minutes of OTS and TMIC teleconference. OTS provides high level summary of Hauraki redress and refers to previous overlapping claims process. Action agreed that OTS to discuss with OTS Hauraki team the drafting of a letter to TMIC with information on the redress proposed for the Hauraki iwi within the Tauranga rohe and that provides an undertaking that Tauranga iwi will have a proper opportunity to comment on Hauraki iwi redress in the Tauranga rohe before redress is finalised. - 19 Aug 2016 – minutes of OTS and TMIC teleconference. OTS view was the overlapping claims process for Hauraki redress was complete. An assurance was made that TMIC will be consulted appropriately on any further redress. TMIC reiterated opposition to Hauraki interests. Agreed action - OTS to send TMIC a letter about engagement with Hauraki redress in overlapped area next week, OTS to ask OTS Hauraki teams about meeting with TMIC, OTS to provide the rationale for Hauraki Collective recognition in the Tauranga rohe. - 26 August 2016 – OTS Principal Advisor phoned to arrange a meeting between TMIC and Hauraki Chief Crown Negotiator and Lillian Anderson. No follow through from OTS on rationale for Hauraki Collective recognition in Tauranga rohe.
31 March 2016	Email from OTS to TMIC re Minister requesting meeting on 7 April 2016 to look at resolving differences in views for TMIC on the process for resolving the TMF and to find a pathway through.
6 April 2016	Email from counsel for NTR to NTR attaching first cut of resolution package for TMF.
7 April 2016	TMIC meets Minister re TMF
8 April 2016	Letter from Minister to TMIC.
14 April 2016	TMIC Bill First Reading
22 April 2016	<p>Email from OTS to TMIC re update on OTS activities re TMF matters saying:</p> <ul style="list-style-type: none"> • Minister requests a progress report on May 2016 on the outcome of discussions internally and with other groups on agreed pathway forward for TMF; <p>Hauraki Collective</p> <ul style="list-style-type: none"> • Crown advises Hauraki that TMIC invites Hauraki to meet with TMIC on TMF; • Hauraki are open to meeting; • OTS provided TMIC with DRAFT; • Hauraki recognised interest area map; • OTS is seeking further information from Hauraki on their contemporary interests so that OTS can consider where the map

	<p>reasonably represents the strength and nature of Hauraki's association with Tauranga Moana catchment;</p> <ul style="list-style-type: none"> • OTS advises natural resource arrangements are contemporary in nature, the Crown must consider the strength and nature of association of all groups considering both historical and contemporary interests for settled and non-settled groups; • If a settled group was approached during the overlapping claims process for the TMIC package, we consider that we provided them with an opportunity to discuss their interests with us. If a group settled and was not considered during the development of the TMIC package but do have interests, the Crown has a duty to speak with them about their interests and engage them in a process to discuss their interests with you; • The Crown can provide for the participation on settled groups of natural resources if it is important for effective natural resource management;
25 May 2016	Ngāi Te Rangi Bill First Reading
2 May 2016	Email from counsel for Hauraki to counsel for NTR agreeing to meet on clause 10.3 and a non-Marae venue.
9 May 2016	Email from counsel for Hauraki to counsel for NTR noting that if TMIC has a proposal on 10.3, Hauraki will receive it. Notes also that TMIC representatives refuse to discuss the area of interests without settlement negotiations to ascertain whether we could settle that litigation. Therefore, litigation proceeded.
11 May 2016	Email from counsel to NTR. Notes NTR representatives met with Hauraki to attempt to resolve area of interest – this was pre-urgency application being determined. No resolution was found at that time. Hauraki litigation is still unheard. TMIC has indicated willingness to meet – therefore it is Hauraki that doesn't wish to meet.
17 June 2016	TMIC meeting with Hauraki in Thames (see 209 of Appendix H).
21 June 2016	Dr Hauata Palmer invites Hauraki to meet to discuss issues (see 208 of Appendix H).
22 July 2016	<p>Minutes of OTS and TMIC teleconference. OTS apologises for not being able to provide a thorough picture of Hauraki redress.</p> <p>Action agreed for OTS to provide this information.</p>
5 August 2016	<p>Minutes of OTS and TMIC teleconference.</p> <p>OTS provides high level summary of Hauraki redress and refers to previous overlapping claims process.</p> <p>Action agreed that OTS discuss with OTS Hauraki team the drafting of a letter to TMIC with information on the redress proposed for the Hauraki iwi within the Tauranga rohe, and that provides an undertaking that Tauranga iwi will have a proper opportunity to comment on Hauraki iwi redress in the Tauranga rohe before redress is finalised.</p>
19 Aug 2016	<p>Minutes of OTS and TMIC teleconference.</p> <p>OTS view was the overlapping claims process for Hauraki redress was complete. An assurance was made that TMIC will be consulted appropriately on any further redress. TMIC reiterated opposition to Hauraki interests.</p>

	Agreed action - OTS to send TMIC a letter about engagement with Hauraki redress in overlapped area next week, OTS to ask OTS Hauraki teams about meeting with TMIC, OTS to provide the rationale for Hauraki Collective recognition in the Tauranga rohe.
26 August 2016	OTS Principal Advisor phoned to arrange a meeting between TMIC and Hauraki Chief Crown Negotiator and Lillian Anderson. No follow through from OTS on rationale for Hauraki Collective recognition in Tauranga rohe.
13 September 2016	<p>TMIC meet with OTS on TMF:</p> <ul style="list-style-type: none"> • Agreed that while it was important to reflect on steps that led to this point, it was more important given current situation where TMIC remains uneasy about proceeding with TMF that the Crown and TMIC agree options to move forward; and • Appendix 1 outlined Hauraki aspirations for Tauranga Moana produced as a result of Crown request. <p>Letter outlines the basis on which Crown agreed that Hauraki has sufficient interests:</p> <ul style="list-style-type: none"> • The Crown does not determine cultural interests, it is preferable that iwi agree these between themselves; • However, in this case the Crown has relied upon the Tribunal's clear findings in the Raupatu report 2004; • Crown maintains that it must be remembered that TMF is not simply Tauranga Moana, it is the entire catchment which takes in land as well; • Crown attaches Tribunal report outlining Crown payment to Hauraki for their interests in Te Puna Blocks and highlights the key Treaty finding; • On this basis in 2012, the five Hauraki iwi made an application to the Tribunal that the Crown's negotiations of exclusive go-governance arrangements of Tauranga Moana would affect Hauraki and their interests and prevent negotiation of similar redress with Hauraki in shared interest areas. The Tribunal granted their application for urgency; • In 2012, the Crown stated in the context of this application, that the TMF will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements in their areas of customary interested and provided to TMIC; • The Crown notes in considering the interest of Hauraki and the non-exclusivity of that area, the area to which the TMF applies mean the entire catchment, including land based interests and the undertaking of the Crown, it was clear that the Crown could not create a whole new arrangement specific to Hauraki in that part of the catchment. It would simply not work for councils or the overall wellbeing of the moana to be split in two parts; • Based on all this information, the Minister agreed to provide for a fifth seat to account for the membership of other iwi with interests in TMF; • Crown suggest option 1 to change the TMF to more standard redress; and • Option 2 – Crown encourages development of TMIC and counsel relationship post settlement through MoU.
15 September 2016	TMIC met with Minister Finlayson, including OTS Deputy Director, Nashwa to advise objection to fifth seat. Minister noted difficulty and a preference

	to avoid litigation from Hauraki but at the same time willing to work with TMIC to find a solution.
16 September 2016	<p>TMIC met with the Chief Crown Negotiator for the Hauraki and OTS Director, Lil Anderson.</p> <p>TMIC reiterated request for information on the redress being offered to the Hauraki Collective or any of the constituent groups. The Hauraki Chief Crown Negotiator advised that information would be provided within two weeks of the meeting. Lil Anderson confirmed that the Crown will not remove the fifth seat for Hauraki.</p>
5 October 2016	Letter from TMIC to Maori Affairs Select Committee noting that settlement bills say claims are settled when TMF is not settled. Suggesting additional wording (see 210-212 of Appendix H).
11 October 2016	<p>Email from Spencer Webster to NTR re discussion with Lil Anderson. TMF:</p> <ul style="list-style-type: none"> • Her view that TMF needs to be dealt with sooner rather than later. Crown strategy would be: • Crown receive Hauraki materials including statement of aspirations and area of interest; • Noted her view was that TMIC would be concerned about the nature of interests sought and therefore TMF in current form untenable; • Therefore, in two weeks the Crown will put to TMIC that the Crown can only as far as the TMF is currently configured; • If that was unacceptable, the Crown will also provide an alternative to the TMF, most likely relationship redress where the Tauranga Iwi would have to try to achieve the moana framework on its own; • If the Crown and TMIC could not agree, then they are only left with re-negotiation of some kind; • Back out, counsel for NTR asks whether the Crown would be doing anything further with other iwi in respect of their recognition of interests or defining area of interest. She advised that given the current status of the TMF there was no point in Crown doing anything further until the final outcome in respect of the redress is known.
11 October 2016	Letter from Minister to NTR re Hauraki redress (see 249 of Appendix H)
18 October 2016	Letter from NTR Chair to Maori Affairs Select Committee noting if amendment to bill to preserve moana redress is compromising NTR's ability to achieve legislation this year, then the NTR bill must proceed as it is on the understanding that the Crown is fully committed to working with us to achieve outstanding redress to Tauranga Moana (see 213 of Appendix H).
21 October 2016	The Crown provided information relating to the Crown's rationale for the fifth seat for Hauraki in the Tauranga Moana framework and proposed enhancements to TMF (see 214-220 of Appendix H).
3 November 2016	Letter from TMIC to Minister noting disappointment that Minister reached a preliminary decision on Ngati Hinerangi redress in Tauranga Moana and seeking other meeting (see 221 of Appendix H).
3 November 2016	<p>The Tauranga Moana Iwi Collective replied on outlining concerns with the information provided and highlighting that information in respect of the proposed redress packages for the Hauraki Collective and constituent groups remained incomplete. Detailed opposition to Hauraki redress in respect of TMF outlined – Refer to letter from TMIC to OTS dated 3 Nov 2016 (see 222-224 of Appendix H):</p> <ul style="list-style-type: none"> • Notes concerns with delay in receiving information from OTS;

	<ul style="list-style-type: none"> • Notes information received is incomplete; • Notes that information does not advise other redress provided to Hauraki or other iwi; • Notes that OTS cannot rely on 2013 overlapping claims process; • Responds to Crown determination of Hauraki interests; <ul style="list-style-type: none"> • Notes Crown is determining cultural interest; • Crown elevation of Hauraki to mana whenua; • Crown assessment of interest is unsatisfactory and fails to take into account tikanga, significance of Tauranga moana, mana whenua and identity; • Notes determination of the Crown will create further grievance; • Notes concern about why Crown is creating new interests and trying to protect them for Hauraki; • Rejects proposed enhancements because they do not address the fundamental issues with the TMF and are a lower quality to the TMF; • Rejects proposed alternative options; • Notes that TMIC drew strength from meeting with the Minister on 15 September 2016 and he expressed a genuine desire to work with Tauranga Moana to find solutions; • The communications of OTS now fail to give effect to the Minister's intent; and • Notes TMIC position that iwi representation is at a governance level for iwi who hold and exercise mana moana, that is TMIC, no other iwi has an interest that warrants representation on TMF.
9 November 2016	Request from Lillian Anderson to meet with TMIC in Wellington before 16 November 2016. Due to short notice and costs TMIC unable to arrange to be in Wellington by this date.
25 November 2016	Teleconference with OTS to review draft letter sent by OTS on 24 November 2016 to provide a pathway forward for progression of iwi Bills whilst preserving rights to continue to negotiate Tauranga Moana redress. Refer Draft letter 24 November 2016 (see 225-230 of Appendix H).
27 November 2016	NTR teleconference with OTS. Notes in terms of negotiations with Hauraki in option 2 and 3, the Crown advised that they would have a placeholder in their Deed but no further action such as a recognised area of interest. If option 3 is selected, then the Crown has a duty to consult Hauraki and that policy provides that iwi with an interest will be included in discussions at an early stage.
12 December 2016	OTS and TMIC meeting to discuss preservation clause and option for resolving TMF. Crown options are: <ul style="list-style-type: none"> - Tauranga Moana not settled, fifth seat remains, TMIC need to work with other iwi about how fifth seat will operate; or - TMF is removed and negotiations start afresh on harbour redress subject to the Crown's harbour redress guidelines. Refer to OTS letter dated 9 December 2016.
15 December 2016	During a teleconference with OTS, the representatives of TMIC were advised that the Crown intended to initial DOS with the Hauraki Collective and the Marutuahu collective. TMIC representatives again insisted on information being provided on the redress package to be included in those deeds and noted the obvious prejudice accruing to the Tauranga Moana Iwi having not seen the full packages and the Crown intending to proceed to initialling.
19 December 2016, 5.05pm	OTS provided a table titled "proposed redress for Hauraki and overlapping claims consultation with Ngai Te Rangi". Despite the fact that the Crown

	intended to initial the deeds within days of this correspondence, it purported to refer to the table as being a consultation process (see 231-238 of Appendix H).
20 December 2016	<p>Counsel for Ngai Te Rangi wrote to OTS regarding concerns about Crown process and the lack of information provided on Hauraki redress.</p> <p>OTS replied on 20 December 2016 providing further information including a Ministry of Primary Industries fisheries protocol. The email confirmed, despite Ngai Te Rangi's objections, that the Crown still intended to initial the deeds of settlement that week (see 239 of Appendix H).</p>
20 December 2016	<p>Email from counsel for NTR to NTR noting email from Crown re Crown initialling Hauraki and Marutuahu Deeds plus attaching list of redress. Counsel notes issues (see 252-276 of Appendix H):</p> <ul style="list-style-type: none"> • Crown in proceeding to initial settlement without giving NTR opportunity to comment on proposed redress; • The list does not outline all the redress; • Crown is proposing to initial the list saying that overlapping consultation has happened; • That is not consultation it is simply telling us what is happening; • The list doesn't provide sufficient detail as to what has been offered; • No detail of Hauraki collective redress except for TMF and Waihou; • Reference to proposed redress does not provide detail, therefore other matters likely affect NTR; • Suggest a letter be written to the Minister.
20 December 2016	<p>Email from OTS to counsel for NTR, which notes redress provided has undergone overlapping claims process in 2013 and 2014 (see 252-276 of Appendix H). In addition:</p> <ul style="list-style-type: none"> • Notes that drafting for the Hauraki Deed preserves the redress in the TMF for Hauraki iwi; • In the event that TMIC decide not to proceed with the TMF then the drafting preserves the participation of Hauraki in those negotiations. The Hauraki Collective has not agreed to the Crown drafting being provided to NTR.
21 December 2016	<p>Letter from NTR to Minister strongly objecting to the initialling of the Hauraki Deed (see 250 of Appendix H):</p> <ul style="list-style-type: none"> • Noting request for information on redress package; • Noting that NTR are "extremely frustrated" that full information and notice was only provided a couple of days before the Deed was to be initialled; • Notes NTR are outraged by the redress itself, but also that the Crown intends to move forward with the Deeds when no engagement has occurred on such significant matters; • New redress has only been reviewed for the first time; • Notes the proposed TMF redress includes statements that are completely inaccurate and unjustified; • Notes MPI protocol encompasses NTR heartland; • Notes Crown is disrespecting the mana of NTR and tikanga by offering this redress; <p>Request Crown postpone initialling.</p>
21 December 2016	<p>Email from NTR Counsel to OTS re Hauraki redress for TMIC, which notes (see 277-281 of Appendix H):</p>

	<ul style="list-style-type: none"> • Issues with Crown email and failure to provide information requested; • That Deeds have not been through overlapping claims process and will not rely on Crown assurances; • That in 2013, OTS did not disclose collective redress; • Lack of disclosure and good faith that would be expected for overlapping claims process. <p>Counsel also requests the release of information so that NTR can do its own assessment, and notes other requests made.</p>
21 December 2016	<p>Email from NTR Chair to NTR Board noting concerns of NTR re Crown proposal to assign rights to Hauraki in Tauranga Moana:</p> <ul style="list-style-type: none"> • Sought to engage with Hauraki and asked Crown to disclose details of the redress; • Notes information received 20 December with notice that Crown intends to initial Hauraki Collective Deed on 22 of December 2016; • Notes information received raises a number of issues. Two key items are TMF and MPI protocol which extends to Mauao; • Notes if settlement proceeds in present form, Hauraki would have gained a permanent foothold in our heartlands; • NTR has to be very clear about absolute opposition to allowing any other iwi in our rohe; • Notes NTR have accepted the potential loss of the TMF as a consequence of their position; • Notes Crown has notice of opposition to Hauraki Collective initialling of Deed; • Notes Crown is willing to ignore objections and urgency needs to be sought under the Tribunal; and • Notes that if Tribunal pathway is sought there may be further delays to settlement, however, the issues are of such importance that delaying settlement is preferable to allowing the Crown to enable outside iwi to encroach into the Moana.
21 December 2016	<p>Subsequently the Crown acknowledged that it had not entered into an overlapping claims process in respect of the MPI fisheries protocol but considered it had done so for the coastal statutory acknowledgment. OTS stated as follows by way of email:</p> <p>Regarding the MPI Fisheries protocol, as we can't find evidence of an overlapping claims process being run around the RFR map, it is being removed from the Hauraki Collective deed. We will run an overlapping claims process on this in the New Year.</p> <p>Regarding the coastal statutory acknowledgement, I attach evidence that the Crown consulted with Ngai Te Rangi on this in 2013. Ngai Te Rangi did not engage in this process, so there was no final decision for the Minister to make.</p>
21 December 2016	<p>NTR wrote to the Minister expressing concerns about the conduct of the Crown and the initialling of the Hauraki Collective and Marutuahu deeds.</p>
22 December 2016	<p>The Crown and HIC initialled the Pare Hauraki Collective Redress Deed (see Appendix C).</p>
23 December 2016	<p>OTS advised NTR that the Hauraki Deed was initialled (the Minister had seen the letter by Huhana prior to signing), and that NTR would receive a response from the Minister in mid-January when he is back on deck.</p>

9 January 2017	Press release: Ngati Whatua regarding support for NTR battle against Crown.
13 January 2017	Letter from OTS to NTR re Area Map for Taonga Tuturu and MPI protocols (see 285-289 of Appendix H).
16 January 2017	Email from OTS to NTR re Marutūāhu Coastal Statutory Acknowledgement Map (see 314 of Appendix H)
18 January 2017	Letter from OTS to NTR re overlapping claims - provided a map of the proposed Marutūāhu Coastal Statutory Acknowledgement (see 290-292 of Appendix H).
20 January 2017	OTS wrote to NTR seeking feedback on the Coastal Statutory Acknowledgment Map.
25 January 2017	Email from NTR to OTS noting NTR oppose all redress in Hauraki collective and individual Deeds south of Waiororo and detailed response from NTR will be provided on 31 January (see 302-303 of Appendix H): <ul style="list-style-type: none"> • Notes yet to receive redress that are in individual Deeds; • Notes not being approached by Hauraki on the redress and will therefore be making contact themselves.
31 January 2017	NTR meet with Minister: <ul style="list-style-type: none"> • Meeting with Minister Finlayson and OTS director to note concerns with Hauraki redress • Minister offered NTR more time to provide responses on Hauraki redress proposals. Feedback to be provided by Friday, 17 February 2016.
3 February 2017	Email from Leah Campbell OTS advising overlapping claims process (see 311-312 of Appendix H) <ul style="list-style-type: none"> • Reiterates Crown reliance on Hauraki interests identified in Raupatu reports that Hauraki has interests in Katikati and Te Puna as basis for historical interests; • Responds to Crown offer of taonga tuturu and MPI protocol to Hauraki; • Notes re TMF, overlapping claim correspondence regarding NTR and Hauraki attached; • Notes individual Hauraki iwi overlapping claims redress process done in 2013 and 2014; Notes that no further
16 February 2017	Letter from Minister to Charlie Tawhiao, Iwi Chairs Forum regarding cross claims policy.
16 February 2017	Memorandum of Counsel filed notifying parties of a potential application for an urgent inquiry.
16 February 2017	Email from OTS advising summary of Ngati Rahiri Timutimu redress
17 February 2017	Email and Letter from TMIC to OTS Director
17 February 2017	Email from OTS to NTR noting: <ul style="list-style-type: none"> • The need to be upfront that the Minister will not consider the part of the letter which states: • Noting this is not the nature of discussions in his office and this is not the clear view he provided at the meeting; • He made it clear that if the TMF remains, he cannot and will not exclude the 5th seat as the redress already envisaged for Hauraki and he would in effect be removing this undertaking by agreeing to this text; • What he has agreed to do is work with Hauraki to agree text that allows for discussion with Tauranga Moana over the next 2-4 years

	<p>which might result in the redress being agreed which is different to or changes the TMF;</p> <ul style="list-style-type: none"> • During this period of time, the TMF will be parked and with neither the Tauranga nor Hauraki claims in respect of the moana being settled; • But if those discussions fail and we revert to the TMF at the conclusion of the discussions, then it will be in its current form, unedited; • The Minister did also not agree to tie the response on the TMF to wider overlapping claims, timeframes with Hauraki.
23 February 2017	<ul style="list-style-type: none"> • TMF still sits outside TMIC bill – the same version that was signed in 2015; • The extent of the operation of the fifth seat is still subject to resolution; • No process set to achieve that, for example, no agreement on area of interests. NTR do not agree to the maps they have seen; • The Crown, though the Hauraki collective deed, are including Hauraki 5th seat in TMF. Or, if TMF is not developed, then confirming Hauraki right to participate in alternative; • Iwi have shifted from reluctantly accepting fifth seat with no conditions to no fifth seat; • Extent of Hauraki claims being made in Deed of Settlement; • Hauraki behaviour, lack of engagement, refusal to accept invitations to meet in Tauranga; • Pressure of settling removed; • Experience of other settled coast groups settled e.g. Ngati Whatua and Tainui.
27 February 2017	Email from OTS advising overlapping claims process for Taonga Tuturu and MPI protocols
28 February 2017	Letter from Minister confirming position on fifth seat and approach to Hauraki redress (see 332-334 of Appendix H)
1 March 2017	<p>NTR Trustees hold a meeting and agree:</p> <ol style="list-style-type: none"> 1) To continue to engage with the Crown to seek a final position on the withdrawal of Hauraki redress in issue by 2 March 2017 2) To file an urgent application to the Waitangi Tribunal as soon as it is ready and no later than 8 March 2017 3) That, if no agreement is reached with the Crown on the redress sought by the Hauraki Collective in the rohe of Tauranga Moana then: <ol style="list-style-type: none"> a. All previous agreements reached with the Hauraki Collective including: <ol style="list-style-type: none"> i. 60% of Athenree Forest; ii. 15 RFRs in Te Puna/Katikati areas iii. 4 properties in Te Puna/Katikati/Otawhiwhi areas iv. Kaimai Statutory Acknowledgement v. Kauri Point Reserve <p>are withdrawn on the basis that it was intended at the time that those agreements would be the full redress sought by the Hauraki Collective in Tauranga Moana.</p> b. Ngai Te Rangi not proceed with the completion of the Ngai Te Rangi Settlement Bill until a satisfactory agreement is reached on the Hauraki Collective and Individual Hauraki Iwi redress within Tauranga Moana including a satisfactory

	agreement on the removal of the 5 th seat in the Tauranga Moana Framework
3 March 2017	<p>TMIC Hui-a-Iwi - outcomes of the hui were:</p> <ul style="list-style-type: none"> - Ninety in attendance from NTR, Ngati Ranginui, Ngati Pukenga, with representatives from Ngati Hako ki Hauraki, Ngati Pukenga ki Manaia, Ngati Tokanui, Ngati Tawhaki; - Ngai Te Rangi and Ngati Ranginui are opposing all rights into Tauranga Moana that are currently being offered to Hauraki Collective; - Ngai Te Rangi and Ngati Ranginui agree to continue to press to have the fifth seat removed on the TMF; - All progress on the Ngai Te Rangi Nga Potiki Settlement Bill has been delayed until these matters are resolved. The Settlement Bill may not progress until 12 months time; - Delays in the Settlement will result in delays to hapu property purchases; - Any previous redress arrangements with Hauraki will be revisited and renegotiated if these mana whenua, mana moana issues are not resolved; - Ngati Pukenga have signalled they will be having discussions as to whether they will sign the Hauraki Deed; - A media statement and comms around this kaupapa to be established to update all uri of Tauranga Moana.
3 March 2017	NTR letter of response to Minister on Hauraki redress (see 308-337 of Appendix H)
7 March 2017	OTS wrote to Ngai Te Rangi and confirmed that the Crown considered that the redress for Hauraki, save a few outstanding matters, was finalised and that the redress in issue would not be removed (see 338-341 of Appendix H).
9 March 2017	<p>Ngai Te Rangi responded to the Minister's letter and advised that:</p> <ul style="list-style-type: none"> - Ngai Te Rangi has resolved not to progress with their own settlement until satisfactory agreement with the Crown is reached concerning Hauraki cross claims; - That the Hauraki Deed is facilitating significant prejudice on Ngai Te Rangi mana and rangatiratanga; - Ngai Te Rangi have no alternative but to apply to the Waitangi Tribunal for an urgent hearing; and - The Ngai Te Rangi and Nga Potiki Claims Settlement Bill second reading should not take place on 15 March 2017.
14 March 2017	Letter from Minister to NTR confirming that the second reading of the Bill will not take place.

APPENDIX H



PART OF THE MINISTRY OF JUSTICE

Office of Treaty Settlements
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T 04 494 9800 | F 04 494 9801
www.ots.govt.nz

4 October 2013

Charlie Tawhiao and Mita Ririnui
Chairpersons
Te Rūnanga o Ngāi Te Rangī Iwi Trust
PO Box 4369
MT MAUNGANUI SOUTH 3149

Email: charlie@moanaradlo.co.nz, mita.ririnui@parliament.govt.nz

Tēnā kōrua

Hauraki Iwi Treaty Settlements

The Crown and Iwi of Hauraki are entering into the final stage of negotiations for the comprehensive settlement of the historical Treaty of Waitangi claims of Hauraki Iwi.

Ngāi Te Rangī is likely to have interests within areas where redress is proposed for Hauraki Iwi. The purpose of this letter is to advise you of the process to resolve any overlapping interests before the Crown and Hauraki Iwi initial deeds of settlement. Relevant Iwi specific redress for Hauraki Iwi will be provided to you for comment next week.

This letter also seeks your feedback on the proposed redress package for the Hauraki Collective as set out in the Framework Agreement and Agreement in Principle Equivalents, signed in 2010 and 2011. These documents are publically available and can be found on the Office of Treaty Settlements (OTS) website at www.ots.govt.nz.

The proposed timetable to resolve all overlapping claims prior to initialing deeds of settlement is attached as Appendix 1.

The agreements reached between Ngāi Te Rangī and Hauraki Iwi as part of your recent agreement in principle and deed of settlement negotiations will be relevant to the Crown's considerations on overlapping claims matters.

Feedback on proposed redress

The Crown's preference is for Iwi to directly engage and reach agreement on any concerns regarding the proposed redress for Hauraki Iwi. The Hauraki Collective and, where relevant, individual Hauraki Iwi will be seeking to engage with you directly on the proposed redress packages to resolve any issues. You may also wish to take steps yourselves to approach those Iwi.

Any queries in relation to the proposed Hauraki Collective and Marutūāhu Collective redress proposals can be directed to Paul Majurey at paul.majurey@ahjmlaw.com or 027 495 5741.

If matters remain unresolved after engagement between Iwi, the Minister for Treaty of Waitangi Negotiations will make a decision on overlapping claims on behalf of the Crown.

In reaching decisions, the Crown is guided by three principles:

1. reaching a fair and appropriate settlement with the claimant group in negotiations;
2. maintaining, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims; and
3. fairness towards those Iwi who have settled their historical Treaty of Waitangi claims.

Process and Timeframes for Engagement

The Crown will send you a further letter on **9 October 2013** setting out the proposed redress for Individual Hauraki Iwi that appears to overlap with your interests. The letter will set out all Iwi-specific redress agreed between the Crown and Iwi.

In the first instance the Crown wishes to allow the relevant Individual Hauraki Iwi to engage with you on their proposed redress and to resolve issues directly.

The Crown will seek feedback from you on the outcome of this engagement with Individual Hauraki Iwi, as well as with the Hauraki Collective, to identify unresolved issues by **18 October 2013**.

The Crown will assess this feedback alongside any additional information provided by the relevant Hauraki Iwi. We will report to the Minister on any unresolved overlapping claims matters based on our assessment of all information received and any additional research we consider necessary.

By **29 October 2013** the Minister will advise claimant groups of his preliminary views on unresolved overlapping claims and whether any of the redress proposals are being amended.

You will have an opportunity to respond to the Minister's preliminary decisions between **29 October** and **5 November 2013**, and if requested, meetings will be arranged so that you can discuss your views directly with Michael Dreaver, the Chief Crown Negotiator, or OTS officials.

The Minister will then make final decisions on unresolved overlapping claims matters by **19 November 2013**, if these are required.

Mr Dreaver is available to meet with you directly to discuss any issues and can be reached at mike@thepolicyshop.org.nz or 021 797 975.

Next Steps

If you have any questions concerning the overlapping claims process you are welcome to contact Kelly Mackle on (04) 918 8634 or kelly.mackle@justice.govt.nz.

Nāku noa, nā



Adam Levy
Negotiation and Settlement Manager
Office of Treaty Settlements

cc: Paul Majurey, Chairman, Hauraki Collective & Marutūāhu Collective
(paul.majurey@ahjmlaw.com),
Michael Dreaver, Chief Crown Negotiator (mike@thepolicyshop.org.nz)

Appendix 1: Timeframes for engaging with Iwi on Hauraki redress packages

	Key Steps	Date
1	Office of Treaty Settlements writes to Iwi outlining the overlapping claims process	4 October 2013
2	Office of Treaty Settlements writes to Iwi disclosing the proposed redress package for Individual Hauraki Iwi	9 October 2013
3	Iwi to provide feedback and/or advise of any agreements reached with Hauraki Iwi	18 October 2013
4	Office of Treaty Settlements assessment of submissions and report to the Minister seeking a preliminary decision on any unresolved overlapping claims	19 October – 28 October 2013
5	Minister to advise Iwi of preliminary decisions, and if required, the Chief Crown Negotiator or OTS officials will meet with overlapping Iwi	29 October 2013
6	Responses from affected Iwi on Minister's decision	5 November 2013
7	Report to Minister on final decisions	6 November – 18 November 2013
8	Minister releases final decisions on overlapping claims on Hauraki redress packages	19 November 2013
9	Hauraki Iwi Initial deeds of settlement	Early 2014

Please note: Office of Treaty Settlements officials are available to meet at any time to discuss the overlapping claims process.



PART OF THE MINISTRY OF JUSTICE

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18 October 2013

Charlie Tawhiao and Mita Ririnui
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Tēnā kōrua

Proposed redress for Hauraki Iwi

Further to my letter of 4 October 2013 the Minister for Treaty of Waitangi Negotiations recently made a Treaty settlement offer to the following Hauraki Iwi: Ngāti Tamaterā, Ngāti Maru, Ngāti Tara Tokanui, Ngāti Hako and the Marutūāhu Collective.

The proposed redress is subject of the resolution of overlapping claims to the Crown's satisfaction. In this case the area of Interest of Ngāi Te Rangī (as per the Ngāi Te Rangī deed of settlement) includes an area where redress is being offered to the Hauraki Iwi.

This letter encloses the proposed redress offers and seeks your view. As you are aware, the Crown's preference is for Iwi to engage directly on the proposed redress and resolve any issues themselves. The Hauraki Iwi will be seeking to engage with you on the proposed redress packages. You may wish to take steps yourselves to approach those Iwi. If you have no issues to raise in respect of the redress offers we would appreciate you advising of this.

The Crown seeks feedback from you on the outcome of any engagement with the Hauraki Iwi and identification of unresolved issues by 30 October 2013.

If you cannot reach agreement the Minister will make a preliminary decision. The types of information that would assist the Minister are:

- a. historical and cultural information;
- b. whether and how you consider your interests (including cultural and commercial) might be affected by the proposals; and
- c. any other information that you consider may assist the Crown in assessing the appropriateness, or otherwise, of the offer to Hauraki Iwi, when balanced with your interests.

Any queries in relation to the proposed Hauraki Collective and Marutūāhu Collective redress proposals can be directed to Paul Majurey at paul.majurey@ahjmlaw.com or 027 495 5741.

If matters remain unresolved after engagement between Iwi, the Minister for Treaty of Waitangi Negotiations will make a decision on overlapping claims on behalf of the Crown.

In reaching decisions, the Crown is guided by three principles:

1. reaching a fair and appropriate settlement with the claimant group in negotiations;
2. maintaining, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims; and
3. fairness towards those Iwi who have settled their historical Treaty of Waitangi claims.

Process and Timeframes for Engagement

The Crown will send you a further letter on **9 October 2013** setting out the proposed redress for individual Hauraki Iwi that appears to overlap with your interests. The letter will set out all Iwi-specific redress agreed between the Crown and Iwi.

In the first instance the Crown wishes to allow the relevant individual Hauraki Iwi to engage with you on their proposed redress and to resolve issues directly.

The Crown will seek feedback from you on the outcome of this engagement with individual Hauraki Iwi, as well as with the Hauraki Collective, to identify unresolved issues by **18 October 2013**.

The Crown will assess this feedback alongside any additional information provided by the relevant Hauraki Iwi. We will report to the Minister on any unresolved overlapping claims matters based on our assessment of all information received and any additional research we consider necessary.

By **29 October 2013** the Minister will advise claimant groups of his preliminary views on unresolved overlapping claims and whether any of the redress proposals are being amended.

You will have an opportunity to respond to the Minister's preliminary decisions between **29 October** and **5 November 2013**, and if requested, meetings will be arranged so that you can discuss your views directly with Michael Dreaver, the Chief Crown Negotiator, or OTS officials.

The Minister will then make final decisions on unresolved overlapping claims matters by **19 November 2013**, if these are required.

Mr Dreaver is available to meet with you directly to discuss any issues and can be reached at mike@thepolicyshop.org.nz or 021 797 975.

This is an open process and any information you provide will be made available to the Hauraki iwi and they will have a chance to comment on it unless you request otherwise. You will also have an opportunity to comment on the Minister's preliminary view. The timeframes for this process are detailed in the appended table.

Any queries in relation to the Ngāti Tamaterā redress proposal can be directed to John McEnteer at mcenteer@actrix.co.nz or 021 985 127, or Liane Ngamane at liane.ngamane@hotmail.com or 021 133 2760.

Any queries in relation to the Ngāti Maru redress proposal can be directed to Paul Majurey at paul.majurey@ahjm.com or 027 495 5741, or Waati Ngamane at ngakoma@xtra.co.nz or 021 118 1757.

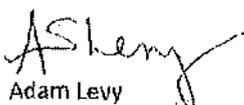
Any queries in relation to the Ngāti Tara Tokanui redress proposal can be directed to Amelia Williams at amelia.w@vodafone.co.nz or 021 501 312 or Russell Karu at russellkaru@xtra.co.nz or 027 572 5278.

Any queries in relation to the Ngāti Hako redress proposal can be directed to Josie Anderson at josie.anderson@rocketmail.com or 021 467 833, or John Linstead at kenllinstead@yahoo.com or 027 293 2060.

Any queries in relation to the Marutūāhu Collective redress proposal can be directed to Paul Majurey whose contact details are outlined above.

If you have any queries for the Office of Treaty Settlements on this process please contact me on (04) 918 8520 or 027 838 9776.

Nāku noa, nā



Adam Levy

Negotiation and Settlement Manager

Office of Treaty Settlements

cc: Michael Dreaver, Chief Crown Negotiator,
Patsy Reddy, Chief Crown Negotiator,
Benedict Taylor, Negotiation and Settlements Manager,
John McEnteer, Negotiator, Ngāti Tamaterā,
Liane Ngamane, Negotiator, Ngāti Tamaterā,
Paul Majurey, Negotiator, Ngāti Maru & Chairperson, Marutūāhu Collective,
Waati Ngamane, Negotiator, Ngāti Maru,
Amelia Williams, Negotiator, Ngāti Tara Tokanui,
Russell Karu, Negotiator, Ngāti Tara Tokanui,
Josie Anderson, Negotiator, Ngāti Hako,
John Linstead, Negotiator, Ngāti Hako

ATTACHMENT ONE: CONSULTATION TIMEFRAMES

	Key Steps	Date
1	Office of Treaty Settlements notifies iwi outlining the overlapping claims process	7 October 2013
2	Office of Treaty Settlements writes to iwi disclosing the proposed redress package for individual Hauraki iwi	18 October 2013
3	Iwi to provide feedback and/or advise of any agreements reached with Hauraki iwi	30 October 2013
4	Office of Treaty Settlements assessment of submissions and report to the Minister seeking a preliminary decision on any unresolved claims	31 October – 7 November 2013
5	Minister to advise iwi of preliminary decisions, and if required, the Chief Crown Negotiator or OTS officials will meet with iwi	11 November 2013
6	Responses from iwi on Minister's decision	19 November 2013
7	Report to Minister on final decisions	20 November – 26 November 2013
8	Minister releases final decisions on overlapping claims on Hauraki redress packages	29 November 2013

Crown redress offer for Ngāti Hako

HISTORICAL ACCOUNT/CROWN ACKNOWLEDGEMENTS/APOLOGY				
Ngāti Hako specific historical account, Crown acknowledgements, and Crown apology				
CULTURAL REDRESS				
Transfers				
Site	Held by	Size of property	Encumbrances ^{1,2,3,4}	Location
Kopuatai Wetland Management Reserve (Povey Lease area)	DOC	37.3 ha	Mechanism for protection of conservation values to be determined	Lies between the Piako and Waihou rivers on the Hauraki Plains
Kopuatai Wetland Management Reserve (Cookson Lease area)	DOC	28 ha	Mechanism for protection of conservation values to be determined	Lies between the Piako and Waihou rivers on the Hauraki Plains
Te Karo Bay (Sailors Grave Road), Coromandel Forest Park	DOC	3 ha	Mechanism for protection of conservation values to be determined	Coromandel – North of Tairua
Karangahake Gorge site within Kaimai Mamaku Forest Park	DOC	100 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Just north of the junction of the Ohinemuri and Waitawheta Rivers about 5km south of Paeroa

¹ All vestings subject to any existing third party interests, which are still to be confirmed through disclosure

² Crown still to confirm approach to continued inclusion of sites within the Hauraki Gulf Marine Park

³ Where land adjoins a waterway, and is not remaining as a reserve, Part 4A of the Conservation Act regarding the reservation of marginal strips will apply.

⁴ Crown still to propose approach to any ongoing DOC management of transfer sites, in particular for pest control

Matahuru Scenic Reserve	DOC	25 ha	Scenic reserve status Iwi PSGE to be appointed as administering for the new reserve	Waikerimū – North Waikato
Coromandel Forest Park (sites from Ohinemuri to Kauaeranga)	DOC	250 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	South Coromandel
Orokawa Scenic Reserve	DOC	40 ha	Scenic reserve status Iwi PSGE to be appointed as administering for the new reserve	North of Waihi Beach
Ahūahu Great Mercury Island Landing Reserve <i>Joint with Ngāti Hei, Ngāti Maru, Ngāti Porou ki Hauraki, Ngāti Tamaterā, Ngāti Whanaunga</i>	DOC	0.814 ha	Mechanism for protection of conservation values to be determined	Great Mercury Island
Crown Hill Road, Karangahake	LINZ	0.8094 ha	To be determined following disclosure.	Just north of the junction of the Ohinemuri and Waitawheta Rivers about 5km south of Paeroa
Cnr County Road/Crown Hill Road, Karangahake	LINZ	0.0799 ha	To be determined following disclosure	Just north of the junction of the Ohinemuri and Waitawheta Rivers about 5km south of Paeroa
Tanners Point, Athenree - 25% interest <i>Joint with Ngāi Te Rangi and</i>	OTS landbank	0.1961 ha	As identified in the disclosures supplied for this property	Northern part of Tauranga Harbour – just south of Athenree

Ngāti Tara Tokanui				
69 Broadway, Waihi Beach - 25% interest <i>Joint with Ngāi Te Rangi and Ngāti Tara Tokanui</i>	OTS landbank	0.0587 ha	As identified in the disclosures supplied for this property	Waihi Beach
Potential transfers subject to confirmation of availability and necessary approvals				
Site	Held by	Size of property	Encumbrances	
Tararu Conservation Area <i>Subject to further discussion with Ngāti Maru</i>	DOC	50 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Just north of Thames
Karaka Conservation Area <i>Subject to further discussion with Ngāti Maru</i>	DOC	50 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Auckland?
Patetonga Conservation Area (Spreeuwenberg Lease)	DOC	71.3 ha	Mechanism for protection of conservation values to be determined	Hauraki Plains South of Ngatea
Patetonga Conservation Area (Williams Lease)	DOC	50.8 ha	Mechanism for protection of conservation values to be determined	Hauraki Plains South of Ngatea
Patiki Place Recreation Reserve, Whangamata	TCDC	0.5030 ha	To be determined	Whangamata
Waiponga Recreation Reserve, Opoutere	TCDC	0.8930 ha	To be determined	South Coromandel north of Whangamata

Vest and vest back			
Site	Held By	Area	Location
<p>The Kopuatai Wetland Area comprised of Torehape Wetland Management Reserve; Kopuatai Wetland Management Reserve; and Flax Block Wildlife Management Reserve</p> <p><i>Joint with Ngāti Maru and possibly other iwi subject to further discussion with Ngāti Maru</i></p>	DOC	To be confirmed, area retained in Crown ownership only	Lies between the Piako and Waihou rivers on the Hauraki Plains
Overlay Classification			
Site	Held By	Area	Location
<p>The Kopuatai Wetland Area comprised of Torehape Wetland Management Reserve; Kopuatai Wetland Management Reserve; and Flax Block Wildlife Management Reserve</p> <p><i>Joint with Ngāti Maru and possibly other iwi subject to further discussion with Ngāti Maru</i></p>	DOC	To be confirmed, area retained in Crown ownership only	Lies between the Piako and Waihou rivers on the Hauraki Plains
Statutory Acknowledgements			
Site	Area		Location

Wairongomai, Kaimai Mamaku Conservation Park	250 ha	West of Te Aroha in Kaimai Mamaku Conservation Park – Waikato side
Ngatamahinerua, Kaimai Mamaku Conservation Park	To be confirmed	South of Te Aroha in Kaimai Mamaku Conservation Park – Waikato side
Wairere Falls Scenic Reserve	To be confirmed	South of Te Aroha in Kaimai Mamaku Conservation Park – Waikato side
Wairakau Scenic Reserve	128.2264 ha	South-east of Te Aroha in Kaimai Mamaku Conservation Park – Waikato side
Mueller St, Conservation Area, Waihi	To be confirmed	Waihi
Waimama Recreation Reserve, Whiritoa Bay	To be confirmed	On east coast between Whangamata and Waihi
Ohinemuri River	To be confirmed	Source west of Waihi and flows northward through the Hauraki plains until it joins the Waihou River north-west of Paeroa
Uretara Stream	To be confirmed	Source in Katikati and flows north into an inlet on the north-east side of the Tauranga Harbour
Crown-owned land in the Mercury Islands group	To be confirmed	Mercury Islands
Coastal bush along the coast of the Bay of Plenty	To be confirmed	

Statements of Association	Location
Tāmaki Makaurau	Auckland
Piako River, including Waitoa River.	Source in south Hauraki/northern Waikato and flows into the Firth of Thames
Statement of association for Te Aroha maunga and Moehau maunga, if desired.	West of Te Aroha
Other statements of association to be determined	N/A

COMMERCIAL REDRESS		
Site	Terms	Location
Ministry of Education school site Sale and leaseback (land only) of one school site on settlement date - Waihi Beach Primary School being investigated	Subject to confirmation the land is available for sale and leaseback Agreement to MoE sale and leaseback conditions	Waihi Beach
Landbank Properties Purchase of Hauraki landbank properties as agreed with the Hauraki Collective	Settlement date transfer or within 60 days via the Hauraki Collective PSGE	N/A
Other Pouarua Peat Block	One year deferred selection, with further details to be explored	Hauraki Plains west of Ngatea

Crown redress offer for Ngāti Tamaterā

HISTORICAL ACCOUNT/CROWN ACKNOWLEDGEMENTS/APOLOGY				
Ngāti Tamaterā specific historical account, Crown acknowledgements, and Crown apology				
CULTURAL REDRESS				
Transfers				
Site	Held by	Size of property	Encumbrances ^{1,2,3,4}	Location
Moehau Region				
Part of Coromandel Forest Park (Moehau maunga) outside Collective vesting area	DOC	10 ha <i>Exact location to be determined</i>	Reserve status to be determined and subject to Hauraki Collective co-governance arrangements	North Coromandel
Part of Fantail Bay Recreation Reserve	DOC	10 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks	East of Thames, south coromandel

¹ All vestings subject to any existing third party interests, which are still to be confirmed through disclosure

² Crown still to confirm approach to continued inclusion of sites within the Hauraki Gulf Marine Park

³ Where land adjoins a waterway, and is not remaining as a reserve, Part 4A of the Conservation Act regarding the reservation of marginal strips will apply.

⁴ Crown still to propose approach to any ongoing DOC management of transfer sites, in particular for pest control

			Possible provisions for ongoing DOC management activities such as pest control	
Part of Fletcher Bay Recreation Reserve	DOC	30 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control	North Coromandel
Part of Stony Bay and/or Sandy Bay Recreation Reserves	DOC	At least 155 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control	North Coromandel
Part of Waikawau Bay Farm Park Recreation Reserve	DOC	5 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management	Coromandel

			activities such as pest control	
Ahiraui Scenic Reserve	DOC	6.68 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve	North Coromandel
Papa Aroha Scenic Reserve	DOC	27.9 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve	North Coromandel
Great Mercury Island Landing Reserve <i>Joint with Ngāti Hako, Ngāti Hei, Ngāti Maru, Ngāti Porou ki Hauraki, Ngāti Whanaunga</i>	DOC	0.814 ha	Mechanism for protection of conservation values to be determined.	Great Mercury Island
Waikawau Region				Location
Waikawau Boat Ramp site	DOC, LINZ, TCDC	Approx 3 ha	As per OTS letter of 11 July 2013	North Coromandel
Te Puru Scenic Reserve	DOC	Up to 40.95 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve	Coromandel north of Thames
Ohinemuri region				Location
Part of Orokawa Scenic Reserve	DOC	Approx 121 ha (northern parcel) <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve	North of Waihi Beach

Part of Coromandel Forest Park (Mackaytown area) Sec 76 Blk XII Ohinemuri SD	DOC	Up to 242.81 ha <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve	Coromandel
Part of Kaimai Mamaku Conservation Park Sec 2 Blk VII Aroha SD	DOC	Up to 145.28 ha <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve	Near Te Aroha?
Te Puna - Katikati				Location
Te Kauri Point Historic Reserve <i>Joint with Ngāi Te Rangī</i>	Crown land managed by Western Bay of Plenty District Council	Approx: 17 ha	Historic reserve status Co-governance with Western Bay of Plenty District Council	North of Katikati, northern Tauranga Harbour
Part of Kaimai Mamaku Conservation Park (in relation to Ngā Tukituki a Hikawera and Tangitu) <i>Joint with Ngāti Maru and Ngāti Rahiri Tumutumu</i>	DOC	15 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Kaimai Mamaku Conservation Park
Part of Kaimai Mamaku Conservation Park (in relation to Pukewhakataratara (20ha), Takaihuehue (2ha), and Paewai (2ha)) <i>Joint with Ngāti Maru</i>	DOC	24 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Kaimai Mamaku Conservation Park
Part of Waipapa River Scenic Reserve (in relation to Tiroa)	DOC	2 ha <i>Exact location to be</i>	Scenic Reserve status Administering body to be	Waipapa River flows generally north from its origins in Kaimai Mamaku

<i>Joint with Ngāti Maru</i>		<i>determined</i>	appointed with representatives from both iwi PSGEs	Forest Park to reach Tauranga Harbour 12 kilometres (7 mi) west of Tauranga.
Potential transfers subject to confirmation of availability and necessary approvals				
Site	Held by	Size of property	Encumbrances	Location
A site on Aotea	TBC	TBC	TBC	Great Barrier Island
13 Port Charles Road	LINZ	TBC	TBC	Coromandel
Hauraki maunga of importance to Ngāti Tamaterā not otherwise covered by a vesting	DOC	TBC	TBC	N/A
Waikawau region				
Reserves administered by the Thames Coromandel District Council along the Thames Coast	Crown administered by Thames Coromandel District Council	TBC	TBC	Coromandel
Overlay Classification				
Site	Held By		Area	
Repanga (Cuvier) Island Nature Reserve <i>Joint with Ngāti Hei, Ngāti Maru and Ngāti Tamaterā</i>	DOC		171 ha	Cuvier Island north of Great Mercury Island
Statutory Acknowledgements				

Site	Area	
Ohinemuri River (subject to meeting Crown requirements)	N/A	Source west of Waihi and flows northward through the Hauraki plains until it joins the Waihou River north-west of Paeroa
Waikawau Bay Farm Park Recreation Reserve (Crown-owned land)	TBC	North Coromandel
Statutory acknowledgement over Crown owned land in the Mercury Islands group	TBC	Mercury Islands
A coastal marine statutory acknowledgement for Tikapa Moana (as part of the Marūtūāhu Collective) with a specific statement of association for Ngāti Tamaterā that could include, for example, reference to the significance for Ngāti Tamaterā of Motukaraka, Te Papa o Tamaterā, the coastline of Te Naupata, Horohora, Ngā Kuri a Whareī, and the pouraka at Waioro, Otautu, Pohaua (Te Whau Point)	N/A	Hauraki Gulf
Other areas to be determined (both Hauraki and Tāmaki Makaurau)	TBC	N/A
Statements of Association		
Statements of association regarding: <ul style="list-style-type: none"> the significance of Ngā Turehu o Moehau (native frogs at Moehau) to Ngāti Tamaterā; the association of Ngāti Tamaterā with Te Aputa; the significance of puna in Waioro, Paeroa and other places to Ngāti Tamaterā. 		Coromandel Thames Coromandel
Other:		
Moehau maunga Recognition of Ngāti Tamaterā's particular interests in relation to the western face (to Waioro) - mechanism to be determined		Coromandel

COMMERCIAL REDRESS		
Property	Terms	Location
Ministry of Education school site Sale and leaseback of a school site (land only) on a DSP basis - Te Puru School is being investigated	Subject to confirmation that the land is available for sale and leaseback Agreement to the leaseback Agreement to the DSP term	Coromandel
OTS Landbank Properties Purchase of Hauraki landbank properties as agreed with the Hauraki Collective and proposed by Crown where agreement not reached	Settlement date transfer or within 60 days via the Hauraki Collective PSGE	N/A
Whenuakite Farm 15% proportion for Ngāti Tamaterā - <i>subject to discussion with Ngāti Hei</i>	Settlement date transfer	Coromandel
Balance of Sandy Bay, Stony Bay and Fantail Bay Recreation Reserves Available to Ngāti Tamaterā as commercial redress	Reserve status to be determined and protection of any third party interests	Coromandel

Pouarua peat block (Landcorp) Second option to purchase, if available <i>Joint with Ngāti Maru</i>	Subject to confirmation this redress is available	Hauraki Plains west of Ngatea
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Crown redress offer for Ngāti Tara Tokanui

HISTORICAL ACCOUNT/CROWN ACKNOWLEDGEMENTS/APOLOGY				
Ngāti Tara Tokanui specific historical account, Crown acknowledgements, and Crown apology				
CULTURAL REDRESS				
Transfers				
Site	Held by	Size of property	Encumbrances ^{1,2,3,4}	Location
Part of Orokawa Scenic Reserve	DOC	60 ha (approx)	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve	East coast north of Waihi Beach
Mackaytown Recreation Reserve	DOC	2.96 ha	Recreation reserve status Iwi PSGE to be appointed as administering body for the reserve	SH2 south of Paeroa
Part of Coromandel State Forest Park (Mimitu Pā)	DOC	180 ha	Mechanism for protection of conservation values to be determined	Coromandel
Karangahake Scenic Reserve	DOC	10.3 ha	Scenic reserve status	Just north of the junction of the

¹ All vestings subject to any existing third party interests, which are still to be confirmed through disclosure

² Crown still to confirm approach to continued inclusion of sites within the Hauraki Gulf Marine Park

³ Where land adjoins a waterway, and is not remaining as a reserve, Part 4A of the Conservation Act regarding the reservation of marginal strips will apply.

⁴ Crown still to propose approach to any ongoing DOC management of transfer sites, in particular for pest control

			Iwi PSGE to be appointed as administering body for the reserve	Ohinemuri and Waitawheta Rivers about 5km south of Paeroa
Dearle Street Conservation Area, Paeroa	DOC	0.234 ha	Unencumbered	Paeroa
Rawaka Drive, Katikati – <i>joint with Ngāi Te Rangī</i>	OTS landbank	0.2676 ha	As identified in the disclosures supplied for this property	Katikati
Tanners Point, Athenree – <i>joint with Ngāi Te Rangī and Ngāti Hako</i>	OTS landbank	0.1961 ha	As identified in the disclosures supplied for this property	Northern part of Tauranga Harbour – just south of Athenree
69 Broadway, Waihi Beach – <i>joint with Ngāi Te Rangī and Ngāti Hako</i>	OTS landbank	0.0587 ha	As identified in the disclosures supplied for this property	Waihi Beach
Sub Station Lane (Cnr Battery Lane), Waikino	OTS landbank	0.2023 ha	As identified in the disclosures supplied for this property	SH2 between Paeroa and Waihi
6 Albert Street, Mackaytown	OTS landbank	0.0883 ha	As identified in the disclosures supplied for this property	SH2 south of Paeroa
Potential transfers subject to confirmation of availability and necessary approvals				
Site	Held by	Size of property	Encumbrances	
Ngātiwai Reserve (Motukehu) Waihi	Hauraki District Council	53.8152 ha	Recreation reserve status Administration responsibility to be determined	Waihi
Overlay classifications				
Site			Area	

Karangahake Scenic Reserve (DOC)	Balance of site not transferred	Just north of the junction of the Ohinemuri and Waitawheta Rivers about 5km south of Paeroa
Statutory Acknowledgements		
Site	Area	
Karangahake Rail Trail Reserve	11.205 ha	Just north of the junction of the Ohinemuri and Waitawheta Rivers about 5km south of Paeroa
Victoria Battery Historic Reserve	10.225 ha	SH2 between Paeroa and Waihi
Karangahake Walkway Conservation Area	16.293 ha	Just north of the junction of the Ohinemuri and Waitawheta Rivers about 5km south of Paeroa
Owharoa Falls Scenic Reserve	3.32 ha	SH2 between Paeroa and Waihi
Waikino Conservation Area	31.452 ha	SH2 between Paeroa and Waihi
Waiorongomai, Kaimai Marnaku Forest Park	250 ha	South east of Te Aroha
Potential statutory acknowledgements subject to confirmation of availability and necessary approvals		
Part of Orokawa Scenic Reserve		East coast north of Waihi Beach

Ohinemuri River	Source west of Waihi and flows northward through the Hauraki plains until it joins the Waikou River north-west of Paeroa
Uretara Stream	Source in Katikati and flows north into an inlet on the north-east side of the Tauranga Harbour
Statements of Association	
Statement of association for Te Aroha maunga and Moehau maunga if desired	Te Aroha

COMMERCIAL REDRESS		
Property	Terms	Location
Ministry of Education school site Sale and leaseback of a school site (land only) on a DSP basis - Paeroa College being investigated	Subject to confirmation the land is available for sale and leaseback Agreement to the leaseback Agreement to the DSP term	Paeroa
Landbank Properties Purchase of Hauraki landbank properties as agreed with the Hauraki Collective and proposed by Crown where agreement not reached	Settlement date transfer or within 60 days via the Hauraki Collective	N/A

Crown redress offer for Ngāti Maru

HISTORICAL ACCOUNT/CROWN ACKNOWLEDGEMENTS/APOLOGY				
Ngāti Maru specific historical account, Crown acknowledgements, and Crown apology				
CULTURAL REDRESS				
Transfers				
Site	Held by	Size of property	Encumbrances ^{1,2,3,4}	Location
Part of Te Matuku Bay Scenic Reserve	DOC	1-2 ha <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve	Waiheke Island
Part of Port Jackson Recreation Reserve	DOC	100 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control	Top of Coromandel Peninsula

¹ All vestings subject to any existing third party interests, which are still to be confirmed through disclosure

² Crown still to confirm approach to continued inclusion of sites within the Hauraki Gulf Marine Park

³ Where land adjoins a waterway, and is not remaining as a reserve, Part 4A of the Conservation Act regarding the reservation of marginal strips will apply.

⁴ Crown still to propose approach to any ongoing DOC management of transfer sites, in particular for pest control

Part of Fletcher Bay Recreation Reserve	DOC	30 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control	Top of Coromandel Peninsula
Part of Coromandel Forest Park – Mahaia area	DOC	Approx 110 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Coromandel
Part of Tararu Conservation Area	DOC	150 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	North of Thames
Thornton's Bay Scenic Reserve	DOC	43.89 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve	North of Thames
Kauaeranga River Mouth Conservation Area	DOC	0.87 ha	Unencumbered except for existing lease to Thames Boat Club Marginal strip provisions apply	Thames / south Coromandel
Part of Opoutere Beach Recreation Reserve	DOC	10 ha <i>Exact location to be determined</i>	Recreation reserve status Iwi PSGE to be appointed as administering body for the new reserve	East coast of south Coromandel

Part of Pauanui Conservation Area	DOC	150 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Coromandel
105 Isabel Street, Whangamata <i>Joint with Ngāti Hako, Ngāti Tamaterā, and Ngāti Whanaunga (offer for these iwi is commercial redress)</i> OR Additional hectares at an alternative site (new site or increase to an existing site) OR Cultural revitalisation funding	OTS landbank	0.0607 ha	As identified in the disclosures supplied for this property	Whangamata
Part of Coromandel Forest Park – Areas around Omahu, Hikutaia and Kauaeranga	DOC	200 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Coromandel
Part of Kaimai Mamaku Conservation Park (in relation to Ngā Tukituki a Hikawera and Tangitu) <i>Joint with Ngāti Tamaterā and Ngāti Rahiri Tumutumu</i>	DOC	15 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Kaimai Mamaku Conservation Park

Part of Kaimai Mamaku Conservation Park (in relation to Pukewhakaratarata (20ha), Takaihuehue (2ha), and Paewai (2ha)) <i>Joint with Ngāti Tamatera</i>	DOC	24 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined	Kaimai Mamaku Conservation Park
Part of Waipapa River Scenic Reserve (in relation to Tiroa) <i>Joint with Ngāti Tamatera</i>	DOC	2 ha <i>Exact location to be determined</i>	Scenic Reserve status Administering body to be appointed with representatives from both iwi PSGEs	Waipapa River flows generally north from its origins in Kaimai Mamaku Forest Park to reach Tauranga Harbour 12 kilometres (7 mi) west of Tauranga.
Great Mercury Island Landing Reserve <i>Joint with Ngāti Hako, Ngāti Hei, Ngāti Porou ki Hauraki, Ngāti Tamatera, Ngāti Whanaunga</i>	DOC	0.814 ha	Mechanism for protection of conservation values to be determined	Great Mercury Island
One of the following:				
Puriri Scenic Reserve	DOC	141.2 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve	Within Clevedon Scenic Reserve, Clevedon north of the Hunua Ranges
Patetonga Lake Wildlife Management Reserve. (Wenn Lease and part Troughton Lease)	DOC	Approx 15.46 ha	Mechanism for protection of conservation values to be determined	Patetonga, south Hauraki plains
Kitahi Conservation Area	DOC	188.26 ha	Mechanism for protection of	South Coromandel

			conservation values to be determined	
Potential transfers subject to confirmation of availability and necessary approvals				
Site	Held by	Size of property	Encumbrances	Location
A site on Aotea	TBC	TBC	TBC	Great Barrier Island
Part of Matahuru Scenic Reserve or Mangapiko Valley Scenic Reserve (subject to substitution of hectares from another vesting)	DOC	10 ha <i>Exact location to be determined.</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve	Between Te Kauwhata and Patetonga, north Waikato
Hauraki maunga of importance to Ngāti Maru not otherwise covered by a vesting	DOC	TBC	TBC	N/A

Vest and vest back			
Site	Held By	Area	Location
The Kopuatai Wetland Area comprised of Torehape Wetland Management Reserve; Kopuatai Wetland Management Reserve; and Flax Block Wildlife Management Reserve (area retained in Crown ownership only). <i>Joint with Ngāti Hako and possibly other iwi subject to discussion with</i>	DOC	TBC	Lies between the Piako and Waihou rivers on the Hauraki Plains

Ngāti Hako			
Overlay Classification			
Site	Held By	Area	
The Kopuatai Wetland Area comprised of Torehape Wetland Management Reserve; Kopuatai Wetland Management Reserve; and Flax Block Wildlife Management Reserve (area retained in Crown ownership only) <i>Joint with Ngāti Hako and possibly other iwi subject to discussion with Ngāti Hako</i>	DOC	TBC	Lies between the Piako and Waihou rivers on the Hauraki Plains
Repanga (Cuvier) Island Nature Reserve <i>Joint with Ngāti Hei, Ngāti Tamaterā and Ngāti Whanaunga</i>	DOC	171ha	Cuvier Island north of Great Mercury Island
Statutory Acknowledgements			
Statutory acknowledgement over Crown owned land in the Mercury Islands group			Mercury Islands
Coastal marine statutory acknowledgement for Tikapa Moana (as part of the Marutūāhu Collective) with a specific statement of association for Ngāti Whanaunga			Hauraki Gulf
Others to be determined, but to include consideration for Crown land in Mount Saint John area			Auckland

Other**1877 Rates Agreement**

Facilitated agreement with Thames Coromandel District Council in relation to the 1877 Rates Agreement

COMMERCIAL REDRESS		
Property	Terms	Location
Ministry of Education school sites One school site for sale and leaseback (land only) on a DSP basis specifically for Ngāti Maru - Danby Field being investigated Joint sale and leaseback (land only) on a DSP basis of Manaia School with Ngāti Pukenga and Ngāti Whanaunga	Subject to confirmation the land is available for sale and leaseback Agreement to the leaseback Agreement to the DSP term	Thames North Coromandel
OTS Landbank Properties Purchase of Hauraki landbank properties as agreed with the Hauraki Collective	Settlement date transfer or within 60 days via the Hauraki Collective PSGE	N/A
Kiwirail Land, Thames Ngāti Maru office site and adjoining railway corridor to the Waihou River	Subject to confirmation the land is available for redress, necessary approvals and protection of any third party interests as required	Thames
LINZ "hardstand" area, Thames	Subject to protection of any third party interests as required	Thames

<p>NZTA land</p> <p>Land held for roading purposes below Totara Pā and in the vicinity of Kopu/Matai Whetu</p>	<p>Subject to confirmation the land is available for redress, necessary approvals and protection of any third party interests as required</p>	<p>Just south of Thames</p>
<p>Balance of Port Jackson Recreation Reserve</p> <p>Available to Ngāti Maru as commercial redress</p>	<p>Reserve status to be determined and protection of any third party interests</p>	<p>North Coromandel</p>
<p>Pouārua peat block (Landcorp)</p> <p>Second option to purchase, if available</p> <p><i>Joint with Ngāti Tamatera</i></p>	<p>Subject to confirmation this redress is available</p>	<p>Hauraki Plains west of Ngatea</p>



PART OF THE MINISTRY OF JUSTICE

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4 October 2013

Charlie Tawhiao and Mita Ririnui
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Tēnā kōrua

Hauraki Iwi Treaty Settlements

The Crown and Iwi of Hauraki are entering into the final stage of negotiations for the comprehensive settlement of the historical Treaty of Waitangi claims of Hauraki Iwi.

Ngāi Te Rangi is likely to have interests within areas where redress is proposed for Hauraki Iwi. The purpose of this letter is to advise you of the process to resolve any overlapping interests before the Crown and Hauraki Iwi initial deeds of settlement. Relevant Iwi specific redress for Hauraki Iwi will be provided to you for comment next week.

This letter also seeks your feedback on the proposed redress package for the Hauraki Collective as set out in the Framework Agreement and Agreement in Principle Equivalents, signed in 2010 and 2011. These documents are publicly available and can be found on the Office of Treaty Settlements (OTS) website at www.ots.govt.nz.

The proposed timetable to resolve all overlapping claims prior to initialling deeds of settlement is attached as **Appendix 1**.

The agreements reached between Ngāi Te Rangi and Hauraki Iwi as part of your recent agreement in principle and deed of settlement negotiations will be relevant to the Crown's considerations on overlapping claims matters.

Feedback on proposed redress

The Crown's preference is for Iwi to directly engage and reach agreement on any concerns regarding the proposed redress for Hauraki Iwi. The Hauraki Collective and, where relevant, individual Hauraki Iwi will be seeking to engage with you directly on the proposed redress packages to resolve any issues. You may also wish to take steps yourselves to approach those Iwi.

Next Steps

If you have any questions concerning the overlapping claims process you are welcome to contact Kelly Mackle on (04) 918 8634 or kelly.mackle@justice.govt.nz.

Nāku noa, nā



Adam Levy
Negotiation and Settlement Manager
Office of Treaty Settlements

cc: Paul Majurey, Chairman, Hauraki Collective & Marutūāhu Collective
(paul.majurey@ahjmlaw.com),
Michael Dreaver, Chief Crown Negotiator (mike@thepolicyshop.org.nz)

Appendix 1: Timeframes for engaging with iwi on Hauraki redress packages

	Key Steps	Date
1	Office of Treaty Settlements writes to iwi outlining the overlapping claims process	4 October 2013
2	Office of Treaty Settlements writes to iwi disclosing the proposed redress package for individual Hauraki iwi	9 October 2013
3	iwi to provide feedback and/or advise of any agreements reached with Hauraki iwi	18 October 2013
4	Office of Treaty Settlements assessment of submissions and report to the Minister seeking a preliminary decision on any unresolved overlapping claims	19 October -- 28 October 2013
5	Minister to advise iwi of preliminary decisions, and if required, the Chief Crown Negotiator or OTS officials will meet with overlapping iwi	29 October 2013
6	Responses from affected iwi on Minister's decision	5 November 2013
7	Report to Minister on final decisions	6 November -- 18 November 2013
8	Minister releases final decisions on overlapping claims on Hauraki redress packages	19 November 2013
9	Hauraki iwi initial deeds of settlement	Early 2014

Please note: Office of Treaty Settlements officials are available to meet at any time to discuss the overlapping claims process.

Kia ora koutou

I am writing to you TMIC and Hauraki together to outline where we have got to on working through the overarching language and potential drafting to address Hauraki iwi's overlapping claims in the Tauranga Moana within the Tauranga Moana Framework.

Current status of overlapping claims discussion

As you all know in 2012, the Waitangi Tribunal sought the assurances of the Crown and TMIC that we would not prejudice any interests of Hauraki in those areas - that undertaking was that *'we will not prevent iwi of Hauraki and the Crown from negotiating any-less favourable co-governance arrangements in areas in which iwi of Hauraki have spiritual, cultural, ancestral, customary and historical interests. This includes part of the Tauranga Moana catchment.'*

In trying to reach a position fair to both parties and consistent with our undertaking to the Waitangi Tribunal, OTS has put forward our suggested way to consider Hauraki's relationship with the Tauranga Moana Framework:

The Hauraki Iwi Authority shall have the right to be informed of, participate in and make decisions in respect of, activities that affect the agreed area of customary interest consistent with the purpose of the Tauranga Moana Governance Group.

On Wednesday, 16 July TMIC provided us with a draft position on what they see this means in practice within the framework, in particular the key activities that Hauraki iwi would have the right to be informed of, participate in and make decisions in respect of. OTS then turned the TMIC draft into a Terms Sheet - a document that the Hauraki negotiations use to advance their natural resource discussions.

Today Paul Majurey considered the Terms Sheet. **The Terms Sheet document attached provides TMIC's draft position**, Paul's track changes (in purple) and OTS's review comments and questions (in green). To be totally transparent to all of you, I have provided this document for your review. When you take a look at it, the difference is very clear between TMIC and Hauraki's position. In short, TMIC seeks to work jointly with the Hauraki Iwi Authority and provides Hauraki with the right to participate in the activities of the Tauranga Moana Governance Group. Hauraki seeks membership on the Tauranga Moana Governance Group. While the gap between the positions looks wide, there are many things that TMIC and Hauraki do agree on - there is little debate on the functions that Hauraki Iwi Authority can participate in, the difference largely comes on the form the participation will take. We have provided comments and questions to see if we can work out the extent of the difference between you both.

As you know the Crown would prefer an agreed solution between the parties, and to that end, we invite TMIC and Hauraki representatives to a **teleconference on Tuesday 22 July at a time to be confirmed between 1-3pm**. I apologise for the short notice but I know you all appreciate that the need for this conversation to happen sooner rather than later. Can you please indicate your availability as soon as possible? We realise that if an agreed way forward can't be found, there will be some hard decisions on next steps and these will need to be made shortly.

I know you all are making mammoth efforts to resolve outstanding matters in your respective settlements but we all know that delaying this discussion for another day just puts off the inevitable tough calls or practical compromises. Looking forward to hearing from you.

Nga mihi

Sue

<image002.jpg>

Sue van Daatselaar
Office of Treaty Settlements

Deputy Director Negotiations

Cell: 027 702 9505 | DDI: +64 4 918 8565 | Ext 58565

www.justice.govt.nz

This email has been filtered by SMX. For more information visit smxemail.com

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Maru Samuels

m: (021) 723 588

e: maru@waihira.co.nz



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 JUL 2014

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MT MAUNGANUI
SOUTH 3149

Tēnā koutou

Tauranga Moana Framework

This letter provides you with my preliminary decision on an option for recognising the interests of Hauraki iwi in the Tauranga Moana Framework (TMF).

My preliminary decision comes after an intensive period of engagement between the Crown, the Hauraki Collective and the Tauranga Moana Iwi Collective on options for the recognition of Hauraki iwi within the Tauranga Moana Framework (TMF). Thank you for your efforts towards reaching agreement.

In coming to this decision I have identified an option which I consider:

- provides appropriate recognition for the interests of Hauraki iwi in Tauranga Moana;
- has the potential to be acceptable to both the Tauranga Moana Iwi Collective and the Hauraki Collective;
- is consistent with the joint-undertaking the Crown and the Hauraki Collective made to the Waitangi Tribunal in October 2012; and
- is supported by local authorities and relevant Crown agencies.

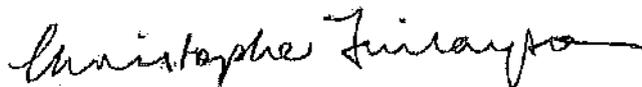
Having balanced these considerations, my preliminary decision is to include an additional iwi seat within the Tauranga Moana Governance Group (the TMGG) to represent the interests of overlapping claimants, including but potentially not limited to Hauraki iwi. Hauraki iwi would be able to use this seat when the TMGG considered matters relating to the area in which Hauraki iwi share interests with the three Tauranga iwi. In line with the findings of the Waitangi Tribunal in its Tauranga district inquiry, this would be limited to in parts of the Katikati and Te Puna blocks, at the northwestern end of Tauranga Moana.

This seat may need to accommodate the interests of other iwi with interests in the Tauranga Moana catchment, in addition to Hauraki iwi, once these interests are agreed through their respective settlement packages.

To maintain the balance of representation on the TMGG between iwi and the Crown/local authorities an additional seat will also be created for the local authorities/the Crown, as agreed by Cabinet.

If you have concerns about my preliminary decision, I would appreciate your feedback by 12 noon, Monday 4 August. I will make my final decision and advise all parties by Wednesday 6 August.

Nāku noa, nā



Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

CC: Paul Majurey, Chairman, Hauraki Collective



Office of Hon Christopher Finlayson

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

11 AUG 2014

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MT MAUNGANUI SOUTH
3149

c/o Areta Gray
aretagrav@yahoo.co.nz

Tēnā koutou

Tauranga Moana Framework

I have reached a final decision on the question of how to recognise the interests of overlapping claimants in the Tauranga Moana Framework (TMF). This letter provides you with my final decision on this issue.

On 30 July I communicated to you my preliminary decision to add a fifth iwi seat to the Tauranga Moana Governance Group (TMGG) – with a corresponding fifth seat for local authorities/the Crown – to provide for the participation of iwi with recognised interests in the Tauranga Moana catchment. I am yet to receive a formal response to my preliminary decision from the Tauranga Moana Iwi Collective (TMIC) or the Hauraki Collective although both collectives have provided feedback directly to my Chief Crown Negotiators and to the Office of Treaty Settlements.

In line with my preliminary decision, I remain of the view that providing the additional seat is the best available option for reaching durable settlements with Ngāi Te Rangī, Ngāti Pūkenga and Ngāti Ranginui while preserving the ability of the Crown to provide appropriate Treaty settlement redress to recognise the interests of Hauraki iwi, and potentially Ngāti Hinerangi, in the Tauranga Moana catchment.

I have concluded, after due consideration, the TMIC settlement cannot proceed without amending the TMF to provide an additional seat for other iwi with recognised interests in Tauranga Moana.

If you accept this decision, the extra seat would be created through the TMIC settlement. It would then be a matter of negotiation between the Crown and other affected iwi, including Hauraki iwi, to determine how the seat would operate in relation to their interests. The Crown will involve TMIC in the overlapping claims process in the normal manner.

1

I acknowledge the Crown will, similarly, need to provide for appropriate recognition for the interests of Tauranga Moana iwi in any redress over areas that extend beyond the Tauranga Moana catchment.

Thank you for your efforts in recent weeks seeking a resolution to this issue. I understand this has been challenging. I encourage you to accept my decision and continue working with my officials to complete the TMIC deed and your deeds to amend as soon as possible.

Nāku noa, nā



Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations



23 August 2014

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations
WELLINGTON 6160

By email only: c.finlayson@parliament.govt.nz

E te Minita, tēnā koe

Tauranga Moana Framework

We refer to your letters dated 31 July 2014, 11 August 2014 and 20 August 2014, and our letter to you dated 31 July 2014.

Further to these letters and our discussions with your Chief Crown Negotiator and officials, we confirm that we reluctantly accept your proposal to add a fifth iwi seat to the Tauranga Moana Governance Group (TMGG) with a corresponding fifth seat for local authorities/the Crown.

We note that we are accepting your proposal on the following basis:

1. No more seats will be added to the TMGG. Your letter of 20 August confirms that you do not consider any further seats will be needed. We accept your proposal on that understanding;
2. That the fifth iwi seat will only take effect if the Crown recognises that another iwi has interests in the Tauranga Moana catchment following an overlapping claims process, in which the Tauranga Moana iwi will be entitled to participate. If the fifth iwi seat does take effect, it will only be occupied when the TMGG considers matters relating to the area in which other iwi share interests with the three Tauranga iwi. As set out in your letter dated 31 July 2014, in relation to the Hauraki iwi this would be limited to parts of the Katikati and Te Puna blocks, at the north-western end of Tauranga Moana;
3. Your letter of 20 August indicates that the TMIC Deed will include wording that confirms the Crown's commitment to engage with us to provide appropriate recognition of our interests outside the Tauranga Moana catchment. Our acceptance of your proposal is on the basis that, should the Crown recognise the historical interests that Tauranga Moana iwi have in Te Tai Tamahine, the Crown will provide no less favourable redress to Tauranga Moana iwi as the Crown may provide to Hauraki iwi;
4. We further acknowledge your commitments, as set out in your 20 August letter, that the Crown will consider:
 - a. contributing to our costs associated with completing our settlements;
 - b. further payment for additional costs associated with the operation of the TMGG; and
 - c. paying the \$250,000 due to TMIC on account and directly to the three iwi post settlement entities in the agreed proportions:

Ngāti Pūkenga	15%
Ngāi Te Rangī	42.5%
Ngāti Ranginui	42.5%

We look forward to signing our respective individual Deeds to Amend and the TMIC Deed before the end of August 2014

Nā mātou



Charlie Tāwhiao
Chairperson
Te Rūnanga o Ngāi Te Rangi



Rehua Smaliman
Chairperson
Te Au Maarō o Ngāti Pūkenga

Te Plo Kawe
Chairperson
Ngā Hapū o Ngāti Ranginui Settlement Trust



Office of Hon Christopher Finlayson

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

Tab 20

11 AUG 2014

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c/o Areta Gray
aretagr@yaho.co.nz

Tēnā koutou

Tauranga Moana Framework

I have reached a final decision on the question of how to recognise the interests of overlapping claimants in the Tauranga Moana Framework (TMF). This letter provides you with my final decision on this issue.

On 30 July I communicated to you my preliminary decision to add a fifth iwi seat to the Tauranga Moana Governance Group (TMGG) – with a corresponding fifth seat for local authorities/the Crown – to provide for the participation of iwi with recognised interests in the Tauranga Moana catchment. I am yet to receive a formal response to my preliminary decision from the Tauranga Moana Iwi Collective (TMIC) or the Hauraki Collective although both collectives have provided feedback directly to my Chief Crown Negotiators and to the Office of Treaty Settlements.

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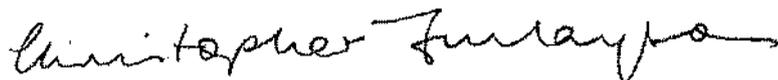
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I acknowledge the Crown will, similarly, need to provide for appropriate recognition for the interests of Tauranga Moana Iwi in any redress over areas that extend beyond the Tauranga Moana catchment.

Thank you for your efforts in recent weeks seeking a resolution to this issue. I understand this has been challenging. I encourage you to accept my decision and continue working with my officials to complete the TMIC deed and your deeds to amend as soon as possible.

Nāku noa, nā

A handwritten signature in black ink, reading "Christopher Finlayson". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations



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 JUL 2014

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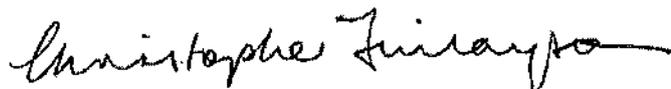
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To maintain the balance of representation on the TMGG between iwi and the Crown/local authorities an additional seat will also be created for the local authorities/the Crown, as agreed by Cabinet.

If you have concerns about my preliminary decision, I would appreciate your feedback by 12 noon, Monday 4 August. I will make my final decision and advise all parties by Wednesday 6 August.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Christopher Finlayson', written in a cursive style.

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

CC: Paul Majurey, Chairman, Hauraki Collective

Tatijana Simonlarsen

From: Willie Te Aho <willie.teaho@icsolutions.co.nz>
Sent: Saturday, 30 August 2014 9:44 a.m.
To: Riri Ellis; Charlie Tawhiao (Moana Radio); Colleen Te Arihi; 'Erica Rolleston (Islands)'; Jason Downs; Kalani Tarawa ; kataraina@ngaiteurangi.org.nz; Kia ora Group Ltd; 'Maru Samuels'; Maureen Ririnui; mita@hotmail.co.nz; Neil TeKani ; 'Nessie Kuka (Ngai Tuwhiwhia); Ngawa Hall; 'Pine McLeod (Ngati He'; Pio tauwhao; Puhirake Ihaka; reontuanau@hotmail.com; 'Spencer Webster'; 'Taiawa Kuka'; 'tony ferris'
Cc: Anthony Fisher; Huhana Rolleston; 'Maru Samuels'; Charlie Tawhiao (Moana Radio); Maureen Ririnui; Whiti McLeod; Wena Harawira; 'Turi Ngatai'; Kerewai Wanakore; 'Spencer Webster'; Brian Dickson
Subject: RE: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm
Attachments: 2014 08 29 TMIC Deed Drafting TMF OTS comments.docx; 2014 8 29 TMIC Deed LMS OTS comments.docx

Thanks Riri.

Kia ora koutou

Ngai Te Rangi had to outline our position (rather than wait for TMIC) on the Moana Framework given the approach of NHONRST and the information due with the Waitangi Tribunal next week. Ngati Pukenga supported this approach.

The current state of play is outlined in the e-mail from Lillian Anderson below. The final draft documents are attached – and the substance will not change.

I admire both Spencer's leadership and patience on attending to these matters with TMIC. I find it hard to be so polite in the face of such painful behaviour from our relations – so I leave internal TMIC to Spence and focus on keeping OTS on our side (as you'll see from the note from Lil). It is a good team approach. We will get there as despite all of the NHONRST antics – they want to settle as there is more in it for them to do so (for example Ngai Te Rangi has 80% of our cash.... And they have less than 1/3rd of theirs).

Nga mihi

Willie

From: Anderson, Lillian [mailto:Lillian.Anderson@justice.govt.nz]
Sent: Friday, 29 August 2014 5:56 p.m.
To: Willie Te Aho
Subject: RE: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm

Thanks mate.

From: Willie Te Aho [mailto:willie.teaho@icsolutions.co.nz]
Sent: Friday, 29 August 2014 4:04 p.m.
To: Anderson, Lillian
Subject: FW: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm
Importance: High

FYI. Background to Spencer's recent e-mail. w

From: Anderson, Lillian [mailto:Lillian.Anderson@justice.govt.nz]

Sent: Friday, 29 August 2014 5:01 p.m.

To: Spencer Webster; Wakely, Ben; van Daatselaar, Sue; Areta Gray; Kimiora Rawiri; Damian Stone; 'Charlie Tawhiao; Willie Te Aho; Te Pio Kawe; Rob Urwin; Kiritapu Allan; Rahera Ohia

Cc: Gough, Jason; Taylor, Benedict; Hooper, Ron; Roach, Janna; Patsy Reddy; Kelly, Kevin

Subject: Final draft TMIC Deed of Settlement extract and LMS

Tena koutou

I acknowledge firstly that timeframes today (and more generally) have been difficult for everyone, however I thank those that have been able to respond. Due to these timeframes, the final draft attached does not include the final view of Ngati Ranginui. However, if we are to proceed to signing as we all wish to, we needed to provide a final set of drafting to both TMIC and Hauraki by the close of play today that the Crown is confident meets the needs of all parties.

Attached you will find two documents with the final draft text track changed - (1) the relevant TMIC Deed of Settlement extract and (2) the Legislative Matters Schedule in it's entirety, however the relevant page and paragraph/clause numbers of the LMS are:

- 3.10.1 (page 14)
- 3.11.4 (page 15)
- 3.11.5 (page 16)
- 3.21.24 (page 24)
- 1.1 (Appendix, page 25)
- 10.3 (page 33)
- 10.6 (page 33)

On the basis that we are confident that this drafting walks the careful line between all parties views (including our own) and presents our best chance of achieving a signed Deed of Settlement, we ask that you review the documents and agree to proceed on this basis by **5.00pm on Monday, 1 September**. However if you have significant concerns with the drafting, please contact either myself, Sue or Patsy urgently (including over the weekend if that suits you). We are also sending the same final draft documents to Hauraki and applying the same timeframes.

As always, thank you all for your hard work, patience and flexibility. I know I said it before, but we are really close!

Kindest regards

Lil

From: Riri Ellis [mailto:riri.ellis@xtra.co.nz]

Sent: Saturday, 30 August 2014 12:16 a.m.

To: Charlie Tawhiao (Moana Radio); Colleen Te Arihi; 'Erica Rolleston (Islands)'; Jason Downs; Kalani Tarawa ; kataraina@ngaiterangi.org.nz; Kia ora Group Ltd; 'Maru Samuels'; Maureen Ririnui; mita@hotmail.co.nz; Neil TeKani ; 'Nessie Kuka (Ngai Tuwhiwhia); Ngawa Hall; 'Pine McLeod (Ngati He'); Pio tauwhao; Puhirake Ihaka; reontuanau@hotmail.com; 'Spencer Webster'; 'Taiawa Kuka'; 'tony ferris'; Willie Te Aho

Cc: Anthony Fisher; Huhana Rolleston; 'Maru Samuels'; Charlie Tawhiao (Moana Radio); Maureen Ririnui; Whiti McLeod; Wena Harawira; 'Turi Ngatai'; Kerewai Wanakore; 'Spencer Webster'; Willie Te Aho; Brian Dickson; riri.ellis@xtra.co.nz

Subject: FW: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm

Importance: High

Please see email enclosed, if I have missed anyone for NST, could this be forwarded.

Nga mihi
Riri

From: Willie Te Aho [<mailto:willie.teaho@icsolutions.co.nz>]

Sent: Friday, 29 August 2014 2:44 p.m.

To: Kimiora Rawiri; 'Spencer Webster'; 'Areta Gray'; 'Damian Stone'; 'Charlie Tawhiao'; 'Te Pio Kawe'; 'Rob Urwin'; 'Kiritapu Allan'; 'Raheera Ohia'

Cc: Riri Ellis (riri.ellis@xtra.co.nz)

Subject: RE: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm

Importance: High

[Riri – please copy our NRST trustees and Te Hononga. Thank you. W]

Kia ora Spence

I checked the changes at 9.50am and I did not have any issues.

I saw Kimiora's earlier note about not having the opportunity to comment on your draft e-mail and document. I did not agree. We all had ample time.

In respect to Kimiora's recent e-mail at 2.18pm (and I've just landed in Wellington) I did not know that the NHONRST legal advisers were out all day today.

I accept that given Kimiora's recent note, that there will not be a TMIC position. But given the timetable that we all knew about regarding the Tribunal, I think that it is important that Ngai Te Rangi outlines our position on the proposed changes. No position will leave a grey area that will be exploited by the Hauraki Iwi Collective.

I'm going to a meeting at 3pm but able to be contacted by phone if required.

Willie

From: Kimiora Rawiri [<mailto:kimirawiri@outlook.co.nz>]

Sent: Friday, 29 August 2014 2:18 p.m.

To: 'Spencer Webster'; 'Areta Gray'; 'Damian Stone'; 'Charlie Tawhiao'; Willie Te Aho; 'Te Pio Kawe'; 'Rob Urwin'; 'Kiritapu Allan'; 'Raheera Ohia'

Subject: RE: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm

Kia ora Spencer

Thanks for the heads up of your recent discussions with Crown officials.

Unfortunately the Crown's timeframes are untenable as is their position that *"This needs to be the final drafting from their point of view"*.

As indicated previously in the week our legal advisors are not available at all today, and myself, Te Pio & Rob are also unavailable. Hence the earliest that TMIC will be able to reconvene to consider the Crown's response (that is yet to be received) will be Monday next week.

Nga mihi
Kimi

From: Spencer Webster [<mailto:Spencer@kwlaw.co.nz>]

Sent: Friday, 29 August 2014 1:59 p.m.

To: Kimiora Rawiri; 'Areta Gray'; 'Damian Stone'; 'Charlie Tawhiao'; 'Wille Te Aho'; 'Te Pio Kawe'; 'Rob Urwin';

'Kiritapu Allan'; 'Raheera Ohia'

Subject: RE: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm

I just spoke with Patsy, Lil, Jason and someone else at OTS. They just rang to give a heads up on where they are at. They need to send the final drafting to Hauraki by 3pm so that memoranda can be filed with the Tribunal before 5pm. This needs to be the final drafting from their point of view.

They are sending a response to the email sent earlier with some proposed drafting. We need to convene urgently when it arrives to review it and make some final decisions on these matters. I have added in the likely approach in my earlier email below to give you a 'heads up'.

Spencer Webster
Director

KONING WEBSTER LAWYERS

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PO Box 11120, Papamoa 3151, New Zealand

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F 07 572 0220

M 021 499 215

Email: spencer@kwlaw.co.nz

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From: Kimiora Rawiri [<mailto:kimirawiri@outlook.co.nz>]

Sent: Friday, 29 August 2014 12:32 PM

To: Spencer Webster; 'Areta Gray'; 'Damian Stone'; 'Charlie Tawhiao'; 'Wille Te Aho'; 'Te Pio Kawe'; 'Rob Urwin'; 'Kiritapu Allan'; 'Raheera Ohia'

Subject: RE: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm

Kia ora Spencer

It's unfortunate that we didn't get an opportunity to comment on the draft documents prior to the email communication (below) being sent to the Crown. Whilst we support the comments noted below our recollection of the agreed changes pertaining to Para. 3.10.1 (Pg 14) & Para. 3.11.4 (Pg 15) and a minor amendment to Para. 10.4 (Pg 32) are set out in the attached LM Schedule.

Please forward this latest version to the Crown.

Nga mihi
Kimi

From: Spencer Webster [<mailto:Spencer@kwlaw.co.nz>]

Sent: Friday, 29 August 2014 12:19 p.m.

To: van Daatselaar, Sue; Areta Gray; Kimiora Rawiri; Damian Stone; 'Charlie Tawhiao'; Wille Te Aho; Te Pio Kawe; Rob Urwin; Kiritapu Allan; Raheera Ohia

Cc: Gough, Jason; Taylor, Benedict; Hooper, Ron; Wakely, Ben; Roach, Janna; Patsy Reddy; Kelly, Kevin; Anderson, Lillian

Subject: RE: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm

TMIC has considered the proposed amendments to the TMF drafting. We **attach** the drafts with the TMIC's proposed revisions. It is fair to say that the scope of issues and amendments is narrowing. Our comment on the changes/issues are as follows:

DOS drafting

1. Clause 1.1 – We cannot sign anything that provides an explicit or implicit agreement by TMIC that any other iwi has interests in Tauranga Moana and nor should we be required to. Accordingly, we have reflected that the Crown considers that the iwi have interests.

Crown agrees. They will also delete the statement that "It is acknowledged"

2. Clause 2.4 – The Minister's letter of 20 August 2014 states clearly that the TMGG composition will not be changed without the agreement of TMIC. Accordingly, we have added the both the consent of TMIC and the TMGG is required.

OTS advises that this is a difficult one for them. If they put it in then the Hinerangi urgency becomes an issue that may delay settlement. If we rely on the letter and the previous drafting then the prospect of delay caused by the Tribunal is mitigated.

3. Clause 3.3 – We have deleted the addition of "appropriate". The requirement to provide "relevant" information ought to be sufficient and it is not clear that stating the requirement as "appropriate relevant" achieves anything further.

They advised that Hauraki sought this so that we would only receive "appropriate" information and they could ensure confidentiality on sensitive cultural information. My view is that we leave it in then.

4. Clause 4 – TMIC prefers to retain the addition of historical interests. We are concerned that leaving it at "interests" could include interests of a non-customary or traditional tikanga based manner to be covered.

The Crown indicate that this is very problematic for the reasons stated yesterday. In any event, the Crown only recognises historical and customary interests in negotiations and the definition makes it clear that it is only through the settlement that interests can be recognised. The Crown does not recognise contemporary interests.

Legislative Matters Schedule

5. Clause 3.10 – See paragraph 7 below. The same principle applies here and the drafting should follow the same format as that agreed for 3.11.4.

The Crown raised the issue I noted earlier. They see this as different from 3.11.4 as it relates only to the dissemination of the annual report which all appointers should receive. My view is that this is not worth pursuing and is not inconsistent with our view on 3.11.4 which relates to participation in the review meeting not just receipt of a report.

6. Clause 3.10.1(e) – We have added the Minister for the Environment in this clause to cover off the issue identified by you.
7. Clause 3.11.4(a) – You have amended this so that all appointers can nominate a person to attend this meeting. In our view, the current drafting is inconsistent with the Minister's correspondence. If more than one iwi is recognised as having interests in Tauranga Moana, this will mean that their appointees can attend and participate in this meeting. The result is that there will not be equal representation between Iwi and the Crown. It will also effectively mean more than five seats at the table for this particular purpose and meeting. In our view, the participation should be confined to one further member for those iwi with recognised interests. Accordingly, (a) could refer to the appointers at 1.1.1-1.1.4. The previous sub-clause (d) should be retained or alternative wording proposed.

The Crown is going to propose additional drafting to record that in any event the equality of representation must be maintained which means there can be only five iwi representatives participating. They will then propose to adopt the drafting they provided yesterday for the other clauses.

Part 1

8. Clause 1.1.5 – Replace “the” with “a”.

Crown reiterated that this is very problematic in terms of the Hinerangi urgency. They say they need to maintain “the”. I’ll let them explain it in their email.

9. Clause 10.2 – We propose two drafting suggestions. First, the deletion of “or have an actual or potential effect on”. As discussed yesterday, this avoids using the RMA language altogether and “relate to” is sufficiently broad. Alternatively, delete “actual or potential”. The definition in section 3 of the RMA 1991 provides a definition to cover both of those.

The Crown proposes that we delete “actual or potential” and they insert a definition of “effect” which links back to the RMA for the purpose of this clause.

10. Definition of “recognised interests” – Note paragraph 4 above.

See above.

11. Clauses 10.4-10.5 – We prefer to retain clause 10.5 and the deleted wording in 10.4. Otherwise it will affect the definitions at 3.21.21-24 which is a significant point we have reiterated throughout these discussions. It also interferes with the exclusive redress applying to the Tauranga Moana Iwi under clause 3.17.6. The other iwi can achieve similar redress in their own deeds not through our deed.

Not discussed.

Spencer Webster
Director

KONING WEBSTER LAWYERS

Level 1, 34 Gravatt Road, Papamoa 3118
PO Box 11120, Papamoa 3151, New Zealand

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F 07 572 0220
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From: van Daatselaar, Sue [<mailto:Sue.vanDaatselaar@justice.govt.nz>]

Sent: Thursday, 28 August 2014 3:53 PM

To: Areta Gray; Spencer Webster; Kimiora Rawiri; Damian Stone; 'Charlie Tawhiao; Wille Te Aho; Te Pio Kawe; Rob Urwin; Kiritapu Allan; Rahera Ohia

Cc: Gough, Jason; Taylor, Benedict; Hooper, Ron; Wakely, Ben; Roach, Janna; Patsy Reddy; Kelly, Kevin; Anderson, Lillian

Subject: Revised TMF drafting from today - final track changes for review by Fri 29 August 1pm

Importance: High

Kia ora koutou

Thank you for your time today. As promised, here are the revised draft deed and LMS versions for your consideration. I know you all wish to progress your deeds so I respectfully ask if you can provide us with comments urgently - by **Friday 29 August 1pm**.

We've accepted most of your proposed changes (thank you Damian). The outstanding track changes are further suggestions that we think would result in agreement across all parties. As Patsy explained, the Crown considers that these proposed changes do not undermine the integrity of the Tauranga Moana Framework and what you are seeking to achieve.

As noted, I am on leave on Friday. Ben is the senior analyst who is working with me to complete this part of your deed. Ben will receive your comments and liaise with Jason, Patsy and Kevin to make final decisions on any outstanding matters. Please remember to cc Ben in when you reply. If you would like a further teleconference on Friday for a final discussion, Janna and Ben will arrange a time in the afternoon.

If you reply tomorrow, this means that we could have a final version of the Tauranga Moana Framework to you by Friday evening or Monday 1 September for your sign off. We are extremely close to completing this part of your collective deed.

Once the Crown and TMIC agree on the TMF drafting, this leaves us only the Muauo arrangements and the Athenree Forest matter outstanding to resolve early next week. I would like to brief the Minister on final matters by the middle of next week if possible but will keep you posted on how we are going on resolving these matters.

Nga mihi
Sue



Sue van Daatselaar
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From: Areta Gray [<mailto:aretagr@yaho.co.nz>]
Sent: Tuesday, 26 August 2014 12:29 p.m.
To: van Daatselaar, Sue; Spencer Webster; Kimiora Rawiri; Damian Stone; 'Charlie Tawhiao; Wille Te Aho; Te Pio Kawe; Rob Urwin; Kiritapu Allan; Rahera Ohia; Patsy Reddy
Cc: Gough, Jason; Stone, Lyndsay; Taylor, Benedict; Hooper, Ron
Subject: Re: Teleconference 2pm today

Kia ora Sue

Further to our teleconference yesterday we attach our amendments (tracked) as discussed.

We note however, that we are still to review the exact provisions referred to in paragraph 10.5 (pg 32)

Areta

From: "van Daatselaar, Sue" <Sue.vanDaatselaar@justice.govt.nz>
To: Spencer Webster <Spencer@kwlaw.co.nz>; Areta Gray <aretagr@yaho.co.nz>; Kimiora Rawiri <kimirawiri@outlook.co.nz>; Damian Stone <Damian@kahuillegal.co.nz>; 'Charlie Tawhiao

<charlie@moanaradio.co.nz>; Wille Te Aho <willie.teaho@icsolutions.co.nz>; Te Pio Kawe <tepio.kawe@boffamiskell.co.nz>; Rob Urwin <rob.urwin@loof.com.au>; Kiritapu Allan <Kiritapu@kahuilegal.co.nz>; Rahera Ohia <rahera.ohia@tapiriatu.co.nz>; Patsy Reddy <patsy@aehl.co.nz>
Cc: "Gough, Jason" <Jason.Gough@justice.govt.nz>; "Stone, Lyndsay" <Lyndsay.Stone@justice.govt.nz>; "Taylor, Benedict" <Benedict.Taylor@justice.govt.nz>; "Hooper, Ron" <Ron.Hooper@justice.govt.nz>
Sent: Monday, 25 August 2014 11:10 AM
Subject: RE: Teleconference 2pm today

Kia ora koutou,

Patsy and I can only do 2pm now, so can we make it for then. The purpose of the meeting is to talk through the drafting for the TMF sent to you on Friday and make sure that. We've had some feedback from Hauraki on this drafting we would like to talk to you about as well as a discussion on other workstreams for completing the TMIC deed.

Lyndsay is organising this today will provide: the international numbers, number for mobile phones and pin number.

Nga mihi
Sue



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From: Spencer Webster [mailto:Spencer@kwlaw.co.nz]
Sent: Monday, 25 August 2014 9:41 a.m.
To: van Daatselaar, Sue
Cc: Areta Gray; Kimiora Rawiri; Damian Stone; 'Charlie Tawhiao'; Wille Te Aho; Te Pio Kawe; Rob Urwin; Kiritapu Allan; Rahera Ohia; Patsy Reddy; Taylor, Benedict; Hooper, Ron; Grant, John; Gough, Jason
Subject: Re: Teleconference today? Noon or 2pm?

Willie and I are available at 12 and I can do 2pm also.

Spencer Webster

On 25/08/2014, at 9:39 am, "van Daatselaar, Sue" <Sue.vanDaatselaar@justice.govt.nz> wrote:

Morena koutou. Thank you for including me in your letter to the Minister.

Anyone else available to meet today?

<image001.jpg>

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From: Areta Gray [mailto:aretagray@yahoo.co.nz]
Sent: Monday, 25 August 2014 8:34 a.m.
To: van Daatselaar, Sue; Kimiora Rawiri; 'Spencer Webster'; 'Damian Stone'; 'Charlie Tawhiao'; 'Wille Te Aho'; 'Te Pio Kawe'; 'Rob Urwin'; 'Kiritapu Allan'; 'Rahera Ohia'
Cc: 'Patsy Reddy'; Taylor, Benedict; Hooper, Ron; Grant, John; Anderson, Lillian; Kelly, Kevin; Gough, Jason
Subject: Re: Update on TMIC actions

Thanks Sue.

Ngati Pukenga is available at noon or 2pm.

Areta Gray
General Manager

Te Tawharau o Ngati Pukenga
81 The Strand, P.O. Box 13610, Tauranga 3141
P: 07 929 7133; F: 07 578 3967
Free Calling: 0800 89 52 12; Mobile: 021 103 6864
E: aretagrav@yahoo.co.nz W: www.teaumaaro.co.nz

From: "van Daatselaar, Sue" <Sue.vanDaatselaar@justice.govt.nz>
To: Kimiora Rawiri <kimirawiri@outlook.co.nz>; 'Spencer Webster' <Spencer@kwlaw.co.nz>; 'Damian Stone' <Damian@kahuilegal.co.nz>; 'Areta Gray' <aretagrav@yahoo.co.nz>; 'Charlie Tawhiao' <charlie@moanaradio.co.nz>; 'Wille Te Aho' <willie.teaho@icsolutions.co.nz>; 'Te Pio Kawe' <tepio.kawe@boffamiskell.co.nz>; 'Rob Urwin' <rob.urwin@ioof.com.au>; 'Kiritapu Allan' <Kiritapu@kahuilegal.co.nz>; 'Raheera Ohia' <raheera.ohia@tapiriatu.co.nz>
Cc: 'Patsy Reddy' <patsy@aehl.co.nz>; "Taylor, Benedict" <Benedict.Taylor@justice.govt.nz>; "Hooper, Ron" <Ron.Hooper@justice.govt.nz>; "Grant, John" <John.Grant@justice.govt.nz>; "Anderson, Lillian" <Lillian.Anderson@justice.govt.nz>; "Kelly, Kevin" <Kevin.Kelly@justice.govt.nz>; "Gough, Jason" <Jason.Gough@justice.govt.nz>
Sent: Friday, 22 August 2014 5:03 PM
Subject: RE: Update on TMIC actions

Kia ora koutou

As I indicated on Tuesday, we have been continuing our work on finalising the drafting for the Tauranga Moana Framework the provisions that enable the Crown to recognise the interests of other iwi, including the provision of membership for this purpose. I am pleased to say that we now have an updated version to share with you for your consideration.

In making proposed changes to the TMF to include the fifth iwi seat, we have used as a guidance the statement that 'the iwi with recognised interests having equal participation within the TMGG in all respects, but only if and so far as their rohe is affected'. I do want to explain the changes that we've made and why we've made these changes.

Deed Excerpt - comments on tracked changes

- Title: Changed title to ensure that the provisions for other iwi with interests are not solely about membership on the TMGG but acknowledges that the Crown could provide participation up to a seat
- Clause 1: We have deleted this clause as the point about the redress being commensurate is captured in what is now 2.1.
- New Clause 2: We have made it clear up front that the future redress is subject to the resolution of overlapping interests (once the individual TM iwi settle, you will no longer have claims, but your interests will endure).
- Clause 3: Have collapsed the former 5 and 6 clauses and made minor changes to 3.4 to ensure that the meaning is clear.
- Clause 6 and 7: We have changed this to reflect the words within the Minister's letter.
- Clause 8: To make clear that your individual settlements settle your claims, not the collective.

LMS TMF excerpt

- In terms of the LMS, it's probably better to start reading from **APPENDIX TO PART 3, page 24**. This page sets out that there is a sets out in 1.1.5 that there is 1 member appointed

by iwi with recognised interests in Tauranga Moana. Note we've also changed the references to the TMIC iwi membership, now that your governance entities are in place.

- On page 32 Clause 10, we've outlined the process for providing membership for recognised interests. This is solely about the appointment to the seat and sets out the terms of the membership under 1.1.5. Note that you had more extensive drafting previously about the agenda setting process. We have brought this back to the essential elements of what needs to occur and will leave the TMGG with the flexibility to work out the mechanics, rather than locking them down in legislation.
- The definitions of recognised interests and recognised interest area have not changed.
- 10.5 and 10.6 provides that the iwi with recognised interests the ability to participate as an equal member, but only if and so far as their rohe is affected. The relevant clauses that have been adjusted are Part 1 – 3.3.3, 3.4.2, 3.5.4, 3.5.5, 3.6.1, 3.7.5, 3.8.3, 3.8.4, 3.8.5, 3.8.6, 3.9.2, 3.9.7, 3.11.3, 3.15.1, 3.21.23, Appendix – 8.4 and Part 2 – 5.1
- As a result of 1.1.5 being added, we have had to make some changes to the functions of the members (pages 24-31) to take into account that a fifth iwi member may be present. The reference to Co-Chairs in Part 3, clause 2.2 on page 27 has **not** been amended, so that Tauranga Moana iwi only can appoint one of the co-chairs. This reflects that iwi with recognised interests may only be participating for parts of the meeting and therefore cannot be a co-chair.
- As a result of 1.1.5 being added, we have also had to consider what aspects of being a member applies to that member. Therefore the 1.1.5 seat member have been included in clauses in relation to Working Parties, information sharing, reporting, and review of the TMGG operation. The 1.1.5 member will be involved only if and so far as their rohe is affected (as outlined in clause 10 page 32).
- We also propose an amendment to 3.21.22, the para that provides a definition of Tauranga Moana iwi. The Bay of Plenty Regional Council has asked us if it is possible to provide more certainty about which hapū they will be required to engage with. Our proposed amendment links the definition of Tauranga Moana iwi to the PSGEs of the three iwi. We think this will provide the clarity BOPRC is looking for, but we're happy to consider other ways of coming at this.

I hope these notes are helpful to you in reading the document. As occurred previously, we will be sending the document to the Hauraki Collective on Sunday for their information. The Crown and Hauraki have not been able to submit a memorandum to the Waitangi Tribunal today as expected, but we expect this to happen on Monday.

Next steps

We would be prepared to have a teleconference with you to discuss these proposed changes in detail on Monday. We can be available at Noon, 2pm or 4pm for this purpose. Please let us know if any of those times suit

Thank you for your patience.

Nga mihi
Sue

<image001.jpg>

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From: van Daatselaar, Sue

Sent: Tuesday, 19 August 2014 4:05 p.m.

To: 'Kimiara Rawiri'; 'Spencer Webster'; 'Damian Stone'; 'Areta Gray'; 'Charlie Tawhiao'; 'Wille Te Aho'; 'Te Pio Kawe'; 'Rob Urwin'; 'Kiritapu Allan'; 'Raheera Ohia'

Cc: 'Patsy Reddy'; Taylor, Benedict; Hooper, Ron; Grant, John; Anderson, Lillian; Kelly, Kevin; Gough, Jason

Subject: Update on TMIC actions

Kia ora koutou

There's a few matters to update you on since we met on Friday.

1. Minister's letter

The letter from the Minister addressing your outstanding matters has been sent up to the Minister's office this morning and I hope will be with you later today. Once you indicate TMIC's acceptance of the Minister's final decision (he has requested by 21 August), the next step is for the Crown to complete a final review of all of the drafting and then send a final track changed version for your review. At this stage we think that this will be this Friday or early next week, subject to the resolution of all outstanding matters. Once you've had this version a few days, it would be good to hold another teleconference (potentially early next week) to discuss and finalise.

2. TMF drafting for the additional seat

The Waitangi Tribunal judicial conference was held at 9am this morning, which Spencer attended, and was deferred until early next week (Monday or Tuesday to be confirmed). The Crown outlined that we are still working with TMIC to finalise the drafting of the TMIC deed to provide for the fifth seat. The Crown is also consulting with the Hauraki Collective. The Hauraki Collective have provided some initial comments on drafting sent to them on Thursday last week. The Crown is seeking confirmation of the Hauraki Collective's outstanding issues so that we can determine whether or not their matters require our response. If we consider we do need to respond, we will discuss these matters with you prior to doing so and will seek to set up a teleconference accordingly.

3. Ngāti Hinerangi's urgency application

Ngāti Hinerangi filed an urgency application on 8 August alleging the Crown failed to properly deal with their overlapping claims in relation to the TMIC settlement. The Crown wrote to Ngāti Hinerangi on 14 August regarding their own negotiations and used this opportunity to inform Ngāti Hinerangi that the Minister has decided to add a fifth seat to the Tauranga Moana Governance Group (TMGG), to provide for the participation of other iwi with recognised interests in the Tauranga Moana catchment. This letter noted that at this stage it is intended the seat be available for the participation of Hauraki iwi interests and, potentially, to accommodate other iwi whose interests merit participation.

Ngāti Hinerangi have since advised that they would like the Tribunal's view on their application. The Tribunal has asked the Crown to file a response by 20 August. We intend to seek an extension on the basis that we are still working on the final arrangements for the fifth seat and the recognition of other interests, and the Tribunal would need to consider these before determining whether there is any prejudice to Ngāti Hinerangi.

Next steps:

The Minister's letter asks TMIC if you can collectively agree to the Minister's final decision and accept assurances/responses to their concerns as provided in the letter by Thursday 21 August. If accepted:

1. Finalise changes to TMF - OTS to provide final instructions to deed drafter and then final agency and iwi review of track changed document - final version sent to iwi potentially Friday this week or early next week.
2. Final changes to Athenree - waiting on Hauraki comments, finalise and final agency/iwi review
3. TMIC to confirm TCC comfort with Mauao arrangements (Spencer has this come through from TCC yet?) and OTS waiting to confirm Minister of Conservation agreement - then drafting can be dropped into the deed and LMS
4. Reinsert Pillans Point RFR into TMIC - OTS will do this before providing final version of the deed
5. Finalise text on ratification and communications TMIC has undertaken on changes to the deed - MOMA and MfTOWN has now approved the TMIC ratification results and recent communications to your claimant community on the TMIC changes. We will include drafting that summarises these results and steps for your deed.
6. Limited Partnership - Spencer to provide OTS with proposed changes for our review, noting OTS will only approve minor and technical changes. All major changes need to be made through the TMIC LP constitution after establishment.

In response for your request for claimant funding, OTS has asked TMIC to provide a summary of costs associated with the recent changes to the TMF and the TMIC deed, as well as estimated costs for the review of the TMIC legislation. We need this assess what the Crown can contribute towards these costs and then take this to the officials group for their consideration.

If there are any other outstanding matters, please let me know. As always, if you have any questions please email or call. Benedict is on leave for a few days so please contact Ron and/or myself.

Nga mihi
Sue

<image001.jpg>

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From: van Daatselaar, Sue

Sent: Thursday, 14 August 2014 6:12 p.m.

To: 'Kimiora Rawiri'; 'Spencer Webster'; 'Damian Stone'; 'Areta Gray'; 'Charlie Tawhiao'; 'Wille Te Aho'; 'Te Pio Kawe'; 'Rob Urwin'; 'Kiritapu Allan'; 'Rahera Ohia'

Cc: 'Patsy Reddy'; Taylor, Benedict; Hooper, Ron; Grant, John; Anderson, Lillian; Kelly, Kevin; Gough, Jason

Subject: RE: Actions from today and Teleconference times for Fri 15

Kia ora koutou

As agreed, please find attached our draft bullet points for the Minister's letter. We will discuss tomorrow at the teleconference.

Tauranga Moana Framework

- My final decision on the matter was that one extra iwi seat on the Tauranga Moana Governance Group (TMGG) is the best way for the Crown to recognise other iwi interests in

parts of the Tauranga Moana. I consider that this seat provides sufficient opportunities within the TMF to recognise the interests of other iwi, up to the use of this seat. Any redress provided will be commensurate with the relative strength and nature of the association of the claimant group and the nature of the claimant groups' grievances in relation to the Tauranga Moana, and will involve you in an overlapping claims process before it is finalised by the Crown.

- I can confirm that the TMIC deed of settlement itself, including provisions relating to the TMF cannot be changed without your agreement. I can also confirm that as far as I am concerned increasing the maximum number of seats any further is unwieldy and impractical, and I reiterate that no changes will be made by me to the number of representatives on the group through your deed without the prior agreement of the TMGG. As I know you will appreciate however, I cannot fetter Parliament.

Future Crown commitment

- In this letter of 11 August, I also acknowledged the Crown will need to provide for appropriate recognition for the interests of Tauranga Moana iwi in any redress over areas that extend beyond the Tauranga Moana catchment. I am willing to include words within your deed of settlement that confirms the Crown's commitment to engage with you as a settled iwi on arrangements that are developed over areas in which Tauranga Moana consider themselves to have an interest. As I know you appreciate, it is important that any appropriate recognition of the interests of Tauranga Moana iwi that may arise in the future does not affect the full and final settlement of your historical claims through your individual and collective deeds.

Claimant Funding

- I have instructed my officials to assess and advise me on the Crown's ability to contribute towards your costs associated with the recent changes to your TMIC deed.

Looking forward to discussing this with you then
Sue

<image001.jpg>

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www.justice.govt.nz

From: van Daatselaar, Sue
Sent: Thursday, 14 August 2014 11:53 a.m.
To: 'Kimiara Rawiri'; 'Spencer Webster'; 'Damian Stone'; 'Areta Gray'; 'Charlie Tawhiao'; 'Wille Te Aho'; 'Te Pio Kawe'; 'Rob Urwin'; 'Kiritapu Allan'; 'Rahera Ohia'
Cc: 'Patsy Reddy'; Taylor, Benedict; Hooper, Ron; Grant, John; Anderson, Lillian; Kelly, Kevin; Gough, Jason; Roach, Janna
Subject: RE: Actions from today and Teleconference times for Fri 15

Kia ora Kimi

Thanks for these edits and for the clarification.
Sue

<image001.jpg>

Sue van Daatselaar
Office of Treaty Settlements

From: Kimiora Rawiri [<mailto:kimirawiri@outlook.co.nz>]
Sent: Thursday, 14 August 2014 11:48 a.m.
To: van Daatselaar, Sue; 'Spencer Webster'; 'Damian Stone'; 'Areta Gray'; 'Charlie Tawhiao'; 'Wille Te Aho'; 'Te Pio Kawe'; 'Rob Urwin'; 'Kiritapu Allan'; 'Rahera Ohia'
Cc: 'Patsy Reddy'; Taylor, Benedict; Hooper, Ron; Grant, John; Anderson, Lillian; Kelly, Kevin; Gough, Jason; Roach, Janna
Subject: RE: Actions from today and Teleconference times for Fri 15

Kia ora Sue

Minor amendments noted in "Red text" and/or highlighted in green (below).

FYI, Shadrach Rolleston has retired from NHoNRST Board. Please amend OTS's records accordingly and omit his email details in future communications.

Nga mihi
Kimi

From: van Daatselaar, Sue [<mailto:Sue.vanDaatselaar@justice.govt.nz>]
Sent: Wednesday, 13 August 2014 6:50 p.m.
To: Spencer Webster; Damian Stone; 'Areta Gray'; 'Charlie Tawhiao'; 'Wille Te Aho'; 'Te Pio Kawe'; Kimiora @ Hm; Rob Urwin; Shadrach Rolleston; Kiritapu Allan; Rahera Ohia
Cc: Patsy Reddy; Taylor, Benedict; Hooper, Ron; Grant, John; Anderson, Lillian; Kelly, Kevin; Gough, Jason; Roach, Janna
Subject: Actions from today and Teleconference times for Fri 15

Kia ora koutou

Thank you everyone. A quick email to summarise the draft actions from today's teleconference - please amend if required. **Please let Janna know what time suits you for the Friday teleconference. The team is available anytime after 1pm.**

TMIC Attendees: Spencer, Damian, Areta, Rob, Kimi, Rahera
Crown: Patsy (30min), Kevin, Benedict, Sue, Jason Gough (Crown Law)

Actions:

1. **Minister's letter:** Crown will work with TMIC to identify key points for the Minister to consider in relation to his letter to them on Monday 18 August (addressing TMIC's request that there will only be 5 seats and for a commitment to provide no less favourable arrangements for TMIC's interests to Whangamata). Process: Draft of the key points to be provided to TMIC on Thursday COP and to be discussed at a TMIC/OTS teleconference on Friday 15 Aug.

2. **Drafting for 5th Seat:** Process for feedback on 5th seat drafting (LMS and deed drafting)
Action: TMIC to provide Sue with comments Friday if possible (then we can discuss on Friday 15 Aug) or early next week if further time needed.

Note that drafting provided to Hauraki iwi for their consultation only. The Crown is finalising the drafting with the TMIC iwi. Question was asked about why 'customary' removed from definition. OTS explained that it was removed to avoid confusion with

Customary Marine Title relating to the Tauranga Moana (MACA). The definition as currently drafted does refer to the settling of historical claims. OTS would be happy to receive further feedback on the definitions.

Question was also asked about Hauraki's area of interest and the settlement. OTS understands that Hauraki Collective is working on their definition of their area of interest within the Tauranga Moana and once this is provided the Crown will consider how this fits with our understanding of their interests. Question was also asked about the Hauraki Collective natural resources redress and when TMIC would be approached from an overlapping claims perspective.

Action: OTS to advise.

3. Timeframes for completing the TMIC deed: To complete all of the outstanding issues (Athenree drafting, Mauao and RFR Pillans Point in deed plus the TMF drafting and establishment of the TMIC LP) OTS has assessed that we will need until Friday 22 August at the earliest to complete these to provide TMIC with a quality product, agreed by agencies. TMIC to advise OTS of LP arrangements for inclusion into the Deed. A signing date will not be set until all negotiation issues are resolved. The Minister has indicated that at this stage he is comfortable about signing (on papers only) within the month of August if required.

4. Timeframes on Deeds to Amend: The Minister is waiting on final confirmation of all TMIC parties on his final decision and then will make a decision regarding timing and signing.

Action: OTS will liaise with each TMIC party on progress with their individual deeds to amend.

5. Funding request. TMIC asked if the Crown would fund TMIC's participation in any ~~the legal work required for TMIC to participate~~ future overlapping claims processes in relation to the Tauranga Moana. [Note: The request was not specific to "legal work" and TMIC's participation in any future overlapping claims processes in relation to the Tauranga Moana will require input from other professionals/experts]

Action: OTS to consider this request (note needs Officials Group meeting - which will occur next week - date to be advised but we will need to work with you on the detail of this application).

6. TMIC on-account request for the \$250k. OTS advised that the Minister agreed best endeavours to achieve the TMIC deed before September, providing no new matters were advanced. OTS requires Cabinet approval to release an on-account payment. We do not have the pre-requisite on-account approval to pay this fund in advance of settlement date.

Nga mihi
Sue

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- (1) reply promptly to that effect, and remove this email and the reply from your system;
- (2) do not act on this email in any other way.

Thank you.

PROVISION FOR OTHER IWI INTERESTS

(note numbering will be in TMIC deed from 2.14)

- 1 The parties acknowledge that:
 - 1.1 the Crown is at various stages of Treaty of Waitangi settlement and ~~natural resources negotiations~~ with claimant groups who the Crown considers have or may have interests in Tauranga Moana; and
 - 1.2 where negotiations with those claimant groups results in redress being provided in relation to parts of Tauranga Moana, that redress will be given effect to through future Treaty of Waitangi settlement legislation.
- 2 The Crown agrees that any future redress in relation to parts of Tauranga Moana will be subject to the resolution of overlapping interests (including those of the Tauranga Moana iwi) to the satisfaction of the Crown and will:
 - 2.1 be commensurate with matters such as:
 - 2.1.1 the relative strength and nature of the association of the claimant group to Tauranga Moana, taken as a whole; and
 - 2.1.2 the nature of the claimant group's grievances in relation to Tauranga Moana;
 - 2.2 not undermine the fundamental elements of the Tauranga Moana arrangements set out in this deed;
 - 2.3 not derogate from the Crown's recognition of the relationship between Tauranga Moana iwi and hapu and Tauranga Moana referred to in clauses [2.12 and 2.13] of this deed; and
 - ~~2.3~~ 2.4 be designed to preserve and enhance relationships between Tauranga Moana Iwi and claimant groups.
- 3 The Crown agrees that the process for developing any future Tauranga Moana redress will be as follows:
 - 3.1 the Crown will engage with the Tauranga Moana Iwi Collective as early as is practicable in the negotiation process;
 - 3.2 the Crown will encourage and facilitate engagement directly between the Tauranga Moana Iwi Collective and the relevant claimant group;
 - 3.3 the Tauranga Moana Iwi Collective will be kept informed and will be provided with appropriate relevant information to allow informed views to be developed;
 - 3.4 prior to any redress over Tauranga Moana being agreed with another claimant group, the Tauranga Moana Iwi Collective will have the opportunity to express a view on the proposed redress;

- 3.5 the Crown will also engage with the Tauranga Moana Governance Group in relation to any future redress proposals over Tauranga Moana; and
- 3.6 the Crown will make the final decision on the provision of redress for future claimant groups when settling their historical claims, and will do so in a manner consistent with this deed and the interests of all iwi with interests in the Tauranga Moana.

Definitions

- 4 In this part:

"**recognised interests**" means the ~~historical~~ interests of iwi, other than Tauranga Moana iwi, that are recognised by the Crown as being relevant to the Tauranga Moana Framework as confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims;

"**recognised interest area**" means an area recognised by the Crown as containing recognised interests.

CROWN COMMITMENT

- 5 The Crown is in Treaty settlement negotiations with claimant groups which may result in redress arrangements over areas in which Tauranga Moana iwi consider they have an interest.
- 6 The Crown agrees that in developing any such arrangements it will engage with the Tauranga Moana Iwi Collective as early as practicable to provide for appropriate recognition of Tauranga Moana iwi interests, commensurate with the relative strength and nature of those interests, including appropriate participation in relevant natural resource frameworks that are developed through those negotiations.
- 7 Clauses 6 and 7, and any arrangements that result from any engagement, do not affect [the settlement of any Tauranga iwi claims].



Office of Hon Christopher Finlayson

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

17 SEP 2014

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Tēnā koutou

I understand you have had further discussions with my Chief Crown Negotiator, Dame Patsy Reddy, and the Office of Treaty Settlements in relation to the drafting of the Tauranga Moana Framework (TMF) and finalising the Tauranga Moana Iwi Collective (TMIC) deed.

Further to my letter of 20 August 2014, this letter explicitly outlines and reaffirms my commitment on matters I understand are important to TMIC. In light of outstanding issues with the Hauraki Collective relating to Athenree Crown Forest Licensed Land (**Athenree CFL**), this letter also sets out my view on steps for progressing the TMIC settlement.

Tauranga Moana Framework

Number of seats

I remain of the view that providing an additional seat on the Tauranga Moana Governance Group (TMGG) is the best available option for reaching durable settlements with Ngāi Te Rangi, Ngāti Pūkenga and Ngāti Ranginui. This option preserves the ability of the Crown to provide appropriate Treaty settlement redress to recognise the interests of other iwi in the Tauranga Moana catchment.

I do not consider any further seats will be needed. There are sufficient opportunities within the TMF to recognise the interests of other iwi (up to the use of this fifth iwi seat). To this end I can confirm that the Crown will not change any of the provisions relating to the Tauranga Moana and/or Te Kupenga Frameworks, in particular the Crown will not provide any further seats on the TMGG, without the prior written approval of TMIC.

1

Overlapping claims processes

Any redress provided by the Crown to other iwi will be commensurate with the relative strength and nature of the association of the claimant group and the nature of the claimant groups' grievances in relation to the Tauranga Moana. You will have an opportunity to participate in an overlapping claims process in the event the Crown offers the use of this additional seat to by any other claimant group.

TMIC will be kept informed and will be provided with *appropriate* relevant information to allow informed views to be developed. There may be circumstances where information is provided confidentially to the Crown which may be relevant information but not appropriate in the circumstances. For example, where other iwi provide details of waahi tapu sites or other sensitive information, in these circumstances it may not be 'appropriate' to provide this to TMIC. In these situations, the Crown must observe confidentiality.

Recognised interests of other iwi

You have asked the Crown to confirm that the removal of the word 'historical' from the definition of recognised interests in the TMF provisions will not provide the potential for the Crown to recognise interests of a non-customary or contemporary nature. I can confirm an interest recognised by the Crown in the settlement of Treaty of Waitangi historical claims will be a pre-requisite for the Crown to offer other iwi the opportunity to participate in the TMF.

Next steps

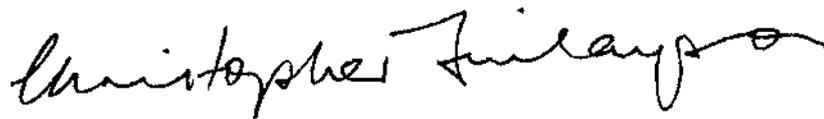
I appreciate the efforts made by TMIC and the Hauraki Collective towards agreeing mirror drafting in relation to Athenree CFL that will be reflected in both deeds. I look forward to completing this drafting. I understand that the outstanding issue relates to the treatment of future rentals as part of the joint management agreement, and the wording to be incorporated into the deeds as a consequence, if anything. I am prepared to offer Crown support, up to the level of an arbitrator, to enable the Collectives to complete the joint management agreement.

While I am disappointed that we have not been able to sign the TMIC deed, it is important that we lock in the progress we have made with other aspects of the TMIC deed, particularly the TMF, and your deeds to amend. Therefore I propose that TMIC and the Crown co-sign this letter agreeing that all matters in the TMIC deed other than certain specified provisions relating to Athenree are finalised and that the TMIC deed will be signed as soon as possible once the outstanding issues are resolved.

I understand the Office of Treaty Settlements is continuing to work with you on ways to advance your individual legislation and seek the release of remaining cash quantum as soon as possible.

Although disappointed we have not been able to yet sign the TMIC deed given our concerted efforts to do so, in the circumstances I consider this option provides the best way of progressing the Tauranga Moana settlements. I appreciate your continued efforts towards achieving this outcome.

Nāku noa, nā



Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

Signed on and behalf of Tauranga Moana Iwi Collective

Authorised Signatory:

Printed Name:

Te Pio Kawe
Chairman
Ngā Hapū o Ngāti Ranginui Settlement Trust

Authorised Signatory:

Printed Name:

Charlie Tawhiao
Chairman
Ngāi Te Rangī Settlement Trust

Authorised Signatory:

Printed Name:

Rahera Ohia
Chairman
Te Tawharau o Ngāti Pūkenga

IN THE WAITANGI TRIBUNAL

WAI 215 & 686

IN THE MATTER

of the Treaty of Waitangi Act 1975

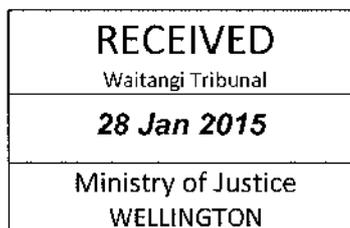
AND

IN THE MATTER

of an application for an urgent hearing on
behalf of Iwi of Hauraki

IWI OF HAURAKI SUBMISSIONS IN SUPPORT OF URGENCY APPLICATION

(28 JANUARY 2015)



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MAY IT PLEASE THE TRIBUNAL

I. IWI OF HAURAKI APPLICATION FOR URGENCY

A. NATURE AND SCOPE OF APPLICATION

1. An urgent Waitangi Tribunal hearing is sought by the following Iwi of Hauraki:
 - (a) Ngāti Hako;
 - (b) Ngāti Maru;
 - (c) Ngāti Tamaterā;
 - (d) Ngāti Tara Tokanui; and
 - (e) Te Patukirikiri.
2. The ambit of the application is narrow and relates to clause 10.3, and related provisions, of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed (**TMIC Deed**) which involves the Tauranga Moana Framework redress and Tauranga Moana Governance Group (an Iwi - local & central government natural resources co-governance regime).
3. The Tauranga Moana Iwi Collective ("**TMIC**") Iwi comprise:
 - (a) Ngāi Te Rangī (along with Ngā Potiki);
 - (b) Ngāti Pūkenga;¹ and
 - (c) Ngāti Ranginui.
4. The area encompassed by the Tauranga Moana Framework redress (called the Tauranga Moana Framework Plan in the TMIC Deed²) is shown in **Attachment 1** and encompasses part of the rohe of Hauraki.
5. Clause 10.3 and related provisions effectively:
 - (a) authorise a veto of the Iwi of Hauraki participation in the Tauranga Moana Framework redress; and
 - (b) authorise such veto to be exercised without cause and without any requirement for a merits assessment.
6. A summary of the extent of the Iwi of Hauraki participation in the Tauranga Moana framework redress is as follows:
 - (a) The Crown accepts that the Iwi of Hauraki have customary interests in the Tauranga Moana Framework redress area.³

¹ It is noted that Ngāti Pūkenga is both a member of the Tauranga Moana Collective of Iwi and the Hauraki Collective. Their kainga at Manaia in Hauraki is the result of a tuku from Ngāti Maru to Te Tawera in the 19th century (see, for example, the Waitangi Tribunal's *Hauraki Report* (Wai 686) at pages 58-61).

² Attachments Schedule of the TMIC Deed at page 1.

³ See, for example, paragraph 43 below.

(b) The Crown accepts that the Iwi of Hauraki will have a seat on the Tauranga Moana Governance Group (TMGG) alongside the four TMIC Iwi seats (by the creation of a 'fifth seat').⁴

(c) Unlike any of the four TMIC Iwi seats, the 'Hauraki fifth seat' can only participate in the TMGG:⁵

"10.2 ... whenever the Tauranga Moana Governance Group is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a recognised interest area...".

(d) The following key definitions state:⁶

"recognised interests" means the interests of Iwi, other than Tauranga Moana Iwi, that are relevant to the Tauranga Moana Framework and are confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims;

"recognised interest area" means an area containing recognised interests of Iwi, other than Tauranga Moana Iwi, that are relevant to the Tauranga Moana Framework and is confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims.

(e) Any dispute over whether clause 10.2 applies (actual or potential effect on Hauraki 'recognised interest area') will be determined by a simple majority decision of the TMGG (comprising four TMIC Iwi seats, five council / ministerial representative seats, and one Hauraki seat):⁷

"10.3 in the event of any disagreement on whether paragraph 10.2 applies, the Tauranga Moana Governance Group will make a decision on the matter in accordance with paragraph 6 ...".

7. For comparison, there has never been a Treaty settlement where some Iwi (let alone councils and a ministerial representative) in a co-governance regime have the right to vote on the participation of other Iwi with recognised customary interests. The Crown did not, for example, legislate a second class Iwi regime in the Waikato River, Te Hiku, Ngāi Tahu or Whanganui River Treaty settlements.

8. The process leading to, and substance of, this Crown proposal is not compliant with the principles of Te Tiriti o Waitangi. Indeed, the effect of this regime on the exercise of the customary interests of the Iwi of Hauraki is repugnant to Te Tiriti.

9. The application meets the urgency criteria:

⁴ See paragraph 74 below.

⁵ See paragraphs 74 and 78(e) below.

⁶ Found below clause 10.4 of the Legislative Matters Schedule of the TMIC Deed - see paragraph 78(e) below.

⁷ See paragraphs 74 and 78(e) below.

- (a) The Iwi of Hauraki will suffer significant and irreversible prejudice as a result of Crown action / policy;
 - (b) There is no alternative remedy reasonably available to the Iwi of Hauraki; and
 - (c) There are no other grounds justifying the refusal of urgency.
10. It is to be remembered that this application is brought by the Crown's Treaty partners.

B. CROWN AGENDA

11. Despite the present application and concerns raised by the Iwi of Hauraki, the Crown proceeded with signing the TMIC Deed in late December 2014.⁸
12. As previously advised to the Tribunal,⁹ the Iwi of Hauraki received Crown warnings against pursuing this application. For example, the following extract in the Crown letter to the Hauraki Collective (dated 10 December 2014):¹⁰

"As you are aware, Crown policy is that if a group that the Crown is negotiating with litigates against the Crown, negotiations may be paused. On 8 December 2014, you filed a Memorandum in the Tribunal regarding the Tauranga Moana Framework and the TMIC deed signing. The Crown will shortly file a Memorandum in response. After the Crown Memorandum is filed, if you proceed to revive the urgency application, then I will pause negotiations with the Hauraki Collective. I am further considering whether this means that negotiations will also be paused with related negotiations – ie. the Marutūahu Collective and the Hauraki iwi-specific negotiations."

13. The Crown's threat was successful in part as other Iwi of Hauraki decided not to actively support this application in order to preserve their ability to continue with iwi-specific negotiations.
14. The applicant Iwi maintain their resolve to weather any Crown intimidation because of the permanent and significant prejudice that the Crown inexplicably wishes to visit upon the Iwi of Hauraki. This application seeks to protect the customary interests of all the Iwi of Hauraki in this part of our rohe.
15. For completeness, it is noted that the Crown made good on its threats and suspended negotiations with the five applicant Iwi.¹¹ However, the Crown went off the policy reservation by imposing the following sanctions against 'non-litigant Iwi':

⁸ The Crown has recently advised that not all the TMIC Iwi signatures to the deed have yet been obtained.

⁹ Iwi of Hauraki Memorandum (11 December 2014) (Wai 215, 2,707), at paragraphs 9-12.

¹⁰ This letter is not attached as it is negotiation sensitive, for example it contains redress information outside the scope of this proceeding.

¹¹ Via Crown letters each dated 23 December 2014.

- (a) Suspending negotiations with the Hauraki Collective, which includes seven 'non-litigant iwi';¹² and
- (b) Suspending negotiations with the Marutūāhu Collective¹³, which includes two 'non-litigant iwi'.¹⁴ Moreover, those negotiations involve the geographically distinct areas of Tāmaki Makaurau, Mahurangi and the Hauraki Gulf Islands.

C. CROWN DOCUMENTS

16. The documents in this proceeding the subject of the Crown Law discovery review process are voluminous:

- (a) The summaries of "fully discoverable" documents comprise:
 - (i) Primary list – 36 pages of brief document summaries;
 - (ii) Supplementary list - 7 pages of brief document summaries.
- (b) The summaries of "part privileged" documents comprise:
 - (i) Primary list – 1 page of brief document summaries;
 - (ii) Supplementary list - 1 page of brief document summaries.
- (c) The summaries of "fully privileged" documents comprise:
 - (i) Primary list – 83 pages of brief document summaries;
 - (ii) Supplementary list - 2 pages of brief document summaries.

¹² Comprising:

- Ngāi Tai ki Tāmaki;
- Ngāti Hei;
- Ngāti Pāoa;
- Ngāti Porou ki Hauraki;
- Ngāti Pūkenga;
- Ngāti Rāhiri Tumutumu; and
- Ngāti Whanaunga.

¹³ Comprising:

- Ngāti Maru;
- Ngāti Pāoa;
- Ngāti Tamaterā;
- Ngāti Whanaunga; and
- Te Patukirikiri.

¹⁴ Being Ngāti Pāoa and Ngāti Whanaunga.

17. On the available information, the applicants appreciate the transparent and diligent manner in which Crown Counsel have approached their task.
18. The Office of Treaty Settlements made the signing version of the TMIC deed available on the afternoon of 22 January 2015.
19. Of necessity in the compressed timeframes of an urgency application, only a small representative portion of the relevant documents have been referenced in support of the application. There are many more documents that can be provided to the Tribunal if of assistance and/or at any urgency hearing granted by the Tribunal.

II. IWI OF HAURAKI CUSTOMARY INTERESTS IN THE TAURANGA MOANA FRAMEWORK AREA

20. Given the urgency surrounding this application, the following iwi of Hauraki customary interest references in the Tauranga Moana Framework redress area are sourced from various Waitangi Tribunal reports. If the Tribunal grants urgency, each of the applicant iwi is available to provide additional evidence on their customary interests.

A. TE RAUPATU O TAURANGA MOANA – REPORT ON THE TAURANGA MOANA CONFISCATION CLAIMS (IWI OF HAURAKI CUSTOMARY INTERESTS)

21. *Te Raupatu o Tauranga Moana – Report on the Tauranga Moana Confiscation Claims (Wai 215) (Raupatu Report)* was released on 11 August 2004.
22. The Tauranga Moana inquiry district is shown at Map 1 of the Raupatu Report¹⁵ (**Attachment 2**).
23. The Raupatu Report records the following narrative on the inquiry district:¹⁶

"1.2 The Inquiry District

The Tauranga Moana inquiry district follows the boundary defined by the Tauranga District Lands Act 1868. ...

The Tauranga Moana lands were originally proclaimed as a district under the New Zealand Settlements Act on 18 May 1865, and that district was later extended to the south-east by the Tauranga District Lands Act 1868. The claimants alleged that the whole of this district of some 290,000 acres was confiscated. In this report, we refer to this area as the 'confiscation district', which has been the term used to describe it since 1865. **Within the confiscation district there are four different categories of land:**

- the 'confiscated block', which comprises 50,000 acres of land centred on the Te Papa Peninsula and retained by the Crown as confiscated land;

¹⁵ At page 2 of the Raupatu Report.

¹⁶ At pages 1-2 of the Raupatu Report.

- the two 'cms blocks', which total approximately 1300 acres of land on the Te Papa Peninsula that were, originally purchased by the Church Missionary Society in 1838 and 1839 but are located within the confiscated block;
- the 'Te Puna-Katikati blocks', which cover some 93,000 acres of land that were 'purchased' by the Crown between the Te Puna Stream and the western edge of the inquiry district; and
- the 'remainder lands', which comprise the remainder of the confiscation district, including the islands, that was returned to some of its customary owners."

[Emphasis added and footnotes omitted]

24. The Te Puna and Katikati Blocks referred to in the Raupatu Report are shown at Map 13 of the report¹⁷ (**Attachment 3**).
25. In providing background on the tāngata whenua of the inquiry district, the Raupatu Report states:¹⁸

"NGA TANGATA WHENUA

...

"Maori tradition then tells of the arrival in Tauranga Moana of a series of great voyaging waka from Hawaiki. The first waka to visit was Tainui, whose inhabitants did not settle there but made their final landfall at Kawhia. **However, Tainui people were later to settle in neighbouring districts and were to play an important role in Tauranga history. These neighbouring Tainui people were tribes of the Marutuahu confederation in Hauraki to the north, and Ngati Haua and Ngati Raukawa west of the Kaimai Range.**"

[Emphasis added and footnotes omitted]

26. In addressing the location of tribal customary interests in the inquiry district (including the Marutuāhu tribes), the Raupatu Report states:¹⁹

"2.4.3 Customary interests and claims of Treaty breach

Having set out the territories within which various groups had interests, we now relate these territories to the cms blocks, the 50,000-acre confiscated block, and the Te Puna-Katikati blocks; three of the key areas within our inquiry district which are the subject of claims of Treaty breach. The nature of the claimed breaches will be discussed later in this report. **Our identification of the groups with interests in these areas is based on the core territories provided by the claimants themselves. We reiterate that Maori land interests were not a matter of clearly defined boundaries between groups and that a group could have a particular interest in a place that was some distance from its core territory. In listing various groups below, therefore, we do not suggest that other groups had no rights within the areas mentioned.** However, we believe that it will be useful for both the claimants and the Crown for us to give some guidance as to which groups were primarily affected by alleged Treaty breaches involving the three blocks:

...

- **The Te Puna-Katikati blocks. Hapu holding substantial interests within the Te Puna-Katikati blocks were Te Whanau a Tauwhao, Ngai Tuwhiwhia, Ngati Tauaiti, Ngai Tamawharua, Ngati Pango, Pirirakau, Ngati Pukenga, and hapu of the Marutuahu confederation."**

¹⁷ At page 176 of the Raupatu Report.

¹⁸ At pages 27- 28 of the Raupatu Report.

¹⁹ At pages 42-43 of the Raupatu Report.

[Emphasis added and footnote omitted]

27. In addressing the inter-tribal relationships within the inquiry district (including with Ngāti Maru and the other Marutūāhu tribes), the Raupatu Report states:²⁰

"2.5 Relationships between Tauranga Hapu

...

At this point, we note that Tauranga hapu have important ties to neighbouring iwi. ... Some hapu have particular associations with neighbouring tribes that cut across broader patterns of alliance and enmity. **A section of Ngati Pukenga fought with Ngati Maru against Ngai Te Rangī**, and Ngati Pukenga fought on both sides of the Ngai Te Rangī–Te Arawa battle at Te Tumu. ...

As Professor Richard Boast argued in his report for Ngai Te Rangī, there is very little evidence of conflict between Ngai Te Rangī and Ngati Ranginui in the nineteenth century before the wars of the 1860s. **Rather, he suggested, the impression that comes through in the available evidence is one of an 'interconnected identity' among Tauranga Maori, which includes a common alliance with Ngati Haua and a common enmity with Te Arawa and Marutuahu.**"

[Emphasis added and footnotes omitted]

28. In summarising the customary tribal interests (including the Marutūāhu tribes) recognised in the inquiry district, especially the Te Puna and Katikati Blocks, the Raupatu Report states:²¹

"2.6 Chapter Summary

The main points in this chapter are as follows:

- Prior to 1840, several iwi were established at Tauranga following various migrations to the area over the preceding centuries. The principal iwi of the area were Ngati Ranginui, Ngai Te Rangī, Ngati Pukenga, and the Waitaha section of Te Arawa. **Several other tribal groupings, including those of the Marutuahu confederation, had customary interests in parts of our inquiry district.**
- **During the period frequently referred to as the 'musket wars', Tauranga Maori fought various battles against Te Arawa, Marutuahu, and Nga Puhī. These battles impacted on Tauranga Maori in substantial ways.** For the purposes of this report, the principal outcome of the war was that a strong alliance developed between Tauranga Maori and Ngati Haua of Tainui."

[Emphasis added]

29. Of the four land areas comprising the inquiry district, the Te Puna and Katikati Blocks are by far the largest (by nearly 100%) and occupied significant attention in the Raupatu Report. Initial commentary on the Crown's forced 'purchase' (including the involvement of the Marutūāhu tribes) was as follows:²²

"THE TE PUNA–KATIKATI PURCHASE

7.1 Introduction

This chapter deals in detail with the Crown's purchase of the Te Puna–Katikati blocks. The blocks' boundaries adjoin the confiscated block

²⁰ At pages 43–44 of the Raupatu Report.

²¹ At pages 47–48 of the Raupatu Report.

²² At pages 177–178 of the Raupatu Report.

at the Te Puna Stream and run along the fringe of Tauranga Harbour as far as the north-western corner of the confiscation district at Nga Kuri a Whareii. The blocks were originally estimated to contain 90,000 acres, although a more recent estimate puts the area at 93,188 acres. **As we noted in chapter 2, a number of hapu claimed customary interests in this area, including those of Ngai Te Rangi, Ngati Ranginui, Marutuahu, Ngati Haua, and Ngati Pukenga (see sec 2.5.2).**

...

The Whitaker-Fox purchase did not go smoothly. Although an initial agreement was reached with some of the loyal Ngai Te Rangi chiefs in August 1864 and a down payment made, the purchase was not completed for another seven years. **A number of factors contributed to the delay. First, the Government had to deal with the claims of several non-Ngai Te Rangi groups, including the powerful Marutuahu federation of Hauraki, which had a long-standing claim to the western part of Te Puna-Katikati ...".**

[Emphasis added and footnote omitted]

30. Of the various outcomes of the Crown's Te Puna and Katikati 'purchase', the Raupatu Report documents the following 1866 Crown settlements with various Iwi of Hauraki:²³

"7.5 Settlement of the Claims

7.5.1 1866 negotiations

...

7.5.2 Hauraki payments

After the Tauranga meeting, Mackay returned to Auckland, whereupon Whitaker instructed him to proceed to Thames and pay Hauraki Maori for their claims to Te Puna-Katikati, according to the arrangements agreed at Tauranga. This, he did, paying the Hauraki claimants a total of £2160 over the next two months as follows:

- **A payment of £100 was made to the Ngati Hura hapu of Ngati Paea on 10 August for their claims over Katikati and Te Aroha.** A deed of conveyance was signed by five members of Ngati Hura, surrendering their rights to both Katikati and Te Puna.
- **A payment of £500 was made to the Ngati Pukenga of Mania on 14 August** for claims between Katikati and Waimapu and inland to the mountains. **Of this, £150 was paid for their interests in the Te Puna-Katikati blocks** and £350 for interests in the confiscated block. In the deed signed by 18 members of Tawera, two 50-acre sections and two town allotments at Te Papa were 'reconveyed' to Ngati Pukenga chiefs Paroto Tawhiorangi, Ruka Huritaupoki, and Te Riritahi. The fate of these sections is discussed in chapters 10 and 11. The deed conveyed Ngati Pukenga's claims to 'the Katikati, Puna, Wairoa and Waimapu blocks' to the Crown.
- **A payment of £1145 was made to Ngati Tamatera and Ngati Maru on 3 September for claims over Katikati, Aroha-alua, and land 'between the Katikati piece and Te Puna'.** Five 'burial ground reserves', totalling 75 acres, were also recorded as being set aside for them in the deed of conveyance, which was signed by Te Moananui, Tariaia, and 24 others.
- **A payment of £25 was made to two claimants from Ngati Whanaunga.** This was later increased to £35, and the two claimants signed the same deed as Ngati Tamatera and Ngati Maru had. The nature of the claim was not recorded by Mackay in his report, and the date of the payment is also unknown.
- **A separate payment of £380 was made to Te Moananui for some unspecified 'other claims'.** As we noted above, this had been

²³ At pages 187-190 of the Raupatu Report.

paid by Whitaker before Mackay and Clarke's meeting to settle claims."

[Emphasis added and footnotes omitted]

31. The Raupatu Report made the following adverse Treaty breach findings against the Crown in relation to the Te Puna and Katikati 'purchases' (including prejudice suffered by the Marutūāhu tribes):²⁴

"7.8 Treaty Findings

...

As we noted above (see sec 7.6.1), several claimant submissions quoted Fox to argue that the Crown's acquisition of the Te Puna-Katikati blocks was coercive: a 'forced acquisition . . . under the colour of a voluntary sale'. For this reason, they said, it was in direct contravention of article 2 of the Treaty which allowed the Crown to purchase only such land as Maori were willing to sell. The Crown, on the other hand, argued that the blocks were properly purchased from willing sellers for an adequate price. Clearly, we are required to make a finding in light of Treaty principles on this issue.

...

In our view, the Te Puna-Katikati purchase was similar to the Crown purchases in Hawke's Bay that we have mentioned above, where an initial transaction paved the way for a full and final sale. In the later stages of the sale, the Crown would not allow dissident claimants to halt the process or have their interests cut out – it simply paid them compensation for their proven interests. As we noted in section 7.5.1, Whitaker himself said that those later negotiations were 'not to discuss the purchase, but to settle who [were] to receive the money'. Moreover, those 'negotiations' took place in a climate of open pressure, Tauranga was, in effect, under military occupation, and during the meetings at which payments for Te Puna-Katikati were discussed, the Government threatened further military action and the confiscation of the whole Tauranga district if local Maori refused to comply with their plans. It was in those later negotiations that, in our view, the real pressure was exerted, for the admitted claimants had either to accept the compensation and reserves, where reserves were offered, or to go without. It is that coercive process that we regard as being in breach of the principle of active protection embodied in article 2 of the Treaty. Specifically, the Crown could buy only such land as Maori were willing to sell; it could not use the consent of a minority of the right-holders to impose a sale on the majority.

We find that the Crown's purchase of the Te Puna-Katikati blocks, anchored as it was in the consent of a small minority of loyalist Ngai Te Rangi chiefs and subsequently imposed, with compensation, on other Ngai Te Rangi hapu and Ngati Ranginui, Ngati Pukenga, and Marutūāhu, was in defiance of the Treaty promise that Maori land should be alienated to the Crown only with the free and willing consent of its owners.

...

Accordingly, we think that the £2160 that the Hauraki tribes received for their interests was fair in proportion to the £7700 that Ngai Te Rangi received for their much more extensive interests. But, when we consider the reserves awarded alongside the monetary payments, it becomes evident that Ngai Te Rangi, who received virtually all of the 8000 acres of reserves in Te Puna-Katikati, were more generously treated than Hauraki. The only promised awards of reserves to the Hauraki iwi were 75 acres of wahi tapu, which the claimants allege were never actually set aside by the Government. This disparity between the relatively large reserves awarded to the Ngai Te Rangi chiefs and the virtually non-existent reserves awarded to Marutūāhu and the Ngati Ranginui hapu is clear evidence of a failure to treat

²⁴ At pages 197-200 of the Raupatu Report.

Maori equally according to their customary rights in Te Puna-Katikati."

[Emphasis added and footnotes omitted]

32. The Raupatu Report also made the following adverse findings against the Crown in relation to its attempt to avoid honouring its 1866 settlement commitment to transfer wahi tapu reserves to Ngāti Maru and Ngāti Tamaterā in the Te Puna and Katikati Blocks;²⁵

"10.8.1 Hauraki wahi tapu reserves

The purchase deed signed by Ngati Maru and Ngati Tamatera for their interests in the Te Puna-Katikati blocks provided for several wahi tapu reserves, and these were the subject of argument between their counsel and the Crown (see sec 10.4). Neither party was able to find any evidence that the reserves were set aside. The Crown argued that, in view of the lack of evidence, we should not make a finding of any failure to establish the reserves. But if the promised wahi tapu reserves had been set aside, surveyed, and gazetted, evidence of that would surely have been found either among titles held today by Land Information New Zealand or in the *New Zealand Gazette*, and the reserves would legally exist. Clearly, they do not.

We therefore find that the Crown was in breach of its Treaty obligation to act honourably and in good faith toward its Treaty partner when it failed to provide the reserves promised to Ngati Maru and Ngati Tamatera in the deed of 3 September 1866."

[Emphasis added]

33. Thus, the Raupatu Report confirmed the customary interests of the following Iwi of Hauraki in the Tauranga Moana Framework redress area:

- (a) Ngāti Tamaterā;
- (b) Ngāti Maru;
- (c) Ngāti Pāoa;
- (d) Ngāti Whanaunga; and
- (e) Ngāti Pūkenga of Manaia.²⁶

34. Given the Tribunals' clear and fundamental articulation of the Crown's 'Te Puna-Katikati Treaty breaches' in the Raupatu Report (including the Crown's failure to act honourably and in good faith), the Crown carried this knowledge / baggage when it came to negotiate the Tauranga Moana Framework redress with the Iwi of Hauraki.

B. OTHER WAITANGI TRIBUNAL REPORTS (IWI OF HAURAKI CUSTOMARY INTERESTS)

(i) Ngāti Tara Tokanui

35. The Waitangi Tribunal's *Hauraki Report* (Wai 686), released on 6 June 2006, (**Hauraki Report**) states:²⁷

²⁵ At pages 298-299 of the Raupatu Report.

²⁶ See footnote 1 above.

²⁷ At page 42 of the Hauraki Report.

"... Ngāti Tara, kin to Ngāti Maru and Ngāti Tamatera, but also to Ngāti Raukawa, followed Marutuahu into the Hauraki district but apparently retained its own identity. Taimoana Turoa's account and research by Bassett and Kay into Native Land Court records show that Marutuahu and Tara both descended from Hōturoa of Tainui through Whāihua. Ngāti Tara moved, perhaps in the seventeenth century, from Maungatautari to the Waihou River, where they fought then intermarried with Ngāti Hako. **Eventually, they controlled land between Piraurahi near the Waihou River and Owharoa near Ohinemuri**, and had acquired the alternative name Ngāti Kōi in the process. **Until the early nineteenth century, they continued to fight with Nga Marama groups around Waihi and Katikati**, forming an alliance with Ngāti Tamatera during these struggles. They also created ties by marriage with the Ngāti Tokanui hapu of Nga Marama. ...

They are represented as Ngāti Tara Tokanui in the Hauraki Māori Trust Board Act 1988. **In the early nineteenth century, their customary interests were in the Ohinemuri-Waihi-Katikati district.**"

[Emphasis added]

36. As discussed below,²⁸ Ngāti Tara Tokanui is receiving Crown land transfers and other redress within the Tauranga Moana Framework redress area as part of its Treaty settlement with the Crown.

(ii) Ngāti Hako

37. The Hauraki Report states:²⁹

**"10.4 Ohinemuri Mining and Further Purchases
10.4.1 Reserves**

More than half of Ohinemuri was awarded by the Native Land Court to the Crown in July 1882. In arranging this application, the Crown promised reserves to those who had consented to sell, but was not generous with their extent and allocation. The non-sellers' interests were excised, at the rate of 10 per cent of the area examined by the Court - that is 7237 acres out of 73,251 - but the non-sellers were not to be included in the 'reserves' made within the alienated land.

In his purchase negotiations MacKay had promised to the vendors: 2550 acres for Ngāti Kōi, and 1000 acres each for Ngāti Tangata, Ngāti Karaua, Te Uriwha and Ngāti Hako."

[Emphasis added]

²⁸ At paragraphs 61 and 62 of this submission.

²⁹ At page 437 of the Hauraki Report.

THE HAURAKI REPORT

10.4.1

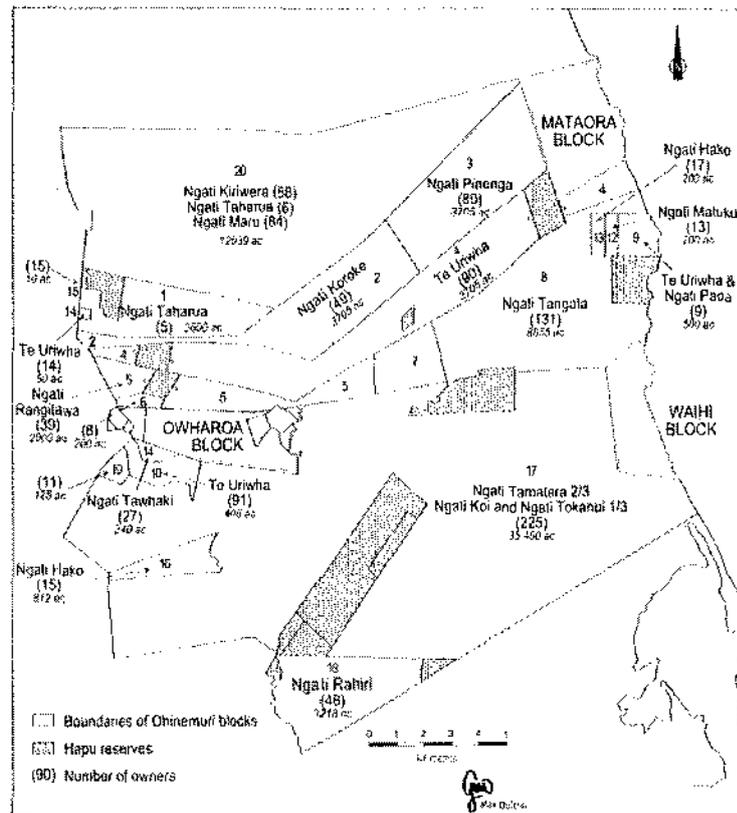


Figure 46: Native Land Court awards in the Ohinemuri block, 1882

38. As discussed below,³⁰ Ngāti Hako is receiving Crown land transfers within the Tauranga Moana Framework redress area as part of its Treaty settlement with the Crown.

(iii) **Ngāti Rāhiri Tumutumu**

39. The Waitangi Tribunal's *Te Aroha Maunga Settlement Process Report* (Wai 663), released on 13 June 2014, (**Te Aroha Report**) states:³¹

"The Waitangi Tribunal issued the *Hauraki Report* on 6 June 2006. In that report, the Tribunal described Te Aroha mountain as 'a maunga tapu, a sacred mountain', for Ngāti Rāhiri Tumutumu and for Hauraki people generally. The report describes the connection of Ngāti Rāhiri Tumutumu, Marūtūāhu, and Hauraki peoples generally to the mountain which, according to Hauraki Māori Trust Board witness Taimona Turoa, 'embodies the prow of a canoe with its stern at Moehau, at the northern end of Coromandel Peninsula' (according to others, Te Aroha is the stern). The connections of Hauraki peoples to the maunga are conveyed in its various names. Taimona Turoa referred, for example, to an 'older name for Te Aroha mountain ... "Puke-kakariki-kaitahi", which he suggested is "probably of early Ngāti Hako origin"'. Another of its names is 'Te Tatau ki Hauraki whanui' or the 'portal or doorway to Hauraki widespread'. The name Te Aroha itself, meaning love, yearning,

³⁰ At paragraphs 61 and 62 of this submission.

³¹ At pages 5-6 of the Te Aroha Report.

or compassion. is a shortened version of a name which appears in Tainui, Te Arawa, and Mātaatua traditions as "Te Aroha-kī-tai, Te Aroha-a-uta" , a phrase uttered by the ancestor Rāhiri when returning from dwelling in the far north. Traversing the places of his youth, Rāhiri named key sites, 'yearning for his coastal homeland (tai) and its inland territories (uta).' We note that in our inquiry, Ngāti Tara Takanui also linked the naming of the maunga with their ancestor Tiki Te Aroha.

... Tane Mokena (a descendant of Ngāfi Rāhiri Tumutumu rangatira Te Mokena Hou) told the Hauraki tribunal:

...

Te Aroha mountain and the Kaimai Ranges are closely associated with our ancestors. Te Aroha mountain itself is traditionally associated with the ancestor Te Ruinga. On one side, Te Ruinga descended from Raukawa, on another side he came from this area. Twin peaks stand atop Te Aroha mountain. The higher one bears the name Te Aroha-a-uta, and the lower one Te Aroha-a-tai."

[Emphasis added]

40. As discussed below,³² Ngāti Rāhiri Tumutumu is receiving Crown land transfers within the Tauranga Moana Framework area as part of its Treaty settlement with the Crown.

III. HAURAKI AND TAURANGA MOANA IWI OVERLAPPING CLAIMS

A. 2010 – SEPTEMBER 2012

41. The issue of overlapping claims as between the Iwi of Hauraki and Tauranga Moana arising from the Treaty negotiations process has been live since 2010.
42. Of the voluminous overlapping interests documentation, a useful starting point is the Crown (OTS) letter to the Hauraki Collective of 26 April 2012 (**Attachment 4**).
43. The Crown's recognition of the customary interests of the Iwi of Hauraki in this context is reflected in the following extract from Attachment 4 to this submission:

"Overlapping claims

On 5 January and 24 February 2012 Tania Gerard of OTS sent you a letter updating you on TMIC negotiations with the Crown and attaching the TMIC Statement of Position and Intent (SPI). **These letters acknowledge that Hauraki have interests in the TMIC area and therefore need to consider the redress proposed in the SPI, and invited Hauraki Iwi to comment on this.**"

[Emphasis added]

44. Other relevant extracts from Attachment 4 to this submission include:

"We appreciate the Hauraki Collective's cooperation in addressing Hauraki overlapping interests which allowed Ngāfi Ranginui to initial their deed of settlement on 6 April 2012.

As you are aware, Ngāti Ranginui, Ngāfi Te Rangī (including Ngā Potiki) and Ngāti Pūkenga have formed the Tauranga Moana Iwi

³² At paragraphs 61 and 62 of this submission.

Collective (TMIC) to negotiate and settle their shared areas of redress. We now seek to resolve overlapping interests between Hauraki iwi and TMIC by June 2012. **As a part of this process we propose to develop preliminary offers of cultural redress for all Hauraki iwi.**

...
Below are listed the areas that, based on information shared and discussions held to date, we have identified as being subject to overlapping interests. ...

1. Athenree Forest
2. Public conservation areas
3. 9 Landbank properties subject to potential interests from Hauraki and Tauranga iwi

...
We acknowledge there may be further areas of redress that require resolution as Hauraki and Tauranga iwi clarify the location of the redress they are seeking.

Preliminary cultural redress offers for Hauraki iwi

We would like to provide Hauraki iwi preliminary indications of what may form cultural redress packages as an outcome of this process. In order for us to progress this, please could each Hauraki iwi submit information on sites of significance as soon as possible.

Area of interests

A map of the Pare Hauraki and TMIC areas of interest is attached as **Appendix 3.**"

[Emphasis added]

45. Fast forwarding to 14 September 2012, the Crown (OTS) wrote³³ to the Hauraki Collective setting out the TMIC settlement framework and advising that the TMIC Deed will be initialled (in 12 working days) on 3 October 2012.
46. On 15 September 2012, the Hauraki Collective wrote³⁴ to the Crown (OTS) outlining the six month engagement between the Hauraki Collective and Crown from March to September 2012 (hui and correspondence), and asking for confirmation as to whether that information was made available to Cabinet ahead of authorising the TMIC Deed settlement package.
47. On 17 September 2012, the Crown (OTS) wrote³⁵ to the Hauraki Collective but did not provide the requested Crown information, nor any Crown undertaking that the TMIC Deed initialling would be deferred pending the resolution of the issues raised by the collective.

B. IWI OF HAURAKI WAITANGI TRIBUNAL PROCEEDING (SEPTEMBER - OCTOBER 2012)

48. This proceeding was therefore commenced³⁶ by the Iwi of Hauraki on 18 September 2012.

³³ Wai 215, 2.683(a).

³⁴ Wai 215, 2.683(b).

³⁵ Wai 215, 2.683(c).

³⁶ Wai 215, 2.682.

49. Consequently, the Crown agreed³⁷ to defer the initialing of the TMIC Deed.
50. Following intensive discussions, on 24 October 2012 the Crown and Hauraki Collective lodged a joint memorandum³⁸ with the Tribunal in this proceeding that recorded:
- "2. Counsel advise that a teleconference and urgent hearing will not now be required prior to initialling of the Tauranga Moana Iwi Collective (TMIC) deed, scheduled to take place on 31 October 2012.
 3. The Hauraki Collective has reached this position on the following basis:
 - 3.1 Cultural redress will be provided to iwi of Hauraki within the Te Puna and Katikati Blocks, as agreed with the Crown.
 - 3.2 The Tauranga Moana Framework will not prevent Hauraki Iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC.**
 - 3.3 Commercial redress will be provided to iwi of Hauraki within the Te Puna and Katikati Blocks, as agreed with the Crown.
 - 3.4 The Hauraki Collective will have the right to acquire 60% of the Athenree Crown Forest Licensed land on agreed terms.
 4. As the Hauraki Collective will not receive of a copy of the TMIC deed prior to initialling, and awaits a letter from the Crown on other matters, leave is sought from the Tribunal for either party to resume this proceeding."

[Emphasis added]

C. RESOLUTION OF OVERLAPPING CLAIMS PROCESS (NOVEMBER 2012 - 2013)

51. The Crown subsequently oversaw a process to progress its above undertakings to the Iwi of Hauraki. This process included joint hui with the Crown and TMIC.
- (i) Hauraki Collective Right of First Refusal Property Redress**
52. As a result of five hui (held in Tauranga / Auckland) and related correspondence pursuant to an agreed process, the Hauraki Collective and TMIC reached agreement on 29 May 2013 as to their respective 17 Right of First Refusal (**RFR**) property selections in the Katikati and Te Puna Blocks.³⁹
53. The agreed list, however, had to be further refined as the information provided by the Crown as to the available RFR properties proved to be erroneous for several properties.

³⁷ See, for example, paragraph 3 of Crown Law Memorandum (Wai 215, 2.686).

³⁸ Wai 215, 2.695.

³⁹ Which blocks are shown in Attachment 3 of this submission (as well as Attachment 5).

Agreement was subsequently reached between the Hauraki Collective and TMIC over the replacement properties.

54. The location of the 17 Hauraki Collective RFR properties is shown in **Attachment 5**.
55. A photograph recording the agreed RFR lists is shown in **Attachment 6**.

(ii) Hauraki Collective Athenree Forest Redress

56. One of the issues to be resolved following the Crown decision as to the 60% (Hauraki Collective): 40% (TMIC) split of the Athenree Forest was the location of the respective land boundaries.
57. Again, following several hui and related correspondence pursuant to an agreed process, the Hauraki Collective and TMIC reached agreement on 29 May 2013 both as to the respective forest boundaries and overall forest purchase price.
58. A signed copy of the agreed map is shown in **Attachment 7**.⁴⁰ This version of the map is included in the TMIC Deed.⁴¹

(iii) Hauraki Collective Statutory Acknowledgment Redress

59. Similarly, the Hauraki Collective and TMIC reached agreement on the respective Hauraki Collective and TMIC statutory acknowledgment areas in the Katikati and Te Puna Blocks.
60. The agreed Hauraki Collective statutory acknowledgment areas are shown in **Attachment 8**.⁴²

(iv) Iwi of Hauraki Redress

61. The current position with iwi-specific and Crown negotiations is that each of the following iwi of Hauraki is receiving Crown land transfers, and in some cases other redress, within the Tauranga Moana Framework redress area as part of its Treaty settlement with the Crown:
- (a) Ngāti Hako;
 - (b) Ngāti Maru;
 - (c) Ngāti Tamaterā;
 - (d) Ngāti Tara Tokanui; and
 - (e) Ngāti Rāhiri Tumutumu,
- as shown in Attachment 5.
62. Given that the iwi-specific redress is confidential to the relevant iwi, the above information has been sourced from information

⁴⁰ Those areas are also shown on Attachment 5 of this submission.

⁴¹ Property Redress Schedule of TMIC Deed at page 5.

⁴² Those areas are also shown on Attachment 5 of this submission.

made available to all the Iwi of Hauraki by the Crown as part of an agreed internal 'reveal' process. Thus, it is understood there will be additional Iwi of Hauraki land transfers (and other redress) in the Tauranga Moana Framework redress area, but the details are not as yet available.

63. The location of the Hauraki Collective and Iwi of Hauraki redress overlaid with the Tauranga Moana Framework Plan boundaries is shown in **Attachment 9**.

IV. TAURANGA MOANA FRAMEWORK REDRESS OVERLAPPING CLAIMS PROCESS

A. TAURANGA MOANA FRAMEWORK OVERLAPPING CLAIMS PROCESS (DECEMBER 2011 – APRIL 2012)

64. The Crown and TMIC Iwi signed a document entitled 'Statement of Position and Intent' on 22 December 2011 (**December 2011 Statement of Position**).⁴³
65. The December 2011 Statement of Position includes the following Tauranga Moana Framework redress related extracts:

[Page 3]

"B. Moana Framework

- A working party has been formed with TMIC, Crown and local authority members to identify detailed requirements for a co-governance / co-management 'Mountains to the Sea' framework for the coastal area, harbor and surrounding waterways;
- TMIC negotiation position has been established;
- On-going discussions about a co-governance / co-management framework for the coastal area, harbor, surrounding waterways including the Rena Environment Recovery Plan are taking place; and
- Meetings have been held with local authorities."

[Pages 8-10]

**"Section B: Moana Framework
Co-governance/co-management framework for Tauranga Moana**

Background

...

17. On 15 December 2010 cabinet agreed to explore options with TMIC to meet their aspirations to participate in decision-making for Tauranga Moana (coastal area, harbor and surrounding waterways).

...

23. The Crown has indicated its willingness to negotiate a collective co-governance and co-management framework for Tauranga Moana Iwi for inclusion in their respective deeds of settlement. The detail of the framework will require consideration by cabinet and is subject to the agreement of cabinet.

...

⁴³ Included as Appendix 1 of Attachment 4 of this submission (Crown (OTS) letter to the Hauraki Collective of 26 April 2012).

28. The working party will complete this work in early February 2012 for cabinet consideration."

[Emphasis added]

66. The December 2011 Statement of Position omitted any reference to the Iwi of Hauraki and was silent as to any process for making provision for our inclusion.⁴⁴
67. Attachment 4 to this submission⁴⁵ sets out the following 'proposed process for resolving overlapping claims between TMIC and Hauraki Iwi' in relation to the Tauranga Moana Framework redress, noting the intention to commence negotiations with the Iwi of Hauraki in July/August 2012:⁴⁶

"Week	TMIC/Hauraki overlapping claims	Hauraki specific redress
July [2012]	Tauranga Moana framework negotiations begin (OTS will propose a detailed workplan for these negotiations closer to the time)	Crown develops full iwi specific redress packages for presentation to Hauraki Iwi in late August [2012]"
August [2012]		

68. In the event, there was no substantive engagement by the Crown with the Iwi of Hauraki on the Tauranga Moana Framework redress until the second half of 2014.

B. TAURANGA MOANA FRAMEWORK REDRESS OVERLAPPING CLAIMS PROCESS (JULY – SEPTEMBER 2014)

69. It is understood that one of the reasons for the delay was a sustained period of breakdown in TMIC–Crown negotiations due, in large measure, to internal TMIC Iwi conflict.
70. One manifestation of that internal TMIC conflict is that all but one element of the TMIC collective redress has been unwound via settlement amendment deeds executed by each of Ngāi Te Rangī (along with Ngā Potiki), Ngāti Pūkenga and Ngāti Ranginui. This is in stark contrast to the 12 Iwi of Hauraki who have retained, and are committed to, the many aspects of Hauraki Collective redress.
71. The Tauranga Moana Framework redress the subject of the Crown – Iwi of Hauraki negotiations involved the following elements:⁴⁷

⁴⁴ There was the usual pro-forma statement as to general overlapping claims processes at paragraphs 97-99 of the December 2011 Statement of Position.

⁴⁵ The Crown (OTS) letter to the Hauraki Collective of 26 April 2012.

⁴⁶ At page 4 of the letter.

⁴⁷ This summary is contained in Crown Memorandum H387 to the Hauraki Collective dated 19 September 2014 (**Attachment 10**).

"MEMORANDUM

To: Hauraki Collective
From: Mike Dreaver, Chief Crown Negotiator
Date: 19 September 2014

Tauranga Moana Co-governance Framework

...

The Co-Governance Arrangements

2. The co-governance regime for Tauranga Moana iwi will establish a statutory committee called the Tauranga Moana Governance Group with the following functions:

- to prepare, review, amend and adopt a Tauranga Moana framework document - Ngā Tai ki Mauao;
- to monitor the effectiveness of Ngā Tai ki Mauao (the Tauranga Moana framework document);
- to engage with iwi and hapū in matters that affect their respective interests in Tauranga Moana and facilitate the participation of iwi and hapū in Resource Management Act 1991 processes by:
 - maintaining a register of accredited commissioners available to sit on hearings committees; and
 - establishing working parties jointly with local authorities;
- to provide strategic guidance to relevant local authorities, management agencies, and Ministers, including recommendations on:
 - the effectiveness of measures related to Ngā Tai ki Mauao;
 - the effectiveness of management measures for Tauranga Moana;
 - activities occurring within the Tauranga Moana catchment if those activities impact, or are likely to impact, on Tauranga Moana; and
 - likely threats to the health, wellbeing and sustainable management of Tauranga Moana;
- to facilitate and promote the integrated management of Tauranga Moana;
- to obtain, share, and monitor information on the state of Tauranga Moana;
- to assist local authorities and management agencies to:
 - prepare and disseminate information about Tauranga Moana, including educational information;

- monitor the state of the Tauranga Moana environment and the effectiveness of the management of Tauranga Moana;
- engage with iwi and hapū concerning their interests in Tauranga Moana and their views on the management of Tauranga Moana;
- facilitate participation by iwi and hapū in the management of Tauranga Moana;
- to receive advice and information of relevance to the purpose of the Tauranga Moana Governance Group from local authorities and agencies with responsibilities related to Tauranga Moana; and
- to form alliances and enter into arrangements with:
 - relevant organisations and groups to undertake initiatives to achieve the purpose of the Tauranga Moana Governance Group; and
 - research and education institutes to increase knowledge about Tauranga Moana and raise awareness of matters relevant to the purpose of the Tauranga Moana Governance Group.”

72. During the course of July to September 2014 there were detailed, and at times robust, exchanges between the Iwi of Hauraki and Crown on the Tauranga Moana Framework redress drafting.

73. It is noted that at this point in time:

- (a) Unlike the overlapping claims process for the RFR properties, Athenree Forest and statutory acknowledgements (paragraphs 51–60 above), the Iwi of Hauraki were not given the opportunity by the Crown to have even one hui on the Tauranga Moana Framework redress with the Crown along with the TMIC Iwi, relevant councils, and/or the working party (Crown, TMIC and councils) formed in 2011 to negotiate the Tauranga Moana Framework redress (paragraph 65 above); and
- (b) the Crown pursued an isolated negotiation process with the Iwi of Hauraki.

74. As at 19 September 2014, the outcomes of the Crown – Iwi of Hauraki negotiations during July – September 2014 were summarised by the Crown as follows:⁴⁸

⁴⁸ In Attachment 10 of this submission (Crown Memorandum H387 to the Hauraki Collective dated 19 September 2014).

“Tauranga Moana Co-governance Framework

1. This memo summarises the Crown’s position on the Tauranga Moana Co-Governance Framework. The Minister has made final decisions which are to be reflected in the TMIC Deed of Settlement – and in some respects through the Hauraki Collective Deed of Settlement.

...

Changes made to recognise Pare Hauraki interests in Tauranga Moana and issues raised

3. Following the Crown’s consideration of the issues raised by the Hauraki Collective with the TMIC deed drafting, the Minister has authorised the following changes to the Framework and the following commitments to Hauraki iwi:
- A fifth iwi seat has been created for the iwi with recognised interests in Tauranga Moana;
 - Hauraki Collective are offered the right to nominate its representative to this fifth seat;
 - there may need to be accommodation of other iwi interests within the membership of the Group in the future;
 - the appointee to the fifth seat will be able to participate fully in all matters that relate to or could reasonably be considered to have an actual or potential effect on the recognised interest area, except the appointment of the co-chair;
 - any dispute over whether any matter involves the Pare Hauraki area of interest will be determined by a majority decision of the governance group (which with the new fifth seat has four Tauranga Moana seats, one Pare Hauraki seat and five council seats);
 - the Hauraki Collective deed will contain an obligation for the Bay of Plenty Regional Council to discuss with the Hauraki Collective the potential for Hauraki iwi to participate in the making of decisions on relevant Resource Management Act planning documents and processes – this mirrors an equivalent commitment to the Tauranga Moana Iwi; and
 - the Crown offers the Hauraki Collective, as well as relevant Hauraki iwi, letters of introduction to councils, including advice on the Pare Hauraki World View.

Timing for deed of settlement signing

...

5. This framework has taken some time and involved significant compromises on all sides. It is now for the Hauraki Collective to consider whether to accept these proposed arrangements. I appreciate this is a significant decision. In this respect, I want to confirm the Crown’s policy with respect to any Waitangi Tribunal action that may be contemplated by the Hauraki Collective or Hauraki iwi. You will be aware of the Crown practice that it will not

negotiate and litigate with a claimant group at the same time.”

75. Despite the “final decisions” (being non-binding Crown negotiation positions), the Iwi of Hauraki were very clear that they did not accept the Crown positions set out at the third and fourth-fifth bullet points of paragraph 3 of the above summary (from Attachment 10):

- (a) Third bullet point⁴⁹ - the Iwi of Hauraki final decision is that any additionally recognised Iwi on the TMGG will not default to the Hauraki seat, rather the starting position will be that such representation can come from any of the five Iwi seats (the four TMIC Iwi seats or one Hauraki seat).
- (b) Fourth-fifth bullet points⁵⁰ - the Iwi of Hauraki final decision is that the fourth bullet point is acceptable provided it does not come tied with the Crown’s proposed veto regime contained in the fifth bullet point.

76. On the ‘third bullet point issue’, resolution was achieved between the Crown and the Iwi of Hauraki as follows:

- (a) The Crown may recognise other Iwi who can participate in the Tauranga Moana Framework;
- (b) Such recognition may or may not include representation on the TMGG;
- (c) If so, that would unlikely involve the creation of an additional (sixth) TMGG Iwi seat; and
- (d) Any such ‘seat recognition’ can come from any of the five Iwi seats, not just the Hauraki seat, after good faith consultation with the Iwi of Hauraki and TMIC Iwi.

⁴⁹ Which states:

“• there may need to be accommodation of other Iwi interests within the membership of the Group in the future.”

⁵⁰ Which state:

“• the appointee to the fifth seat will be able to participate fully in all matters that relate to or could reasonably be considered to have an actual or potential effect on the recognised interest area, except the appointment of the co-chair.”

“• any dispute over whether any matter involves the Pare Hauraki area of interest will be determined by a majority decision of the governance group (which with the new fifth seat has four Tauranga Moana seats, one Pare Hauraki seat and five council seats);”

77. The only other iwi mentioned to date by the Crown who may be so recognised is Ngāti Hinerangi. As discussed below (paragraphs 91-95), the Crown (OTS) has been unhelpfully economical in its response to the direct inquiry from the Iwi of Haurakī as to whether the Crown is going to offer Ngāti Hinerangi a TMGG iwi seat, and if so from which of the five iwi seats.
78. The provisions of the Tauranga Moana Framework contained in the signing version of the Legislative Matters Schedule of the TMIC Deed (**Attachment 11**) reflecting the outcomes set out above are as follows:
- (a) Roadmap of the Tauranga Moana Framework arrangements:⁵¹

"3 Tauranga Moana Framework

FRAMEWORK OF ARRANGEMENTS

- 3.1 The collective legislation will provide for the arrangements contained in this part including:
- 3.1.1 the establishment of a statutory committee called the Tauranga Moana Governance Group; and
- 3.1.2 the preparation, review, amendment and adoption of a Tauranga Moana framework document – Ngā Tai ki Mauao.
- 3.2 The collective legislation will:
- 3.2.1 include the provisions relating to the Tauranga Moana Governance Group set out in part 1 of the Appendix to this part; and
- 3.2.2 include the provisions relating to Ngā Tai ki Mauao (the Tauranga Moana framework document) set out in part 2 of the Appendix to this part.

PURPOSE OF THE TAURANGA MOANA GOVERNANCE GROUP

- 3.3 The collective legislation will provide that the purpose of the Tauranga Moana Governance Group is to provide leadership and strategic direction to restore, enhance and protect the health and wellbeing of Tauranga Moana and achieve sustainable management of Tauranga Moana for present and future generations through:
- 3.3.1 Ngā Tai ki Mauao (the Tauranga Moana framework document);
- 3.3.2 facilitating an integrated, holistic and co-ordinated approach to the management of Tauranga Moana and the implementation of Ngā Tai ki Mauao (the Tauranga Moana framework document); and

⁵¹ Legislative Matters Schedule of TMIC Deed (Attachment 11 of this submission) at page 4.

- 3.3.3 providing for participation by Tauranga Moana iwi and hapū in the management of Tauranga Moana, the implementation of Ngā Tai ki Mauao (the Tauranga Moana framework document) and the functioning of the Tauranga Moana Governance Group."

(b) Composition of the TMGG:⁵²

"APPENDIX TO PART 3

**PART 1: TAURANGA MOANA GOVERNANCE GROUP
Membership**

- 1 The collective legislation will provide that:
- Composition of membership*
- 1.1 the Tauranga Moana Governance Group consists of 10 members being:
- 1.1.1 1 member appointed by the Ngā Hapū o **Ngāi Ranginui** governance entity;
 - 1.1.2 1 member appointed by the **Ngāi Te Rangī** governance entity;
 - 1.1.3 1 member appointed by the **Ngāti Pūkenga** governance entity;
 - 1.1.4 1 member appointed by the **Tauranga Moana Iwi Collective**;
 - 1.1.5 1 member appointed by the governance entity of the iwi with recognised interests in Tauranga Moana [**Iwi of Hauraki**];
 - 1.1.6 1 member appointed by the **Minister for the Environment**;
 - 1.1.7 the chair of the **Bay of Plenty Regional Council** or the chair's delegate;
 - 1.1.8 the mayor of the **Tauranga City Council** or the mayor's delegate;
 - 1.1.9 the mayor of the **Western Bay of Plenty District Council** or the mayor's delegate; and
 - 1.1.10 1 member appointed by the **Bay of Plenty Regional Council** to reflect paragraph 10.4;"

[Emphasis added]

(c) Iwi co-chair restricted to the TMIC Iwi (ie, Iwi of Hauraki barred from being the Iwi co-chair):⁵³

"Co-chairs

- 2 The collective legislation will provide that:
- 2.1 two members of the Tauranga Moana Governance Group are to be co-chairs;
 - 2.2 the appointers of members under paragraph 1.1.1 to 1.1.4 must designate one of those members to be one of the co-chairs;
 - 2.3 the appointed and ex officio members under paragraphs 1.1.6 to 1.1.9 must designate one of their number to be one of the co-chairs;"

(d) TMGG decision-making regime:⁵⁴

⁵² Legislative Matters Schedule of TMIC Deed (Attachment 11 of this submission) at page 25.

⁵³ Legislative Matters Schedule of TMIC Deed (Attachment 11 of this submission) at page 28.

"Decision-making

- 6 The collective legislation will provide that:
- 6.1 members must reach decisions pursuing:
 - 6.1.1 the highest level of good faith engagement; and
 - 6.1.2 consensus decision-making;
 - 6.2 **if, in the opinion of one or both of the co-chairs consensus is not practicable after reasonable discussion, a decision may be made by the Tauranga Moana Governance Group by:**
 - 6.2.1 **a minimum majority of 6 of those members present and voting at the meeting; or**
 - 6.2.2 **if less than 6 members are present and voting, a minimum majority of 5 of those members present and voting at the meeting;**
 - 6.3 the co-chairs may vote on any matter but do not have a casting vote; and
 - 6.4 members must approach decision-making in a manner that is consistent with, and reflects, the purpose of the Tauranga Moana Governance Group."

[Emphasis added]

- (e) Membership and participation regime for "recognised interests";⁵⁵

"MEMBERSHIP TO PROVIDE FOR RECOGNISED INTERESTS

- 10 The collective legislation will provide that:
- 10.1 the member under paragraph 1.1.5 may only be appointed by iwi with recognised interests;
 - 10.2 **the member under paragraph 1.1.5 is entitled to participate whenever the Tauranga Moana Governance Group is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a recognised interest area;**
 - 10.3 **in the event of any disagreement on whether paragraph 10.2 applies, the Tauranga Moana Governance Group will make a decision on the matter in accordance with paragraph 6 and the members under paragraph 1.1.5 and 1.1.10 will be entitled to participate in that process.**

Additional local government member

- 10.4 the member appointed by the Bay of Plenty Regional Council under paragraph 1.1.10 may attend those parts of the meetings that are attended by the member appointed under paragraph 1.1.5.

⁵⁴ Legislative Matters Schedule of TMIC Deed (Attachment 11 of this submission) at page 30.

⁵⁵ Legislative Matters Schedule of TMIC Deed (Attachment 11 of this submission) at pages 32-33.

Definitions

"**recognised interests**" means the interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and are confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims;

"**recognised interest area**" means an area containing recognised interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and is confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims.

PROVISION FOR RECOGNISED INTERESTS

- 10.5 Subject to paragraph 10.6, where in any paragraph in this part 3 and Appendix part 1 and 2 there is a reference to Tauranga Moana iwi or Tauranga Moana iwi and hapū, that paragraph will also apply to iwi with recognised interests insofar as that paragraph relates to the recognised interest area.
- 10.6 Paragraph 10.5 does not apply to paragraph 3.17.6 or paragraphs 3.21.20 to 3.21.23."

[Emphasis added]

79. A map of the Iwi of Hauraki 'recognised interest area' (defined in the extract at paragraph 78(e) above) will be included in the Hauraki Collective deed. With the Crown suspension of Hauraki Collective negotiations, discussions on agreeing the area are on hold.
80. Relevant indicia for the Iwi of Hauraki 'recognised interest area' include:
- (a) Attachment 1 to this submission⁵⁶ contains a Hauraki area of interest map provided by the Crown.
 - (b) As discussed (paragraphs 51-60 above), Attachment 5 to this submission shows the areas where the Crown has agreed to provide land transfers and other redress to the Hauraki Collective and Iwi of Hauraki inside the Tauranga Moana Framework redress area.
 - (c) The Iwi of Hauraki area under section 35A of the Resource Management Act 1991, as required to be provided by the Crown, is shown on the Te Puni Kōkiri Te Kāhui Māngai webpage.⁵⁷

**C. TAURANGA MOANA FRAMEWORK OVERLAPPING CLAIMS
PROCESS (SEPTEMBER – DECEMBER 2014)**

⁵⁶ At Appendix 3 of Attachment 1 (Crown (OTS) letter to the Hauraki Collective of 26 April 2012).

⁵⁷ <http://www.tkm.govt.nz/region/hauraki/>.

81. The main focus of the Tauranga Moana Framework negotiations during late September – December 2014 was clause 10.3, and related provisions, of the TMIC Deed.
82. The Crown proposed these provisions in the second-half of 2014 following its agreement to add a fifth (Hauraki) seat to the TMGG.
83. However, the general TMGG decision-making process (as drafted by the Crown in 2012) was not designed to deal with disputes over iwi participation rights. Thus, the Crown retrofitted the 'Hauraki seat' dispute provisions to the existing TMGG decision-making regime.
84. The Iwi of Hauraki do not know whether this was the idea of the Crown, TMIC and/or the councils.
85. As noted (paragraph 73 above), the Iwi of Hauraki were not given the opportunity by the Crown to have even one hui on the Tauranga Moana Framework redress with the Crown along with the TMIC Iwi, relevant councils, and/or the working party (Crown, TMIC and councils) formed in 2011 to negotiate the Tauranga Moana Framework redress. That remains the position to this day. As does the fact that the Crown pursued an isolated negotiation process with the Iwi of Hauraki.
86. The Iwi of Hauraki strongly opposed the proposed clause 10.3 regime from the outset, and continue so to do.

(i) Overall summary of Concerns of Iwi of Hauraki

87. An overall summary of the concerns of the Iwi of Hauraki are as follows:

- (a) The Hauraki Collective seat has participation rights:

"10.2 ... whenever the Tauranga Moana Governance Group is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a recognised interest area."

- (b) This restriction does not apply to any of the four TMIC Iwi seats (one each for Ngāi Te Rangi, Ngāti Pūkenga, Ngāti Ranginui and the TMIC collective).

This is so despite the fact that there are several parts of the Tauranga Moana Framework redress area which are not encompassed by the respective 'area of interest' of each TMIC Iwi as mapped in their respective settlement deeds (paragraphs 106-109 below).

- (c) Clause 10.3 automatically sends "any disagreement" over whether the Hauraki seat has a right to participate on a TMGG matter to the TMGG decision-making process:

"10.3 in the event of any disagreement on whether paragraph 10.2 applies, the Tauranga Moana Governance Group will make a decision on the matter in accordance with paragraph 6 and the members under paragraph 1.1.5 and 1.1.10 will be entitled to participate in that process."

- (d) Thus, any of the nine non-Hauraki seats can challenge the participation of the Hauraki seat on a TMGG issue without cause. To be clear, that is any of the:

- (i) four TMIC iwi seats;
- (ii) one Ministerial seat; or
- (iii) four council seats.

In relation to item (iii), it is noted that a Council seat can challenge the participation of the Hauraki seat in circumstances where it is that council's proposal being considered by the TMGG.

- (e) Nor, is there any requirement for a merits assessment on a 'clause 10.3 decision' by the TMGG. Notwithstanding the apparently comforting provisions of paragraphs 6.1 and 6.4 of the TMGG decision-making regime, there is ultimately only the process requirement of a simple majority decision of at least a quorum of members. Where a Hauraki seat issue is involved, and all members are present, the votes comprise:

- (i) Four TMIC iwi votes;
- (ii) Five council / Ministerial appointee votes (which includes the 1 'matching council' seat for the Hauraki seat); and
- (iii) One Hauraki vote.

- (f) Thus, the right of Hauraki participation, regardless of the merits, is always subject to a simple majority vote of up to nine other members (provided the TMGG is quorate).

- (g) It is acknowledged that the standard TMGG decision-making regime promotes good faith engagement, consensus and consistency with the TMG purpose. However, this is no guarantee that any one or more of the nine non-Hauraki seats does not raise a

'disagreement', and as noted such challenge does not require cause.

- (h) Lest the observation is made that any concern with the Hauraki seat being outvoted in circumstances where it should have a right of participation tends to the fanciful or that reasonable parties would not engage in such behaviour, the obvious response is that the Crown should never have put the Iwi of Hauraki in the unsafe environment where that can occur under a regime that will endure forever and involves the often challenging world of RMA decision-making:

"6.2 if, in the opinion of one or both of the co-chairs consensus is not practicable after reasonable discussion, a decision may be made by the Tauranga Moana Governance Group by:

6.2.1 a minimum majority of 6 of those members present and voting at the meeting; or

6.2.2 if less than 6 members are present and voting, a minimum majority of 5 of those members present and voting at the meeting;"

- (i) The only theoretical 'remedy' for the Hauraki seat in such circumstances is judicial review from the High Court. But, that is no remedy at all. As noted:

(i) There is no requirement for any of the nine non-Hauraki seats to show cause to bring a challenge under clause 10.3 ("in the event of any disagreement"); and

(ii) There is no requirement for a merits assessment in voting on whether the Hauraki seat can participate on a matter under challenge, it is a simple majority decision.

Thus, if those basic process elements have been observed, the High Court would have little if any basis to intervene (remembering judicial review does not involve a merits appeal).

- (j) Moreover, and as is well known, the costs of judicial review are significant and also carry material costs consequences.

(ii) Hypothetical Illustration

88. The following hypothetical example illustrates the concerns of the Iwi of Hauraki:

- (a) An application is made by Western Bay of Plenty District Council to discharge sewage into the following watercourses:
- (i) Okawe Stream (also known by some as 3 Mile Creek at the point it enters into the coastal marine area between Waihi Beach and Island View - shown in Attachments 9 and 15 as a pink and black circle symbol); and
 - (ii) the Waipapa River
- (b) The applications are listed on the agenda of an upcoming TMGG hui (notice of meetings can be given on 5 business day's notice⁵⁸);
- (c) The 'Hauraki seat' provides notice to TMGG that the application triggers clause 10.2;
- (d) A challenge to the 'Hauraki seat' notice is raised by all three TMIC iwi and Western Bay of Plenty District Council.
- (e) Given the disagreement, clause 10.3 (and the TMGG decision-making regime) is triggered.
- (f) The three TMIC iwi advise that they oppose the participation of the Hauraki seat because the application areas are within their areas of interest.
- Because of their close working relationship over many years, Western Bay of Plenty District Council supports the position of Ngāti Pūkenga and Ngāti Ranginui.
- (g) Despite attempts to resolve the disagreement "after reasonable discussion", the TMGG co-chairs (which as noted cannot be from the Hauraki seat) are of the opinion that a consensus decision is not practicable.
- (h) The TMGG holds a vote on the participation of the Hauraki seat:
- (i) The four TMIC iwi seats vote no;
 - (ii) The Western Bay of Plenty District Council seat votes no;
 - (iii) The other four Council / Ministerial seats abstain; and
 - (iv) The Hauraki seat votes yes.

⁵⁸ Paragraph 4.2 - Legislative Matters Schedule of TMIC Deed (Attachment 11 of this submission) at page 28

- (i) Consequently, under the TMIC Deed, the Hauraki seat is excluded from participating in the TMGG's consideration of the council's sewage discharge applications.

89. As the clause 10.3 regime will be included in the TMIC legislation, the above hypothetical decision would involve a statutory power of decision and therefore be amenable to an application for judicial review. However, given the jurisdiction of the High Court on review, the focus would be on process and not substance. Moreover, the High Court is not a forum for determining mana whenua. Ultimately, on the question of whether the hypothetical decision is so unreasonable it could not be made by a rational decision-maker, there would be no obvious comfort for the Iwi of Hauraki.
90. The above hypothetical can take many forms. The open ability for challenge by any other nine TMGG member would equally apply if, for example, the Iwi of Hauraki sought to have socio-economic enhancing matters considered by the TMGG in their "recognised interest area".

(iii) Further TMGG Iwi Seat Representation? – Ngāti Hinerangi

91. As discussed (paragraph 77 above), the Crown is considering whether it will offer TMGG participation to Ngāti Hinerangi.
92. As the Crown (OTS) has not been forthcoming with its position, and given the effect such recognition will have on the operation of the clause 10.3 regime for the Iwi of Hauraki, a direct inquiry was made on 27 November 2014 as to whether the Crown is going to offer Ngāti Hinerangi a TMGG Iwi seat, and if so which Iwi seat.
93. The Crown provided its formal response on 16 January 2015 with a series of documents.
94. Unfortunately, the Crown's parsimonious response (redacting all matters of substance from the documents provided) provides no clarity on this issue at all.
95. This leaves the Iwi of Hauraki (and the Waitangi Tribunal) in the position of not knowing the full extent of the prejudice caused by the clause 10.3 regime.

(iv) Final Crown Position

96. There were various discussions and correspondence during September – December 2014 on the clause 10.3 regime.

97. A key meeting was held between the Crown (including the Minister for Treaty of Waitangi Negotiations and the Chief Crown Negotiator) and the Hauraki Collective on 5 December 2014. Below is an extract from the Record of Negotiation produced by the Crown:⁵⁹

"Record of Negotiation - 5 December 2014

Hauraki Collective and Minister for Treaty of Waitangi Negotiations

<i>Ngati Whanaunga</i> Nathan Kennedy Tipa Compain	<i>Ngati Tara Tokanui</i> Amelia Williams Russell Karu	<i>Ngati Maru</i> Waati Ngamane Paul Majurey
<i>Ngati Tamatera</i> John McEnteer Liane Ngamane	<i>Ngai Tai ki Tamaki</i> Laurie Beamish Carmen Kirkwood Lucy Steel	<i>Ngati Pukenga</i> Rahera Ohia Harry Mikaere
<i>Hako</i> John Linstead Josie Anderson	<i>Te Patukirkiri</i> David Williams William Peters	<i>Ngati Hei</i> Peter Matai Johnston
<i>Ngati Rahiri Tumutumu</i> Nicki Scott	<i>Ngati Paoa</i> Hauauru Rawiri	

Crown: Hon Christopher Finlayson Minister for Treaty of Waitangi Negotiations (MFTOWN), Patrick Southee Private Secretary, Mike Dreaver Chief Crown Negotiator, Kevin Kelly Director, Glenn Webber Deputy Director, Bernadette Consedine Principal Analyst, Hannah McGregor

...

Tauranga

MD noted Hauraki has seen a challenging year and a half of engagement with Tauranga and agreement has been reached on most matters including the identification of RFRs and other redress. ...

PM noted this might mean the Tauranga Moana Framework drafting, and clause 10.3, are the last issues.

MFTOWN noted the current drafting involves sensitivities on both sides and he has turned this issue inside out to avoid being dragged into court. In coming to a position he has been guided by Crown Law. Crown Law's view is Hauraki can challenge a decision of the Tauranga Moana Governance Group on participation on both merits and substance.

PM noted for Hauraki there is a decision to make. There are a number of challenging matters - ... However, of all of these, the

⁵⁹ This document is not attached as it is negotiation sensitive, for example it contains redress information outside the scope of this proceeding.

position on the Tauranga Moana Framework is the most troubling. We are not sure Crown Law has been asked the correct question. The question is not, do we have the right to challenge, but, what would be the outcome of that challenge. The clauses are very clear. In the event of a dispute Tauranga Moana Iwi have the majority of the seats. They can vote to exclude us. The High Court is not going to overturn such a decision if it is made as the process involves a vote and that process would have been followed. Hauraki are not letting this go as it goes directly to the right of recognition in Tauranga Moana. There are Tribes here who want to go to the Tribunal. If you delete 10.3 we can get there: if we delete that, we can get to an initialling by Christmas.

MFTOWN noted he would talk to the officials.

KK confirmed the question as described was exactly what had been put to Crown Law.

PM responded that this is not reflected in the memo.

PM asked when the Tauranga Moana Iwi Collective signing would be.

KK noted there is not a signing ceremony, it will be on the papers, but currently there is no scheduled date. We will get back to you on that."

98. On 10 December 2014, the Hauraki Collective received a letter⁶⁰ from the Minister that responded to the various matters discussed at the 5 December 2014 hui. On the clause 10.3 issue, the letter written for the Minister by officials included a list of selected points from one exchange and concluded with the following statement:

"I am satisfied I have considered the matter fully and I re-confirm my final decision of 27 November 2014."

99. The Iwi of Hauraki having exhausted all avenues to find a tenable solution, it was not until after that point that an urgent hearing was sought from the Waitangi Tribunal.

V. URGENCY CRITERIA

100. The Tribunal is to assess the primary urgency criteria:
- (a) Can the Iwi demonstrate they are or will likely suffer significant and irreversible prejudice as a result of Crown action or policy?
 - (b) Is there is an alternative remedy that, in the circumstances, it would be reasonable for the Iwi to exercise?

⁶⁰ This letter is not attached as it is negotiation sensitive, for example it contains redress information outside the scope of this proceeding.

(c) Are there any other grounds to justifying urgency?

101. The Practice Note is acknowledged:⁶¹

"The Tribunal will grant an urgent hearing only in exceptional cases and only once it is satisfied that adequate grounds for according priority have been made out. Such hearings will inevitably delay programmed hearings already in train, and the claims of those seeking priority must be balanced against the numerous claims involved in inquiries in hearing and in preparation. Deferral of an existing hearing or publication of a report is often the practical effect of a Tribunal decision to grant an urgent hearing."

102. As is the following statement of the Tribunal:⁶²

"23. The concern here is primarily about process. It is not the role of the Tribunal to decide the content of Treaty settlements. The focus must be on whether the process followed by the Crown in coming to settlement has been in accordance with the principles of the Treaty. If there are shortcomings in the process that have prejudiced an applicant the Tribunal must then decide whether the prejudice is of such an order that warrants action to ameliorate the situation."

[Footnote omitted]

103. There has been one urgency application in relation to the Hauraki Collective settlement. There, the Tribunal made the following decision in relation to whether the urgency criteria were met:⁶³

"The Ngāi Rāhiri Tumutumu complaint was that they have been denied the proper opportunity to negotiate with the Crown over their aspirations for redress on Te Aroha maunga because the area for the collective vesting was determined in a way that has forestalled any prospect of meaningful negotiations in respect of the iwi-specific redress. On this matter Judge Doogan observed:

I acknowledge that balancing a large collective negotiation with iwi-specific negotiations is a complex and difficult task. I also acknowledge that it is very unlikely that any single iwi of the Collective would have been able to negotiate the return of 1000 hectares of Moehau and Te Aroha Maunga. Redress of this magnitude tends to be one of the benefits of a collective approach.

However in a situation such as this where there is a clear overlap and potential conflict between collective and iwi-specific redress it is all the more important that the negotiation process is transparent and fair.

The Tribunal in its Tāmaki report came to the conclusion that in the circumstances of that case the Crown's policy and practice had been unfair both as to process and outcome...

However, if it is established that the process by which the offer to the Collective was made was in fact unfair to RTT in that it thereby foreclosed any prospect of good faith negotiations over RTT's stated redress aspirations that happened to fall within the 1000-hectare area, then it may be open to the Tribunal to find that

⁶¹ Waitangi Tribunal Practice Note, Guide to the Practice and Procedure of the Waitangi Tribunal, May 2012 (Criteria for application seeking urgent Tribunal consideration).

⁶² An application for an urgent remedies hearing on behalf of Ngāi Rāhiri Tumutumu (Wai 663, # 2.85).

⁶³ Te Aroha Maunga Settlement Process Report (Wai 663), released on 13 June 2014, at pages 25-27.

prejudice has been caused to RTT by reason of that unfair process. These are necessarily matters for inquiry as is the question of what (if any) recommendations may be warranted to mitigate any such prejudice.

...

The judge therefore granted urgency on the basis of concern about one aspect of the negotiation process : whether the Crown's offer to the Collective of 1,000 hectares of land on Te Aroha maunga had 'foreclosed any prospect of good faith negotiations' over Ngāti Rāhiri Tumutumu's aspirations for redress within that same area.

...

1.5 Issues before this Inquiry

In granting Ngāti Rāhiri Tumutumu's application for urgency, the presiding officer emphasised the need for a focused inquiry into the Crown's process in making the offer of 1,000 hectares of land on Te Aroha maunga to the Collective. Inquiry was limited to the following issues:

- The process by which the Crown identified the 1,000-hectare area of conservation land to be offered to the Collective and the steps taken (if any) to consult with the Collective or specific iwi (or both) over the location of the boundaries of that 1,000-hectare area prior to confirmation of the offer.
- Prior to and following execution of the Ngāti Rāhiri Tumutumu AIGE in July 2011, what steps did the Crown take to address the apparent conflict between the aspirations of the Collective for redress over Te Aroha Maunga and Ngāti Rāhiri Tumutumu's iwi-specific aspirations for redress over Te Aroha Maunga?
- Did the Crown commit to an offer of 1,000 hectares to the Collective (including the western slopes) without due regard for or consultation with Ngāti Rāhiri Tumutumu over their interests in respect of the Maunga?
- If the evidence establishes that the process by which the Crown offered 1,000 hectares of Te Aroha Maunga to the Collective was inconsistent with conduct required by the principles of the Treaty of Waitangi, what (if any) prejudice has been or could be caused to Ngāti Rāhiri Tumutumu?
- If prejudice has been or could be caused to Ngāti Rāhiri Tumutumu, what recommendations (if any) should be made?"

[Footnotes omitted]

A. SIGNIFICANT AND IRREVERSIBLE PREJUDICE

(i) Crown Failure to Treat Māori Equally

104. As discussed (paragraphs 31–34 above), the Raupatu Report confirmed that the Crown:
- (a) Failed to treat iwi of Hauraki equally with other iwi; and
 - (b) Failed to act honourably and in good faith towards iwi of Hauraki.
105. This is crucial context in the consideration of the present application. For, history is repeating over the same area and with the same Treaty partners (Crown and iwi of Hauraki).

Areas of interest

106. Each of the TMIC iwi have concluded their deeds of settlement which respectively include mapped 'areas of interest':
- (a) Ngāi Te Rangi (along with Ngā Potiki) (**Attachment 12**);
 - (b) Ngāti Pūkenga (**Attachment 13**); and
 - (c) Ngāti Ranginui (**Attachment 14**).
107. These areas of interest have been overlaid on the Tauranga Moana Framework redress area in **Attachment 15**.
108. As can be seen, there are several parts of the Tauranga Moana Framework redress area which are not encompassed by the respective 'area of interest' of each TMIC iwi. For example:
- (a) The Ngāti Ranginui area of interest does not encompass a large area in the eastern part of the Tauranga Moana Framework redress area.
 - (b) None of the three TMIC iwi areas of interest encompass a large area in the southern part of the Tauranga Moana Framework redress area.
 - (c) None of the three TMIC iwi areas of interest encompass the most northern part of the Tauranga Moana Framework redress area.
109. And, yet there is no clause 10.3 style imposition on any of the TMIC iwi seats.

Hauraki Collective Settlement (Waihou, Piako & Coromandel)
Contrast

110. As a stark contrast to the Crown's treatment of the Iwi of Hauraki with the TMIC settlement, a markedly different approach is being taken with the overlapping interests of the following three iwi with the co-governance regime for the Waihou, Piako and Coromandel rivers in the Hauraki Collective settlement:
- (a) Ngāti Hauā;
 - (b) Ngāti Hinerangi; and
 - (c) Ngāti Raukawa.
111. Key features of the Hauraki Collective go-governance regime include:
- (a) Neither the Crown nor Iwi of Hauraki ever opposed a joint seat for the above three iwi;
 - (b) While the above three iwi have very confined areas of interest within the Waihou, Piako and Coromandel

areas (especially by comparison to the extent of the customary interests of the Iwi of Hauraki in the Tauranga Moana Framework redress area), neither the Crown nor Iwi of Hauraki have sought a clause 10.3 equivalent regime (those Iwi can participate in all matters in those areas if they wish);

- (c) The Iwi of Hauraki have agreed that there be no bar on the seat for the above three Iwi having the ability to be elected as co-chair; and
- (d) The above three Iwi have had the benefit of multiple hui with representatives of the Iwi of Hauraki and five councils as part of the Waihou, Piako and Coromandel co-governance regime negotiations.

Other Treaty Settlements with Co-Governance Regimes

- 112. There has never been a Treaty settlement where some Iwi (let alone councils and a ministerial representative) in a co-governance regime have the right to vote on the participation of other Iwi with recognised customary interests. The Crown did not, for example, legislate a second class Iwi regime in the Waikato River, Te Hiku, Ngāi Tahu or Whanganui River Treaty settlements.
- 113. It is noted those settlements involved multi-Iwi/hapū arrangements.
 - (ii) **Crown Failure to ensure Rangatiratanga and Active Protection for Iwi of Hauraki**
- 114. The area marked "1" in Attachment 1 (**Area 1**) represents that part of the Tauranga Moana Framework redress area north of the Katikati Block.
- 115. Area 1 is some 3,810 ha in area.
- 116. While substantial parts of Area 1 are encompassed by the areas of interest of all the TMIC Iwi (Attachment 15), they are receiving no Treaty redress in that area (other than the Tauranga Moana Framework redress).
- 117. Attachment 9 shows the Hauraki Collective and Iwi of Hauraki Treaty redress areas in Area 1.
- 118. Moreover, that area comprises the Ohinemuri Block, and the smaller Waihi Block. As confirmed in the Hauraki Report,⁶⁴ the Native Land Court awards for those blocks (ie, all of Area 1) were all to Hauraki Iwi and hapū (see also the figure at

⁶⁴ At sections 10.3-10.4.2.

paragraph 37 above reproduced as **Attachment 16**). It is noted that both the Western Bay of Plenty District Council and Hauraki District Council have jurisdiction over the Ohinemuri / Waihi Block area.

119. The upshot is that the Crown has promoted a Treaty settlement that leads to the absurd outcome where the Iwi of Hauraki can be excluded from TMGG participation in a large area of land confirmed to be squarely in the rohe of Hauraki as confirmed by the Native Land Court.
120. Thus, the Crown has failed to uphold the principles of Te Tiriti to ensure the active protection of the customary interests, and rangatiratanga of the Iwi of Hauraki.

(iii) Breach of Crown Undertaking to Iwi of Hauraki

121. The Crown gave the following undertaking to the Iwi of Hauraki on 24 October 2012 as part of an agreement to enable the initialling of the TMIC deed (paragraph 50 above):

"3.2 The Hauraki Collective will have no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC."

122. In reaching this agreement and consenting to the progression of the TMIC Deed, the Iwi of Hauraki relied on the Crown's undertakings:

"2. Counsel advise that a teleconference and urgent hearing will not now be required prior to initialling of the Tauranga Moana Iwi Collective (TMIC) deed, scheduled to take place on 31 October 2012.

3. **The Hauraki Collective has reached this position on the following basis:**

...
3.2 The Tauranga Moana Framework will not prevent Hauraki Iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC."

[Emphasis added]

123. Not only has the Crown offered less favourable co-governance arrangements to the Iwi of Hauraki than to the TMIC Iwi, the process that led to that outcome has been neither fair nor transparent.
124. Unlike the overlapping claims process for the RFR properties, Athenree Forest and statutory acknowledgements (paragraphs 51–60 above), the Iwi of Hauraki were not given the opportunity by the Crown to have even one hui on the Tauranga Moana Framework redress with the Crown along with the TMIC Iwi, relevant councils, and/or the working party (Crown, TMIC and

councils) formed in 2011 to negotiate the Tauranga Moana Framework redress. That remains the position to this day.

125. As does the fact that the Crown pursued an isolated negotiation process with the Iwi of Hauraki,
126. Clause 10.3, and related provisions, of the Legislative Matters Schedule of the TMIC Deed do not honour the Crown's undertaking relied upon by the Iwi of Hauraki.

(iv) Council Veto

127. It is a mystery as to why any of the Ministerial/Council TMGG seats have the right to challenge the participation of the Hauraki seat under the TMIC Deed.

(v) Exceptional Case

128. The Crown has put in motion a settlement that undermines the fundamental rights of participation and exercise of customary interests of the Iwi of Hauraki.
129. This is against the historical background of the Crown failing to honour its Treaty commitments in the very area and with the very Iwi that the Waitangi Tribunal condemned the Crown for in the Raupatu Report.
130. In these circumstances, there is a high threshold for the Crown to meet in order to discharge its duty to effect a Treaty compliant process. The evidence is that the Crown has been found severely wanting.
131. This is clearly an exceptional and confined case.

B. NO ALTERNATIVE REMEDY

132. In its negotiations with the Crown, the Iwi of the Hauraki Collective sought the deletion of clause 10.3 of the TMIC deed which would have caused no prejudice to the TMIC Deed.
133. In any event the TMIC Deed has been signed and is now, subject to this application, charging down the legislation path.
134. There is no alternative remedy available to the Iwi of Hauraki.

C. OTHER GROUNDS

(i) Signed TMIC Deed No Bar

135. The signing of the TMIC Deed by the Crown and TMIC iwi (with some individual signatures still to collect) is no bar to the granting of urgency.

136. The TMIC Deed was signed in the face of:

- (a) a wide ranging live proceeding commenced in September 2012 and facilitated by the Waitangi Tribunal;
- (b) significant concerns raised by the Iwi of Hauraki; and
- (c) a focussed urgency application lodged with the Tribunal; and

137. Thus, any claim of prejudice by the Crown or TMIC by the granting of urgency would be self-imposed.

(ii) No Diversion of Crown Resources

138. There is no evidence that a focused urgent hearing would materially divert Crown resources from other negotiations.

(iii) Timeliness

139. The applicant iwi are ready to proceed.

VI. NEXT STEPS

140. The next step in the Tribunal's case management process is for the Crown and TMIC to file any submissions in response.

141. One further consideration is whether the Tribunal wishes to facilitate a mediation conference as occurred by the consent of the parties in the Te Aroha Maunga Settlement Process inquiry.

142. While the applicant iwi consider they have a meritorious case for the granting of urgency, they would be open to such a process.



Paul F Majurey

(28 January 2015)

Tauranga Moana Framework Extracts Relevant to “Clause 10.3” debate

Clause 10.3

- 10 The collective legislation will provide that:
- 10.1 the member under paragraph 1.1.5 may only be appointed by iwi with **recognised interests**;
 - 10.2 the member under **paragraph 1.1.5** is entitled to participate whenever the Tauranga Moana Governance Group is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a **recognised interest area**;
 - 10.3 in the event of any disagreement on whether paragraph 10.2 applies, the Tauranga Moana Governance Group will make a decision on the matter in accordance with **paragraph 6** and the members under paragraph 1.1.5 and 1.1.10 will be entitled to participate in that process;

Paragraph 1.1.5

- 1.1.5 1 member appointed by the governance entity of the iwi with **recognised interests** in Tauranga Moana;

Paragraph 6

- 6 The collective legislation will provide that:
- 6.1 members must reach decisions pursuing:
 - 6.1.1 the highest level of good faith engagement; and
 - 6.1.2 consensus decision-making;
 - 6.2 if, in the opinion of one or both of the co-chairs consensus is not practicable after reasonable discussion, a decision may be made by the Tauranga Moana Governance Group by:
 - 6.2.1 a minimum majority of 6 of those members present and voting at the meeting; or
 - 6.2.2 if less than 6 members are present and voting, a minimum majority of 5 of those members present and voting at the meeting;
 - 6.3 the co-chairs may vote on any matter but do not have a casting vote; and
 - 6.4 members must approach decision-making in a manner that is consistent with, and reflects, the purpose of the Tauranga Moana Governance Group.

"recognised interests" means the interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and are confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims;

"recognised interest area" means an area containing recognised interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and is confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims.

IN THE WAITANGI TRIBUNAL

WAI 215
WAI 686

IN THE MATTER of the Treaty of Waitangi Act 1975 (as amended)

AND of an application for an urgent hearing on
IN THE MATTER behalf of the **Hauraki Collective**

MEMORANDUM OF COUNSEL FOR THE TAURANGA MOANA IWI
COLLECTIVE



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Solicitor Acting: Spencer Webster
Carey Manuel

MAY IT PLEASE THE TRIBUNAL

1. This memorandum is filed on behalf of the Tauranga Moana Iwi Collective in reply to the memorandum of the applicant iwi.¹
2. As has been noted previously, the three settlements for the Tauranga Moana Iwi are currently held up by this litigation. The application for urgency has been in train for nearly seven months with extensive adjournments given to the parties to seek a resolution. It has now been some six weeks since the meeting between the representatives of the Ngati Pukenga, Ngai Te Rangi and the applicant iwi. The prejudice to TMIC will continue and increase if the processing of this application is further delayed. The delay to the settlements of the Tauranga Moana Iwi was not a voluntary choice by the Tauranga Moana Iwi but the result of the choice made by the applicant iwi to advance this litigation.
3. Accordingly, TMIC respectfully requests that the Tribunal proceed to determine the application for urgency without further adjournment.

DATED this 29th day of June 2015



Spencer Webster/Carey Manuel
Counsel for the Tauranga Moana Iwi Collective

¹ Wai 215, #2.728

WAITANGI TRIBUNALWai 215
Wai 686**CONCERNING**

the Treaty of Waitangi Act 1975

AND

an application for an urgent hearing on behalf of the Hauraki Collective

MEMORANDUM OF DIRECTIONS OF TRIBUNAL MEMBER

1. This memorandum of directions concerns next steps for this application for urgency.
2. I was appointed to determine this application for an urgent hearing on 26 March 2015 (Wai 215, #2.720); but it has a longer history.

Recent Background

3. Counsel jointly sought an adjournment *sine die* on 2 April 2015 (Wai 215, #2.721) to continue discussions and on 7 April 2015, the adjournment was formally granted (Wai 215, #2.722). I directed that parties were to file a joint memorandum or separate memoranda updating the Tribunal of their progress on the matters outstanding by 15 May 2015.
4. The Crown filed an update to the Tribunal on 29 May 2015 (Wai 215, #2.723). Crown counsel submitted that the relevant iwi of the Hauraki Collective, Ngāti Pukenga and Ngāi Te Rangi had been in discussions with the Crown, in an attempt to resolve the matter that is the subject of this application. These discussions were unsuccessful, however, and the Crown asked that the Tribunal move to consider whether the application should be granted. The Crown also advised that counsel for the applicants would be filing a separate submission in relation to the application.
5. On 9 June 2015, counsel for the applicants responded to both the memorandum-directions of the Tribunal and the Crown memorandum, submitting that despite no resolution being reached in discussions with the Crown, they were continuing to make attempts to progress the matters outstanding (Wai 215, #2.725). The applicants sought leave from the Tribunal to maintain the adjournment and noted that they would provide an update to the Tribunal by 17 June 2015.
6. On 12 June 2015, I granted the leave sought by the applicants (Wai 215, #2.726). I directed parties to file a joint memorandum or separate memoranda updating the Tribunal of their progress on the matters outstanding by 19 June 2015.
7. On 22 June 2015, counsel for the applicants filed a memorandum providing an update on the outcome of the ministerial meetings, for which adjournment had been sought (Wai 215, #2.728). Counsel advised that these meetings did not eventuate, despite the Crown originally confirming its willingness to convene hui with all parties. The applicants also noted that they have not had the benefit of meeting with any of the councils that are party to the Tauranga Moana Framework ("Framework"). The applicants submit therefore, that despite their best efforts to facilitate resolution to the issues in this application, they are now being forced back into litigation. Counsel for the applicants also outlined another proposal that

had been put to the Crown in order to facilitate resolution. The applicants had suggested that the Crown remove the Framework from the Tauranga Moana Iwi Collective Deed ("TMIC Deed"), as this would enable all the Tauranga Moana iwi settlements other than the Framework to proceed through the House of Representatives, while the matter of the Framework is resolved. Counsel noted that the Crown has not responded to this proposal.

8. On 23 June 2015, I directed applicant counsel to confirm whether the submission of 22 June 2015 was filed on behalf of the Hauraki Collective or specific iwi within the Hauraki Collective (Wai 215, #2.729). Inquiry parties were invited to respond to the applicants' submission by 30 June 2015.
9. On 24 June 2015, counsel for the applicants confirmed that the submission was made on behalf of Ngāti Maru, Ngāti Tamatea, Ngāti Tara Tokanui, Te Patukirikiri, and Ngāti Hako (Wai 215, #2.730). However, the submission also refers to the Hauraki Collective as a whole in relation to the pause by the Crown to negotiations with the applicant iwi, and non-litigant iwi, as a result of the applicants pursuing this application. This issue was discussed in the 28 January 2015 submission (Wai 215, #2.711) where it was submitted that the Crown has imposed sanctions against 'non-litigant iwi' including the Hauraki Collective (which includes seven 'non-litigant iwi'); and the Marutūāhu Collective (which includes two 'non-litigant iwi' and geographically distinct areas of Tāmaki Makaurau, Mahurangi and the Hauraki Gulf Islands).
10. As directed, the Crown responded to the applicants' submissions with an accompanying letter on 30 June 2015 (Wai 215, #2.731 & #2.731(a)). Counsel for the Crown submitted that, in line with its policy, the Crown cannot negotiate with iwi with whom it is also in litigation with. Counsel also noted that the Crown had attempted to facilitate resolution of the outstanding issues, but no resolution had been reached to date. To this extent, the Crown acknowledged that resolution seems unlikely, given that Tauranga Moana iwi wish to retain clause 10.3, while Hauraki iwi seek its removal. Finally, the Crown requested that the application be determined as soon as possible, unless the application is withdrawn. Counsel for the Crown advised that the Minister had declined a request from counsel for the Hauraki Collective to convene a hui with all parties.
11. On 1 July 2015, counsel for Tauranga Moana Iwi Collective ("TMIC") responded to the submissions of the applicants (Wai 215, #2.732). Counsel submitted that the prejudice to the settlement of Tauranga Moana Iwi will continue and increase if the decision on this application is further delayed and requested that the Tribunal proceed to determine the application for urgency without further adjournment. TMIC's Chairman had earlier expressed concern at any delay in a letter of 9 April 2015 to counsel for the Crown and the Hauraki Collective, and copied to the Tribunal.
12. I now address the next steps for this application.

Facilitated Discussions

13. When this application for urgency was revived in December 2014, parties submitted that facilitated discussions could be an alternative to an urgent hearing (Wai 215, #2.707 & #2.713). Since December, the Tribunal has adjourned this application for urgency more than once to allow discussions between parties to occur. To the extent that these discussions have occurred they have been unsuccessful. I am not persuaded that a facilitation process led by the Tribunal, or otherwise, is likely to resolve the outstanding issues. In fact, it would only further delay and prejudice the parties to these proceedings, and other affected parties.
14. I do not see any need for a judicial teleconference. The arguments for the parties are well expressed. I do believe that I need some factual information and in the case of the Crown an explanation, better recorded in writing and shared with the other parties, as to the practical application of judicial review and the intended meaning of terms in the TMIC Deed.

Questions to Inquiry Parties

15. Before I determine this application for urgency, I require further information from the parties.

Applicant

16. From the applicants, I believe I need to know:

- a) What proportion (by approximate population) of the Hauraki Collective do Ngāti Hako, Ngāti Maru, Ngāti Tamaterā, Ngāti Tara Tokanui, and Te Patukirikiri make up? I acknowledge that whakapapa is not linear, and there may well be overlaps but as will be seen below, numbers do matter.

Crown

17. In the absence of argument I accept that the lands and forest underlying this claim are material (in every sense of that word) but it seems to me that the issue itself is narrow. It concerns clause 10.2 and especially clause 10.3 of the TMIC Deed. I therefore need to understand how the parties anticipate the provisions will operate and whether they will do so in a way that will likely deliver significant and ongoing prejudice.

18. Counsel for the applicants set out his interpretation in full in Wai 215, #2.711.

19. Counsel for the Crown responded at some length in Wai 215, #2.716.

20. From the Crown, I seek its explanation of:

- a) Judicial review as an alternative remedy:
 - i. In paragraph 9.4 of the Crown's submission on 20 February 2015 (Wai 215, #2.716), the Crown submits that clause 10.2 is the paramount provision and contains an objective test. Any decision made under clause 10.2 would be amenable to judicial review. It is difficult to see, however, how clause 10.2 could be divorced from clause 10.3 in the context of review and both parties recognised the link. It does seem that the presence of clause 10.3 makes it more difficult for the Hauraki Collective (or more accurately "the governance entity of the iwi with recognised interests") to succeed in a judicial review. Assuming for the moment that such an effect occurs, can the Crown please explain whether clause 10.3 has some purpose that might ameliorate that effect? I note that at para 20 of Wai 215, #2.716 the Crown says that clause 10.3 points to the decision making process, but at para 21 concedes that disagreements would go to the decision making process anyway "regardless of the existence of clause 10.3". Counsel for the applicant has identified the likely effect of clause 10.3¹; can the Crown identify any wider purpose or other effect of clause 10.3 that might balance the prejudice perceived by the applicants?
 - ii. In paragraph 21.2 of Wai 215, #2.716, the Crown argues that it is not novel for judicial review to be used as a means of resolving issues. Please clarify where judicial review has been specifically constructed in the manner of clause 10.3 in other settlements, and how the Crown sees this 'remedy' as

¹ As well as legal argument, see the hypothetical at Wai 215, #2.711, para 88, though I disagree with it to the extent that it assumes the regional council representative would vote "Yes". The representative would be conflicted.

being different from the general right to judicial review that would exist in respect of statutory body decision making if there were no clause 10.3.

- iii. If the Crown relies upon clause 10.3 to ensure access to judicial review as an alternative remedy, how would such judicial review address the underlying Treaty issues raised in this claim more effectively than if clause 10.3 did not exist, and judicial review was directly about the exclusion of the "paragraph 1.1.5 member" under clause 10.2 rather than the processes of the TMGG? I note from Wai 1298² and Wai 2417³ that judicial review has shortcomings when it comes to determining underlying Treaty issues, but can the Crown please explain how clause 10.3 makes the process better, not worse.
- b) The definition of "recognised interests" and "recognised interests area" are at the heart of clause 10 in the Legislative Schedule of the TMIC Deed. So:
- i. Please clarify what process the Crown anticipates that the local and especially central government members of the TMGG (who will be 5 of the 10 members) will undertake to determine the matters they "consider relate to or could reasonably be considered to have an actual or potential effect" on the Hauraki Collective's interests. If they would be expected to abstain and leave the decision to the other members does the Crown consider that to be an appropriate process?
 - ii. Please clarify what "confirmed in legislation giving effect to future settlements" means in the definitions of "recognised interests" and "recognised interest areas":
 - Does it mean what is confirmed in the TMIC Settlement Legislation or does "future" exclude that?
 - Does it include the impending Hauraki Collective settlement legislation? If so, does the whole of clause 10 have no effect in respect of the Hauraki Collective's interests until its settlement legislation is passed?
 - iii. Does the Crown intend to define the Hauraki Collective's "recognised interest area" in the proposed Tauranga Moana Iwi Collective Settlement Act?

21. I also invite the Crown to advise the notified parties and the Tribunal of the proposed timetable for the TMIC Settlement Bill.

Preliminary Observations

22. I record here some preliminary observations based on the material before me to date, in the hope that it may assist the parties to understand why I have made the requests for further information.

23. This matter abounds with potential prejudice of varying degrees and nature to both parties, and to non-parties. My task is not to determine the merits of the applicant's substantive objection to the TMIC settlement, but to determine whether the grounds for an urgent hearing are established by them.

24. The broad principle is that urgency is an exceptional matter and adequate grounds must be made out by an applicant.

² Wai 1298, #2.5.3

³ Wai 2417, #2.5.8

25. The criteria the Tribunal considers in determining whether to grant an application for an urgent hearing are set out in the *Waitangi Tribunal Guide to Practice and Procedure*. Briefly these factors include whether:
- a) The claimants can demonstrate that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of the current or pending Crown actions or policies;
 - b) There is no alternative remedy that, in the circumstances, it would be reasonable for the claimants to exercise; and
 - c) The claimants are ready to proceed urgently to a hearing.
26. The Tribunal may consider other factors including whether the claim challenges an important current or pending Crown action or policy, and any other grounds justifying urgency.
27. Those other factors can include the ability to demonstrate support. In *Attorney-General v Mair* [2009] NZCA 625 the Court of Appeal confirmed that an ability to demonstrate support is highly relevant when considering an urgency application, particularly where an iwi or hapū are divided. The Tribunal and Courts have been clear that numbers matter in such circumstances.⁴
28. It seems entirely appropriate to apply the same concept to a collective of iwi, such as the Hauraki Collective. In essence, "numbers matter".⁵
29. It is also clear that any significant and irreversible prejudice the applicants claim they will suffer needs to be balanced against the potential prejudice to others that might result from a decision to grant urgency.⁶
30. In that context, I note that some iwi members of the Hauraki Collective do not support this application.
31. It seems that they assess any prejudice identified in this application is outweighed by the prejudice to them of the delay to the Hauraki Collective settlement negotiations due to the Crown policy of not negotiating with litigating claimants.⁷
32. Two points of note are that if the application for urgency proceeds, and later the Hauraki Collective achieves its objective, those dissenting iwi will also benefit. Second, their failure to support this application does not speed their negotiations with the Crown so long as the Crown proposes only to negotiate with the Hauraki Collective and not various parts of it.
33. The Crown and TMIC see prejudice to the TMIC settlement by reason of delay should this application proceed. That may well be so as a matter of practice, though, of course, the Tribunal entirely appropriately has no power to determine the Crown's legislative programme nor determine the timing of introduction of a Settlement Bill. Those are matters for the Government of the day.
34. I note there is also another urgency application before the Tribunal in respect of the TMIC Settlement (Wai 2521).
35. Nevertheless, this particular matter has not progressed materially in the past six months. Subject only to any more pressing commitments, I intend to resolve this application very

⁴ Waitangi Tribunal, *East Coast Settlement Report*, pp 48-50.

⁵ *Attorney-General v Mair* [2009] NZCA 625 at para 58.

⁶ See, for example, the decision in Wai 552, #2.35 at para 171.

⁷ That policy is not challenged in this process.

soon after I receive the information requested from the parties who state that they want it resolved quickly.

Filing timetable

36. Accordingly, I direct that:

- a) The applicants are to file the information requested by **5pm, Thursday 16 July 2015;**
- b) The Crown to file the information requested and respond to the applicants' submissions at its earliest convenience, noting that the Crown urges resolution of this matter as soon as possible;
- c) Tauranga Moana Iwi Collective must advise the Tribunal no later than **5pm, Thursday 16 July 2015** if it wishes to file a response, and file that response at its convenience, noting that TMIC also urges resolution of this matter as soon as possible; and
- d) The applicants are to respond to all submissions no later than the end of the 5th working day after the last of them has been filed with the Tribunal.

37. I continue to support any further discussions parties might undertake independently of these proceedings, which may work to resolve the specific issues in this application for urgency; but record that I do not intend to grant any more adjournments to that end unless some compelling progress is reported jointly by both parties.

The Registrar is to send a copy of this direction to all those on the notification lists for:

- Wai 215, the combined record of inquiry for the Tauranga Moana claims; and
- Wai 686, the combined record of inquiry for the Hauraki claims.

DATED at Wellington this 9th day of July 2015



David Cochrane
Tribunal Member

WAITANGI TRIBUNAL

OFFICIAL

Wai 215, #2.725
Wai 686, #2.727

IN THE WAITANGI TRIBUNAL

WAI 215 & 686

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

of an application for an urgent hearing on
behalf of Iwi of Hauraki

IWI OF HAURAKI MEMORANDUM

(9 JUNE 2015)

RECEIVED

Waitangi Tribunal

9 Jun 2015

Ministry of Justice
WELLINGTON

Paul F Majurey
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1. As directed by the Presiding Officer, this memorandum on behalf of Iwi of Hauraki addresses the Crown's request for the Tribunal to determine the application for an urgent hearing.
2. Crown Counsel accurately noted in the 29 May 2015 memorandum that "[u]nfortunately no solution has been achieved to date".
3. Given the mutual desire to achieve resolution, attempts have continued nonetheless to find common ground. This has resulted in a delay to the filing of this memorandum for which Counsel apologises to the Tribunal.
4. The positive outcome is that Ministerial meetings are being arranged such that leave is sought from the Tribunal to maintain the adjournment. Counsel suggests a reporting memorandum be provided to the Tribunal by 4pm, 17 June 2015.

A handwritten signature in black ink, consisting of a stylized 'P' followed by two 'D's, all enclosed within a large, sweeping oval shape.

Paul F Majurey

(9 June 2015)



Office of Hon Christopher Finlayson

30 JUN 2015

Paul Majurey
Counsel for Ngāti Maru, Ngāti Tara Tokanui, Te Patukiriri, Ngati Hako and Ngāti Tamaterā
PO Box 1585
Shortland Street
Auckland 1140

Tēnā koe

Hauraki Urgency Application

I refer to your email of 6 June 2015 in which you suggest that one option for resolving the urgency application brought by Ngāti Maru, Ngāti Tara Tokanui, Te Patukirikiri, Ngāti Hako and Ngāti Tamaterā in relation to the Tauranga Moana Framework is that I convene a hui with all parties. You repeated this request when I met with representatives of the Marutūāhu Collective on Sunday 14 June. I advised I would get back to you.

As you will appreciate, the Crown is unable to force agreement upon the parties. I understand a video conference was held on 20 May between you and representatives of Ngai Te Rangi and Ngati Pukenga. Representatives of Ngati Ranginui chose not to participate in that conference. This meeting provided an opportunity for the parties to outline their respective positions without Crown officials present. I understand there was no resolution to the differences regarding clause 10.3.

I consider that the Crown offering to facilitate another meeting, whether convened by me or not, is unlikely to lead to any shift in positions and subsequent resolution of the matter.

As a consequence I consider the Tribunal should move to determine the application for urgency as soon as possible. These matters have delayed those Hauraki iwi who, in good faith, continue to engage with the Crown in order to conclude their settlement negotiations. Attempts to resolve this matter outside of the Tribunal cannot continue indefinitely and litigation remains live unless and until the application itself is withdrawn or otherwise resolved.

Nāku noa, nā

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

IN THE WAITANGI TRIBUNAL

WAI 215 & 686

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

of an application for an urgent hearing on
behalf of Iwi of Hauraki

IWI OF HAURAKI MEMORANDUM

(9 JULY 2015)

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MAY IT PLEASE THE TRIBUNAL

1. We address the Crown and TMIC memoranda of 30 June 2015.

Ministerial meeting

2. The Crown memorandum appended a letter from the Minister for Treaty of Waitangi Negotiations (of 30 June 2015) and paraphrased elements of that letter.
3. Attached as Appendix 1 is a copy of an email to the Minister of 9 July 2015 (with attachments) addressing the matters raised in the Minister's letter.

Pare Hauraki Negotiations

4. The Crown memorandum includes a section which seeks to:
 - (a) rationalise the application of its punitive 'no litigate no negotiate' policy; and
 - (b) place blame on the "litigant iwi" for delaying an urgency decision being made by the Waitangi Tribunal.
5. The "litigant iwi" are acutely aware of the consequences of their agreeing to the 2 April adjournment in good faith to pursue a resolution process. As noted in the Iwi of Hauraki memorandum of 22 April 2015:

"22. As at December 2014, Treaty negotiations that commenced at the end of 2009 were on the cusp of conclusion. The grim reality is that the adjournment agreed by the Iwi of Hauraki on 2 April 2015 has prolonged the time in the negotiations wilderness."

6. The Crown says a less than one hour discussion between some of the iwi, none of the Councils and without Crown involvement (some seven weeks after the adjournment) is good enough, and discharged their agreement that led to the adjournment. We say that single discussion, absent key parties, was hardly the stuff of a good faith commitment to find a resolution.

TMIC settlements "held up"

7. The TMIC memorandum urges a decision by the Tribunal and states:

"22. ... The delay to the settlements of the Tauranga Moana Iwi was not a voluntary choice by the Tauranga Moana Iwi but the result of the choice made by the applicant Iwi to advance this litigation."
8. It is useful to recall the following passage from the Iwi of Hauraki submissions of 28 January 2015:

- "136. The TMIC Deed was signed in the face of:
- (a) a wide ranging live proceeding commenced in September 2012 and facilitated by the Waitangi Tribunal;
 - (b) significant concerns raised by the Iwi of Hauraki; and
 - (c) a focussed urgency application lodged with the Tribunal; and
137. Thus, any claim of prejudice by the Crown or TMIC by the granting of urgency would be self-imposed."

9. Finally, it is relevant to note the recent urgency application by Ngā Hapū o Te Moutere o Motiti in relation to the Tauranga Moana Framework.
10. The Crown process flaws described in the affidavit of Umuhuri Matehaere (of 24 June 2015) echo the experience of the Iwi of Hauraki by the same OTS officials over the same redress. It is sad to see other mana whenua being treated poorly by the Crown with deficient consultation (eg, paragraphs 30 - 37) and the application of the 'no litigate - no negotiation' policy (eg, paragraphs 35 - 36).
11. The Iwi of Hauraki now have no other choice than to seek the protection of the Tribunal.



Paul F Majurey

(9 July 2015)

From: Paul Majurey
Sent: Thursday, 9 July 2015 3:34 p.m.
To: 'Hon Christopher Finlayson '
Subject: FW: 2015 06 30 Letter to Paul Majurey re urgency application
Attachments: 2015 06 30 Letter to Paul Majurey re urgency application.pdf;
08062015150905-0001.pdf; Wai 215, 2.725.pdf

Tena koe e te rangatira

Thank you for your letter to us of 30 June 2015 (attached) that was appended to the Crown memorandum filed with the Waitangi Tribunal in relation to the Tauranga Moana Framework.

As a ministerial message has been conveyed to the Tribunal (for example, "I consider the Tribunal should move to determine the application for urgency as soon as possible"), it is important that fairness prevails in ensuring the Tribunal has an accurate basis on which to exercise its statutory power of decision. There are five aspects of the 30 June letter that have a wider context.

First, the letter states:

"I refer to your email of 6 June 2015 in which you suggest that one option for resolving the urgency application brought by Ngati Maru, Ngati Tara Tokanui, Te Patukirikiri, Ngati Hako and Ngati Tamatera in relation to the Tauranga Moana Framework is that I convene a hui with all parties. You repeated this request when I met with representatives of the Marutuahu Collective on Sunday 14 June. I advised I would get back to you."

The letter then goes on to reject our request for a ministerial convened hui.

The 30 June letter is in fact the second letter from your office in relation to our 6 June 2015 email. A letter to us of 8 June 2015 (attached) states:

"On behalf of Hon Christopher Finlayson, Minister for Treaty of Waitangi Negotiations, thank you for your email of 6 June 2015. Minister Finlayson has seen your correspondence and meetings to discuss the matters you have raised are currently being arranged."

For the avoidance of doubt, only one email was sent to your office on 6 June.

In reliance on this correspondence, a memorandum of 9 June 2015 was filed with the Waitangi Tribunal (attached) seeking the maintenance of the adjournment, which the Tribunal kindly granted. The Crown did not oppose, nor contest the basis for, that request.

We acknowledge the reversal contained in the 30 June letter and retraction of an agreed path with the Crown's Treaty partner for seeking resolution.

Secondly, the 30 June letter states:

"As you will appreciate, the Crown is unable to force agreement upon the parties. I understand a video conference was held on 20 May between you and representatives of Ngai Te Rangī and Ngati Pukenga. Representatives of Ngati Ranginui chose not to participate in that conference. **This meeting provided an opportunity for the parties to outline their respective positions without Crown officials present.** I understand there was no resolution to the differences regarding clause 10.3.

I consider that the Crown offering to facilitate another meeting, whether convened by me or not, is unlikely to lead to any shift in positions and subsequent resolution of the matter." [Emphasis added]

The 20 May 2015 discussion has been the only time some of the iwi have met since the overlapping claims issues on the Tauranga Moana Framework first arose in 2012. It is noted that the 20 May discussion:

- occupied less than an hour of actual discussion;
- did not include all of the TMIC iwi (Ngati Ranginui refused to attend);
- did not include any of the councils party to the Tauranga Moana Framework; and
- preceded our 6 June email and related 8 June letter confirming agreement to arrange a ministerial hui.

While there are many examples of Treaty settlement resolutions being achieved through the power and influence of the ministerial office, we acknowledge it is for the minister alone to decide where such influence is bestowed.

Thirdly, the 30 June letter states:

"As a consequence I consider the Tribunal should move to determine the application for urgency as soon as possible. These matters have delayed those Hauraki iwi who, in good faith, continue to engage with the Crown in order to conclude their settlement negotiations. Attempts to resolve this matter outside of the Tribunal cannot continue indefinitely and litigation remains live unless and until the application itself is withdrawn or otherwise resolved."

Your letter to the Hauraki Collective of 23 December 2014 (referred to in the Iwi of Hauraki memorandum to the Waitangi Tribunal of 28 January 2015 (at paragraph 15)) states:

"In accordance with the policy that the Crown will not litigate and negotiate at the same time, I consider I have no choice but to suspend all negotiations with the above five named iwi at both the individual and collective level while this litigation proceeds. Given the number of Hauraki Collective iwi involved in the litigation, I do not consider it is feasible to continue our negotiations for a collective redress deed. The Crown will continue the iwi-specific negotiations with those iwi who have not filed in the Tribunal to the extent their redress does not require negotiation with the litigant iwi."

The five iwi referred to in your 23 December 2014 letter are the same five iwi referred to in your 30 June 2015 letter extract above.

Given the commitment in your 23 December letter to continue to negotiate with the "non-litigant iwi", it is unclear how the Tauranga Moana Framework litigation has:

"... delayed those Hauraki iwi who, in good faith, continue to engage with the Crown in order to conclude their settlement negotiations"

We acknowledge the various causes of ongoing delay to the Treaty settlements process, for example:

- the significant number of senior management and staff departures in OTS over the last eight months (which continue on a regular basis) and consequential loss of iwi relationship and negotiations knowledge/experience;
- the reduction in the Vote Justice budget for Treaty settlements; and
- the unilateral decision by the replacement Crown Hauraki/Tamaki negotiator and OTS director to change to a 'one settlement at a time' strategy thereby unwinding the parallel negotiations strategy that was a central feature of the Crown's Ellerslie proposal in June 2009 and successfully achieved by the former chief Crown negotiator from June 2009 to 2015.

Fourthly, it appears your statement "[a]ttempts to resolve this matter outside of the Tribunal cannot continue indefinitely", is a reference to the single <one hour discussion that has taken place since urgency was sought on 11 December 2014. Again, we note that discussion did not include all three TMIC iwi and none of the relevant councils despite the adjournment agreement, in good faith, to enable such discussions to be held.

Fifthly, it appears from your above statement ("litigation remains live unless and until the application itself is withdrawn or otherwise resolved") that you have not been made aware by the OTS director that he agreed in writing that the litigation has not been "live" since the adjournment application was agreed by Iwi of Hauraki with the Crown on 2 April 2015 (and granted by the Tribunal). As part of the adjournment agreement, the OTS director also agreed to resume negotiations but subsequently reneged on that commitment. In the meantime, considerable time and resources have been expended by us to facilitate the completion of other negotiations/settlements where we share redress (which we have done for various other settlements since June 2009).

Finally, while we cannot force our Treaty partner to support our attempts to find a resolution, we repeat our previous invitations to meet to try to do so and conclude all our settlements.

Naku iti nei
na

paul

From: Patrick Southee [<mailto:Patrick.Southee@parliament.govt.nz>] **On Behalf Of** C Finlayson (MIN)

Sent: Tuesday, 30 June 2015 12:50 p.m.

To: Paul Majurey

Subject: 2015 06 30 Letter to Paul Majurey re urgency application

Tēnā koe,

On behalf of Hon Christopher Finlayson, Minister for Treaty of Waitangi Negotiations, please see the attached correspondence.

Ngā mihi,

Patrick Southee

Private Secretary (Treaty of Waitangi Negotiations) to Hon Christopher Finlayson QC Parliament Buildings |
Wellington | New Zealand |

IN THE WAITANGI TRIBUNAL

WAI 215 & 686

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

of an application for an urgent hearing on
behalf of Iwi of Hauraki

IWI OF HAURAKI MEMORANDUM

(15 JULY 2015)

Paul F Majurey
PO Box 1585
Shortland Street
Auckland 1140
Tel +64 9 304 0294
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MAY IT PLEASE THE TRIBUNAL

1. In Wai 215, #2.733 (Memorandum of Directions of Tribunal Member of 9 July 2015), the Tribunal directed:

"Questions to Inquiry Parties

15. Before I determine this application for urgency, I require further information from the parties.

Applicant

16. From the applicants, I believe I need to know:

a) What proportion (by approximate population) of the Hauraki Collective do Ngati Hako, Ngati Maru, Ngati Tamatera, Ngati Tara Tokanui, and Te Patukirikiri make up? I acknowledge that whakapapa is not linear, and there may well be overlaps but as will be seen below, numbers do matter."

"Filing timetable

36. Accordingly, I direct that:

a) The applicants are to file the information requested by **5pm, Thursday 16 July 2015;**"

2. In making these directions, the Tribunal observed:

"28. It seems entirely appropriate to apply the same concept to a collective of iwi, such as the Hauraki Collective. In essence, "numbers matter".

29. It is also clear that any significant and irreversible prejudice the applicants claim they will suffer needs to be balanced against the potential prejudice to others that might result from a decision to grant urgency.

30. In that context, I note that some iwi members of the Hauraki Collective do not support this application.

31. It seems that they assess any prejudice identified in this application is outweighed by the prejudice to them of the delay to the Hauraki Collective settlement negotiations due to the Crown policy of not negotiating with litigating claimants.

32. Two points of note are that if the application for urgency proceeds, and later the Hauraki Collective achieves its objective, those dissenting iwi will also benefit. Second, their failure to support this application does not speed their negotiations with the Crown so long as the Crown proposes only to negotiate with the Hauraki Collective and not various parts of it." [Footnotes omitted]

3. In order to assist the Tribunal with context, we note the following extract from Wai 215, #2.711 (Iwi of Hauraki submissions of 28 January 2015):

"11. Despite the present application and concerns raised by the Iwi of Hauraki, the Crown proceeded with signing the TMC Deed in late December 2014.

12. As previously advised to the Tribunal, the Iwi of Hauraki received Crown warnings against pursuing this application. For example, the following extract in the Crown letter to the Hauraki Collective (dated 10 December 2014):

"As you are aware, Crown policy is that if a group that the Crown is negotiating with litigates against the Crown, negotiations may be paused. On 8 December 2014, you filed a Memorandum in the Tribunal regarding the Tauranga Moana Framework and the TMiC deed signing. The Crown will shortly file a Memorandum in response. After the Crown Memorandum is filed, if you proceed to revive the urgency application, then I will pause negotiations with the Hauraki Collective. I am further considering whether this means that negotiations will also be paused with related negotiations – ie. the Marutūāhu Collective and the Hauraki iwi-specific negotiations."

13. The Crown's threat was successful in part as other iwi of Hauraki decided not to actively support this application in order to preserve their ability to continue with iwi-specific negotiations.

14. The applicant iwi maintain their resolve to weather any Crown intimidation because of the permanent and significant prejudice that the Crown inexplicably wishes to visit upon the iwi of Hauraki. This application seeks to protect the customary interests of all the iwi of Hauraki in this part of our rohe.

15. For completeness, it is noted that the Crown made good on its threats and suspended negotiations with the five applicant iwi. However, the Crown went off the policy reservation by imposing the following sanctions against 'non-litigant iwi':

- (a) Suspending negotiations with the Hauraki Collective, which includes seven 'non-litigant iwi'; and
- (b) Suspending negotiations with the Marutūāhu Collective, which includes two 'non-litigant iwi'. Moreover, those negotiations involve the geographically distinct areas of Tāmaki Makaurau, Mahurangi and the Hauraki Gulf Islands."

[Footnotes omitted]

4. The Crown therefore remains, at least on paper, in negotiation with the seven "non-litigant" iwi of Hauraki in relation to their iwi-specific settlements. This is also as reflected in the following extract from the Minister for Treaty of Waitangi Negotiations' letter of 23 December 2014 (repeated in Appendix 1 to the Iwi of Hauraki memorandum of 9 July 2015):

"Your letter to the Hauraki Collective of 23 December 2014 (referred to in the Iwi of Hauraki memorandum to the Waitangi Tribunal of 28 January 2015 (at paragraph 15)) states:

"In accordance with the policy that the Crown will not litigate and negotiate at the same time, I consider I have no choice but to suspend all negotiations with the above five named iwi at both the individual and collective level while this litigation proceeds. Given the number of Hauraki Collective iwi involved in the litigation, I do not consider it is feasible to continue our negotiations for a collective redress deed. **The Crown will continue the iwi-specific negotiations with those iwi who have not filed in the Tribunal to the extent their redress does not require negotiation with the litigant iwi.**"

The five iwi referred to in your 23 December 2014 letter are the same five iwi referred to in your 30 June 2015 letter extract above.

Given the commitment in your 23 December letter to continue to negotiate with the "non-litigant iwi", it is unclear how the Tauranga Moana Framework litigation has:

"...delayed those Hauraki iwi who, in good faith, continue to engage with the Crown in order to conclude their settlement negotiations"

5. Turning to the Tribunal's request, the information sought (based on the 2013 census) is as follows:

- (a) Ngāti Hako – 8.37%
- (b) Ngāti Maru - 27%
- (c) Ngāti Tamaterā - 15.5%
- (d) Ngāti Tara Tokanui - 3.24%
- (e) Te Patukirikiri - 0.27%

In total, the five iwi directly seeking urgency comprise some 54.38% of the total 2013 census information for the 12 iwi of Hauraki. (The common iwi critique of census results materially understating the actual position is noted.)

6. As to the other seven iwi of Hauraki, their decision to not join the application does not of itself manifest opposition nor non-support for the urgency application.
7. Thus, for example, as reflected in Appendix 1 to this memorandum (Ngāti Pāoa email confirming support), the above demographics change with the Ngāti Pāoa figure of 20.78% bringing the total to 75.16%.



Paul F Majurey

(15 July 2015)

From: Hauauru Rawiri [mailto:hauauru.rawiri@gmail.com]
Sent: Tuesday, 14 July 2015 1:47 p.m.
To: Paul Majurey
Cc: morehu wilson; Secretariat office
Subject: Waitangi Tribunal Urgency Application - Ngaati Paoa Support for Hauraki Tribes

Kia ora Paul

Teenei maaua hei maangai mo to maatou iwi o Ngaati Paoa te mihi manahau, te tautoko kaha i a koutou aku whanaunga e kokiri ana te kaupapa ki te 'Taraipiunara o Waitangi.

Ahakoia te tokorima, ko te whakaaro nui mo ngaa iwi katoa o Hauraki.

He mihi nui atu ki a koutou katoa.

Paoa taringa rahirahi, Paoa pukunui, Paoa te kupu tautoko ka tika.

We understand the Waitangi Tribunal will soon make its decision on the urgency application on the TMIC Deed by five of our whanaunga iwi of Hauraki.

We confirm that the only reason Ngaati Paoa did not join the urgency application was because of the Crown threat to cease negotiations with Ngati Paoa on our iwi-specific Treaty settlement and Crown advice it would continue negotiations if we did not join.

As we have advised previously, Ngaati Paoa supports the take of the iwi who are seeking urgency.

Nгаа mihi matakuikui

Morehu Wilson and Hauauru Rawiri
Ngaati Paoa Mandated Treaty Negotiators

BEFORE THE WAITANGI TRIBUNAL

WAI 215
WAI 686

IN THE MATTER OF

The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

of an application for an urgent hearing on
behalf of the Hauraki Collective

MEMORANDUM OF THE CROWN

21 July 2015

CROWN LAW
TE TARI TURE O TE KARAUNA
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WELLINGTON 6140
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Contact Person:
J R Gough
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MAY IT PLEASE THE TRIBUNAL:

1. This memorandum responds to memorandum-directions of the Presiding Officer dated 9 July 2015 (Wai 215, #2.733), which directs the Crown to answer certain specific questions. Those questions relate to:
 - 1.1 The availability of judicial review in respect of the clauses at issue (clauses 10.2 and 10.3 as referred to in previous memoranda of counsel and the Tribunal).
 - 1.2 The definition of “recognised interests” and “recognised interests area” in clause 10 of the legislative matters schedule.
 - 1.3 The proposed timetable for the Tauranga Moana Iwi Collective Settlement Bill.

Judicial review

2. The Presiding Officer asks three groups of questions in relation to the availability of judicial review on decisions relating to participation. These concern:
 - 2.1 The relation between clauses 10.2 and 10.3, and the availability and prospects of success on judicial review.
 - 2.2 Judicial review in respect of other settlements, and whether the Crown views clause 10.3 as providing a means of review additional to general judicial review in respect of statutory body decision making.
 - 2.3 How judicial review would address underlying Treaty issues.

Clauses 10.2, 10.3 and judicial review

3. The Presiding Officer at paragraph 20(a)(i) of his memorandum-directions:
 - 3.1 notes that the Crown submits clause 10.2 is the paramount provision and contains an objective test, and decisions under which would be amenable to judicial review;
 - 3.2 states that clause 10.2 is difficult to divorce from clause 10.3 in the context of review and that both parties recognise the link;

- 3.3 suggests that the presence of clause 10.3 does make it more difficult for the relevant Hauraki governance entity to succeed in judicial review;
- 3.4 asks the Crown to explain whether clause 10.3 has some purpose that might ameliorate that effect;
- 3.5 notes that the Crown has submitted that 10.3 points to the decision making process, and that disagreements would go to that process regardless of clause 10.3;
- 3.6 notes that counsel for the applicants has identified the likely effect of clause 10.3; and asks the Crown to identify any wider purpose or other effect of clause 10.3 that might balance the prejudice perceived by the applicants.
4. First, it is important to consider what 10.2 confers on the other iwi with recognised interests, and therefore to what any consideration by the TMGG under 10.3 (and a judge on judicial review) would relate.
5. As noted by the Presiding Officer, and previously submitted, the Crown considers clause 10.2 to be the paramount provision. Clause 10.2 provides other iwi with recognised interests an absolute statutory right of participation whenever the TMGG is considering matters that relate to or could reasonably be considered to have an actual or potential effect on their recognised interest areas.
6. It is important to emphasise at this stage that the test at 10.2 involves no issue of mana whenua or customary or other rights. That question will already have been determined through the recognition of the interests and areas of interest of the other iwi through their own Treaty settlements. So, to be clear, the TMGG will never be in a position of determining or agreeing whether a Hauraki iwi has relevant interests, or the area in which those interests are held. Neither of those issues can be the subject of disagreement and neither will trigger the process referred to in clause 10.3. Again, those issues have been previously recognised by the Crown and formalised through the relevant deed of settlement with the other iwi with such interests. So, clause 10.3 cannot

give rise to prejudice to Hauraki in relation to any question of determination of rights to participate, or questions of mana whenua or customary rights.

7. Rather, clauses 10.2 and 10.3 are about whether *in fact* the matter for consideration by the TMGG relates to, or might reasonably be considered to have an actual or potential effect on the already recognised Hauraki interest area.
8. Whether or not the conditions for participation comprised in clause 10.2 are met depends on whether the matter comes within one of two tests, both of which are objective:
 - 8.1 does the matter for consideration relate to the recognised interest area?; or
 - 8.2 can the matter for consideration reasonably be considered to have an actual or potential effect on the recognised interest area?
9. It must be noted that neither of these components involves the TMGG determining whether the matter relates to or could reasonably be considered to have an actual or potential effect on the other iwi's *interests*. Rather, the question is simply whether the matter relates to or could have an actual or potential effect on a previously (and separately) recognised geographical *interest area*.
10. In summary, whether a Hauraki iwi has interests in an area within the area covered by the TMF is not a question that will ever fall to be determined by the TMGG and accordingly:
 - 10.1 such a question will never become the subject of the decision-making process referred to in clause 10.3; and
 - 10.2 such a question will never need to be determined through judicial review proceedings.
11. Secondly, it is relevant to note that the matters that could come for consideration by the TMGG are not uncertain or undetermined. They are set out in the legislative Matters Schedule of the TMIC deed, and are as follows:

- 11.1 Preparing, reviewing and amending Ngā Tai ki Mauao (the TMF document). The TMF document covers the entire TMF area. Accordingly, the participation of an iwi with recognised interests anywhere in that area will always be triggered (the first of the two tests under clause 10.2 will always apply). In the hypothetical (but Counsel submits entirely improbable) event that the TMGG proceeded on any of these matters without such participation, there would be a clear and unequivocal breach of a statutory obligation that could be remedied by judicial review, regardless of clause 10.3.
- 11.2 Monitoring the effectiveness of the TMF document. Again, because the TMF document covers the entire TMF area and the first test under clause 10.2 applies, the participation of an iwi with recognised interests anywhere in that area will always be triggered.
- 11.3 Maintaining a register of accredited commissioners available to sit on RMA hearings committees. Iwi with recognised interests will always have the right to appoint people to the register of accredited commissioners regardless of where the recognised interest area is situated. This is not a matter that will fall for consideration by the TMGG.¹
- 11.4 Convening working parties jointly with the regional council when the regional policy statement or regional plan is prepared, reviewed or changed. Again, because the regional policy statement and regional plan cover the entire TMF area and the first test under clause 10.2 applies, the participation of an iwi with recognised interests anywhere in that area will always be triggered.
- 11.5 Convening working parties jointly with a local authority (Western Bay of Plenty District Council or Tauranga City Council) when a district plan is prepared, reviewed or changed. If a recognised interest area is

¹ This is the effect of clause 10.5 and the fact that appointments to the register do not relate to a specified area. Whether a person appointed to the register by an iwi with recognised interests is subsequently appointed to an RMA hearings committee is not a function or decision of the TMGG (it is a function and decision of the regional council in its own right).

within the relevant district then the participation of an iwi with recognised interests anywhere in that area will be triggered.

- 11.6 Convening working parties jointly with local authorities in respect of environmental and effectiveness monitoring. This relates to s 35 of the RMA which applies to “the whole or any part of the environment” of a region or district. This is another case where the first test under clause 10.2 will always apply and the only question (entirely factual) is whether a recognised interest area is within the area being monitored. Again, in the hypothetical (but Counsel submits entirely improbable) event that the TMGG proceeded without the participation of an iwi with a recognised interest area within the monitoring area there would be a clear and unequivocal breach of a statutory obligation that could be remedied by judicial review, regardless of clause 10.3.
- 11.7 Agreeing (with local authorities) the role of the TMGG in the 5 yearly reviews of the results of environmental and effectiveness monitoring (s.35 (2A) of the RMA). If a recognised interest area is within the region or relevant district then the participation of an iwi with recognised interests anywhere in that area will be triggered.
- 11.8 Establishing procedures for communicating with Tauranga Moana iwi and hapū and (by virtue of clause 10.5) iwi with recognised interests on matters pertaining to environmental and effectiveness monitoring. By virtue of clause 10.5, iwi with recognised interests will always be communicated with. The first of the tests under clause 10.2 will always apply and because the “matter” is “establishing procedures”, the participation of iwi with recognised interests will always be triggered.
- 11.9 Convening working parties jointly with the regional council to develop or review criteria and policies for procedural matters related to resource consent applications. This is not an area-specific matter and will relate to the entire TMF area. So, again, the first test under

clause 10.2 applies and the participation of an iwi with recognised interests will always be triggered.

- 11.10 Providing “strategic guidance” to local authorities, management agencies and Ministers. This is also not an area-specific matter and relates to the entire TMF area. The first test under clause 10.2 applies and the participation of an iwi with recognised interests will always be triggered.
- 11.11 Obtaining, sharing and monitoring information on the state of Tauranga Moana. Generally, this is not an area-specific matter and so generally will relate to the entire TMF area, so the first test under clause 10.2 applies and the participation of an iwi with recognised interests will be triggered. In the event that the information relates to only a part of the TMF area then if a recognised interest area is within the relevant part the participation of an iwi with recognised interests will be triggered.
- 11.12 Assisting local authorities and management agencies to prepare and disseminate information, monitor the environment, engage with iwi and hapū and facilitate participation by iwi and hapū in the local authorities’ or management agencies’ management of Tauranga Moana. Generally, these are not area-specific matters and will relate to the entire TMF area, so the first test under clause 10.2 applies and the participation of an iwi with recognised interests will be triggered. In the event that the matter relates to only a part of the TMF area then, if a recognised interest area is within the relevant part, the participation of an iwi with recognised interests will be triggered.
- 11.13 Receiving advice and information from local authorities and agencies. This is a largely passive function that, generally, is not area-specific and will relate to the entire TMF area so the first test under clause 10.2 applies and the participation of an iwi with recognised interests will be triggered. Again, in the event that the advice and information will be relevant only to a TMGG function that applies just to a part of the TMF area then, if a recognised interest area is within the relevant

part, the participation of an iwi with recognised interests will be triggered.

- 11.14 Forming alliances and entering into arrangements with relevant organisations to undertake initiatives to achieve the purpose of the TMGG and with research and education institutes increase knowledge and raise awareness about Tauranga Moana and matters relevant to the purpose of the TMGG. Generally these are not area-specific matters and will relate to the entire TMF area and the participation of an iwi with recognised interests will be triggered. In the event that the matter relates to only a part of the TMF area then, if a recognised interest area is within the relevant part, the participation of an iwi with recognised interests will be triggered.
- 11.15 Deciding whether to undertake other activities or initiatives to assist to achieve the purpose of the TMGG. Generally these are not area-specific matters and will relate to the entire TMF area and the participation of an iwi with recognised interests will be triggered. In the event that the matter relates to only a part of the TMF area then, if a recognised interest area is within the relevant part, the participation of an iwi with recognised interests will be triggered.

12. So, in summary:

- 12.1 The first test in 10.2 will only not be triggered where there is a negative answer to the straightforward question about whether there is a recognised interest area within a district.
- 12.2 Consequently, participation of iwi with recognised interests will always be triggered under sub-paragraphs 11.1 to 11.4 and 11.8 to 11.10 above (which relate either to the region as a whole or the TMF area as a whole).
- 12.3 Under paragraphs 11.5 to 11.7 above, the issue will be straightforward: whether the relevant district or area includes a recognised interest area (it will always be able to be determined on the basis of the first, entirely objective, test under clause 10.2).

- 12.4 Under the remaining paragraphs 11.11 to 11.15, there is a possibility the second test under clause 10.2 (which has some scope for debate) could apply. But, in general, these matters are of a strategic or policy nature rather than matters with specific effects on specific elements of Tauranga Moana. The general reporting and review responsibilities of the TMGG (clauses 3.10 and 3.11 of Part 3 of the LMS) would necessarily involve iwi with recognised interests because they are not area specific.
13. It is therefore, as a matter of law and practical effect, difficult to see how any prejudice could arise for Hauraki iwi by virtue of clauses 10.2 and 10.3. The “hypothetical illustration” set out at paragraph 88 of the iwi of Hauraki memorandum of 28 January 2015 (Wai 215, #2.711) would, in the Crown’s submission, actually play out as follows:
- 13.1 The Bay of Plenty Regional Council would be obliged to provide to each Tauranga Moana iwi and (by virtue of clause 10.5) each Hauraki iwi with a recognised interest a complete physical or electronic copy of the Western Bay of Plenty District Council’s applications (clause 3.8.3 of Part 3 of the LMS) – no prejudice to the Hauraki iwi at this point;
- 13.2 The Bay of Plenty Regional Council publicly notifies the application, considers a hearing is necessary and carries out its obligation to appoint at least one person appointed to the register of qualified decision-makers maintained by the TMGG (Hauraki iwi would be entitled to appoint persons to the register) who might or might not be a Hauraki appointee (this is a decision of the regional council not the TMGG and affects all iwi equally) – no prejudice to the Hauraki iwi at this point;
- 13.3 In the unlikely event that the Western Bay of Plenty District Council’s applications are placed on a TMGG agenda (at best it could only be for noting given the role of the TMGG in the development of the procedural criteria and policies by which the regional council processes the applications, the appointment of a person from the

TMGG register to the hearing committee and the membership of both the Bay of Plenty Regional Council and the Western Bay of Plenty District Council on the TMGG) a Hauraki iwi with recognised interests may give notice that it considers clause 10.2 applies;

- 13.4 If either or both the points of proposed discharge are within a recognised interest area of the relevant Hauraki iwi then clearly a participation right is triggered by the first test under clause 10.2. The only matter upon which there could be disagreement is whether the points of discharge, as a question of fact, are within a recognised interest area. If the disagreement were to be decided against Hauraki under the 10.3 process when that was factually wrong, the fact that the 10.3 process was undertaken would not prejudice judicial review proceedings because the decision would clearly be unlawful;
- 13.5 If the points of discharge were not within a recognised interest area but the Hauraki iwi contended the discharges would have an actual or potential effect on a recognised interest area (the second test under 10.2) and any disagreement about participation were to be decided against Hauraki then if that were contrary to scientific opinion the fact that the 10.3 process was undertaken would not prejudice judicial review proceedings because the decision would be unreasonable in an administrative law sense and if the decision was not contrary to scientific opinion the Hauraki iwi would have to accept the outcome (judicial review proceedings in those circumstances may take account of the 10.3 process);
14. Neither of the above scenarios require the courts to decide on matters of *mana whenua*.
15. It is difficult, in any event, to see how the Hauraki iwi would be prejudiced – simply by virtue of having recognised interests (regardless of where they are) they will automatically receive direct notice of the applications along with all other TMGG participating iwi and will have the same opportunity to make a submission and be heard; simply by virtue of having recognised interests (regardless of where they are) they will have the same opportunity as every

other iwi to appoint persons who may be selected as hearing commissioners; whether they should participate on any TMGG discussion of the applications is dependent on questions of fact (geographical or scientific).

16. In direct answer, then, to the Presiding Officer's first tranche of questions:

16.1 The Crown submits that clause 10.3 does not render judicial review more or less available or a successful judicial review more or less likely. Judicial review is available both in relation to process and to ensuring the lawful exercise of public power (either statutory, under the Judicature Amendment Act 1972, or more generally at common law and pursuant to Part 30 of the High Court Rules). The fact that clause 10.3 provides for the TMGG to consider any question of participation of other iwi with recognised interests (as noted, solely on the basis of relation to or effect on a geographical area) does not remove the ability to review the exclusion of a relevant iwi if that exclusion is unlawful (in the judicial review sense) or unreasonable, and review is available purely under the rights conferred by, and obligation inherent, in clause 10.2 itself.

16.2 Clause 10.3 ensures the Hauraki member is entitled to participate whenever the TMGG is considering whether participation conferred by 10.2 has been triggered. By doing that, 10.3 provides the parties with an opportunity to resolve issues without having to go directly to litigation (which would not be the case without 10.3 as the clause 6 decision-making process would be undertaken without the participation of the Hauraki member).

Judicial review in other settlements and whether the remedy is different from general review in respect of statutory body decision making

17. The Presiding Officer at paragraph 20(a)(ii) of his memorandum-directions asks:

17.1 Where judicial review has been specifically constructed in the manner of clause 10.3 in other settlements; and

- 17.2 How the Crown sees this 'remedy' as being different from the general right of review that would exist in respect of statutory body decision making if there were no clause 10.3.
18. The Crown submits:
- 18.1 Whenever co-management arrangements are given effect through settlement legislation the powers of decision conferred by that legislation are amenable to judicial review in accordance with the Judicature Amendment Act 1972. The TMGG provisions will be no different and are not intended to contain a special or express power of review.
- 18.2 Specifically, clause 10.3 has not been constructed to provide any additional, special or express means of judicial review. It simply provides a chance for the TMGG, including the additional members, to resolve issues outside litigation.
- 18.3 The process of decision making under 10.3, could if relevant, itself be subject to review. But this applies to all processes whether express in statute or not.
- 18.4 The Crown sees no difference with the general ability to review statutory powers and the process of decision making.
- 18.5 The Crown considers that the better view is that judicial review should not be considered a remedy as such, although it might give rise to remedies for a party seeking review. Judicial review is concerned with lawful decision making both in substance and form. Clause 10.2 confers rights on iwi with recognised interests. If those rights are frustrated through unlawful decisions or unfair process, review is available. Clause 10.3 is irrelevant to this (although, as noted, itself might give rise to a separate ground of review).

How judicial review will address underlying Treaty issues

19. The Presiding Officer, at paragraph 20(a)(3):

19.1 notes that if the Crown relies upon clause 10.3 to ensure access to judicial review as an alternative remedy, and asks how would judicial review address the underlying Treaty issues raised in this claim more effectively than if clause 10.3 did not exist, and judicial review was directly about the exclusion of the additional member rather than the process of the TMGG;

19.2 notes that previous Tribunal decisions have discussed the shortcomings of judicial review when it comes to determining underlying Treaty issues; and

19.3 asks the Crown to please explain how clause 10.3 makes the process better not worse.

20. The Crown responds:

20.1 First, as outlined above, the Crown does not rely upon 10.3 to ensure access to judicial review. The Crown says judicial review would be available regardless.

20.2 Secondly, no underlying Treaty issue is engaged in relation to the narrow issue for determination in this proceeding. As discussed above, those issues would already have been determined when the Crown recognises the interests and interest areas of Hauraki iwi through the Hauraki settlements. Also, as noted above, the only issues for the TMGG in considering participation are factual (and likely geographical and/or scientific): whether or not the matter to be considered relates to or could reasonably be considered as having an actual or potential effect on that recognised area. In any event, as argued above, the kinds of matters to be considered by the TMGG are such that these questions will scarcely arise and, when they do, no Treaty issue will arise.

20.3 Clause 10.3, in terms of judicial review, is neutral. It does not make the process either better or worse.

“Recognise interests” and “recognised interests area”

21. The Presiding Officer has asked that the Crown please clarify what process the Crown anticipates the local and central government members of the TMGG will undertake to determine the matters they consider relate to or could reasonably be considered to have an actual or potential effect on the Hauraki Collective’s interests. He further asks that, if they would be expected to abstain and leave the decision to the other members, does the Crown consider that to be an appropriate process?
22. The Crown submits:
- 22.1 As noted above, the members of the TMGG will not determine matters concerning the *interests* of Hauraki iwi. That will have already been determined through agreement, via Hauraki’s own settlements, with the Crown as to Hauraki’s interests in Tauranga Moana, and the areas in which those interests lie. The TMGG may be called upon to discuss only whether a matter they need to consider will relate to, or might reasonably be considered to have an actual or potential effect on, those recognised interest areas. As submitted above, that will be a factual (and likely scientific and/or geographical) question.
- 22.2 As such, the Crown does not anticipate that any member should abstain. The Crown would expect that any discussion would need to be informed by factual, and if necessary, expert advice about whether the matter in issue will in fact relate to or might reasonably be considered to have an actual or potential effect on that area. Again, in any event, the kinds of matters to be considered by the TMGG are such that these questions will rarely arise.
23. In relation to what “confirmed in legislation giving effect to future settlements” means in relation to “recognised interests” and “recognised interest areas”:
- 23.1 The phrase refers to what is confirmed through the Treaty settlement deeds and legislation of the other iwi with recognised interests in Tauranga Moana.

- 23.2 This includes the impending individual Treaty settlements of Hauraki iwi with interests in Tauranga Moana.
- 23.3 Accordingly, clause 10 has no effect in respect of the interests of the relevant iwi of Hauraki until their settlement legislation is passed.
- 23.4 The recognised interest areas of the relevant Hauraki iwi will not be defined in the proposed TMIC legislation.
- 23.5 This arrangement is not at issue among the parties, and in fact has been agreed during negotiations among TMIC, Hauraki iwi and the Crown.²

Settlement legislation timetable

24. The timetable for introduction of the Bill will depend on the resolution of this application.

21 July 2015



 J R Gough
 Counsel for the Crown

JACKI LEWIN GOUGH
 CROWN COUNSEL
 FOR APPLICATION MADE
 BY J.R. GOUGH

TO: The Registrar, Waitangi Tribunal
AND TO: Claimant Counsel

² The area to be agreed between Hauraki iwi and the Crown will be subject to the usual overlapping claims process.

IN THE WAITANGI TRIBUNAL

WAI 215 & 686

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

of an application for an urgent hearing on behalf of Iwi of Hauraki

IWI OF HAURAKI MEMORANDUM

(31 JULY 2015)

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MAY IT PLEASE THE TRIBUNAL

1. In Wai 215, #2.733 (Memorandum of Directions of Tribunal Member of 9 July 2015), the Tribunal directed:

"Questions to Inquiry Parties

15. Before I determine this application for urgency, I require further information from the parties.

...

Crown

17. In the absence of argument I accept that the lands and forest underlying this claim are material (in every sense of that word) but it seems to me that the issue itself is narrow. It concerns clause 10.2 and especially clause 10.3 of the TMIC Deed. I therefore need to understand how the parties anticipate the provisions will operate and whether they will do so in a way that will likely deliver significant and ongoing prejudice.

...

20. From the Crown, I seek its explanation of:

- a) Judicial review as an alternative remedy:

i. In paragraph 9.4 of the Crown's submission on 20 February 2015 (Wai 215, #2.716), the Crown submits that clause 10.2 is the paramount provision and contains an objective test. Any decision made under clause 10.2 would be amenable to judicial review. It is difficult to see, however, how clause 10.2 could be divorced from clause 10.3 in the context of review and both parties recognised the link. It does seem that the presence of clause 10.3 makes it more difficult for the Hauraki Collective (or more accurately "the governance entity of the iwi with recognised interests") to succeed in a judicial review. Assuming for the moment that such an effect occurs, **can the Crown please explain whether clause 10.3 has some purpose that might ameliorate that effect?** I note that at para 20 of Wai 215, #2.716 the Crown says that clause 10.3 points to the decision making process, but at para 21 concedes that disagreements would go to the decision making process anyway "regardless of the existence of clause 10.3". Counsel for the applicant has identified the likely effect of clause 10.3; **can the Crown identify any wider purpose or other effect of clause 10.3 that might balance the prejudice perceived by the applicants?**

ii. In paragraph 21.2 of Wai 215, #2.716, the Crown argues that it is not novel for judicial review to be used as a means of resolving issues. **Please clarify where judicial review has been specifically constructed in the manner of clause 10.3 in other settlements, and how the Crown sees this 'remedy' as being different from the general right to judicial review that would exist in respect of statutory body decision making if there were no clause 10.3.**

iii. If the Crown relies upon clause 10.3 to ensure access to judicial review as an alternative remedy, **how would such judicial review address the underlying Treaty issues raised in this claim more effectively than if clause 10.3 did not exist, and judicial review was directly about the exclusion of the "paragraph 1.1.5 member" under clause 10.2 rather than the processes of the TMGG?** I note from Wai 1298 and Wai 2417 that judicial review has shortcomings when it comes to determining underlying Treaty issues, but **can the Crown please explain how clause 10.3 makes the process better, not worse.**

b) The definition of "recognised interests" and "recognised interests area" are at the heart of clause 10 in the Legislative Schedule of the TMIC Deed. So:

i. Please clarify what process the Crown anticipates that the local and especially central government members of the TMGG (who will be 5 of the 10 members) will undertake to determine the matters they "consider relate to or could reasonably be considered to have an actual or potential effect" on the Hauraki Collective's interests. If they would be expected to abstain and leave the decision to the other members does the Crown consider that to be an appropriate process?

ii. Please clarify what "confirmed in legislation giving effect to future settlements" means in the definitions of "recognised interests" and "recognised interest areas";

- Does it mean what is confirmed in the TMIC Settlement legislation or does "future" exclude that?
- Does it include the impending Hauraki Collective settlement legislation?

If so, does the whole of clause 10 have no effect in respect of the Hauraki Collective's interests until its settlement legislation is passed?

iii. Does the Crown intend to define the Hauraki Collective's "recognised interest area" in the proposed Tauranga Moana Iwi Collective Settlement Act?

21. I also invite the Crown to advise the notified parties and the Tribunal of the proposed timetable for the TMIC Settlement Bill.

[Emphasis added and footnotes omitted]

2. The Crown and TMIC filed memoranda in response to these and other matters.

CROWN POSITION

3. The Crown has filed two merits memoranda in this proceeding, the first on 20 February 2015 (responding to the Iwi of Hauraki submissions of 28 January 2015), and the second on 21 July 2015 (responding to the questions of the Tribunal).
4. The Crown's 20 February memorandum encompassed 10 pages, while its 21 July 2015 memorandum covers 14 pages and addresses merits issues not previously raised by the Crown.¹

"can the Crown please explain whether clause 10.3 has some purpose that might ameliorate that effect?"

"can the Crown identify any wider purpose or other effect of clause 10.3 that might balance the prejudice perceived by the applicants?"

5. The Crown goes to some length, via a selective analysis of the TMF regime, to argue there is no prejudice to the Iwi of Hauraki with clause 10.3, and in any event judicial review is available as a "protection".

¹ For example, at paragraph 11 (pages 3-7).

6. The Crown memorandum² contains a selective list of the matters that could come for consideration by the TMGG. The upshot of that selective approach is the Crown concludes prejudice and exclusion under clause 10.3 is unlikely.
7. It is important to recall the significance of co-governance / co-management redress in Treaty settlements.
8. As confirmed in various Waitangi Tribunal reports, the involvement of mana whenua in natural resource decision-making has not been achieved via the provisions of the RMA or LGA etc, rather by Treaty settlements. Such involvement is universally sought due to general exclusion from the decision-making table.
9. Thus, the sterile (and selective) Crown assessment of what will occur at the TMGG table is academic and fanciful.
10. As confirmed in various parts of the TMF regime, the purpose for being at the TMGG table is to have a say or at least influence local government decision-making within all parts of the TMF area.
11. Relevant provisions from the TMIC Deed provide:

"PURPOSE OF THE TAURANGA MOANA GOVERNANCE GROUP

"3.3 The collective legislation will provide that the purpose of the Tauranga Moana Governance Group is to provide leadership and strategic direction to restore, enhance and protect the health and wellbeing of Tauranga Moana and achieve sustainable management of Tauranga Moana for present and future generations through:

3.3.1 Ngā Tai ki Mauao (the Tauranga Moana framework document);

3.3.2 facilitating an integrated, holistic and co-ordinated approach to the management of Tauranga Moana and the implementation of Ngā Tai ki Mauao (the Tauranga Moana framework document); and

3.3.3 providing for participation by Tauranga Moana iwi and hapū in the management of Tauranga Moana, the implementation of Ngā Tai ki Mauao (the Tauranga Moana framework document) and the functioning of the Tauranga Moana Governance Group.

FUNCTION OF THE TAURANGA MOANA GOVERNANCE GROUP

3.4 The collective legislation will provide that:

3.4.1 the function of the Tauranga Moana Governance Group is to achieve its purpose
..."

² At paragraph 11.

12. Thus, while the Crown argues the list of matters provided for in the Deed will not cause prejudice, those are the minimum matters for consideration by the TMGG and there is no bar on other matters being considered or agreed by the TMGG. Indeed, that is the experience of other co-governance / co-management regimes, for example the Tūpuna Maunga o Tāmaki Makaurau Authority (provided for in the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014).

13. Even then, the Crown omitted reference to section 3.8 of the TMF in relation to the resource consent process which, as the Tribunal is well aware, is a significant area of decision-making for mana whenua.

"Please clarify where judicial review has been specifically constructed in the manner of clause 10.3 in other settlements, and how the Crown sees this 'remedy' as being different from the general right to judicial review that would exist in respect of statutory body decision making if there were no clause 10.3."

14. The Crown has provided a discursive response.

15. The Crown departs from its previous position and now says judicial review "should not be considered a remedy as such, although it might give rise to remedies for a party seeking review."³

16. The Crown has not answered the Tribunal's direct question, presumably because there has never been an equivalent to clause 10.3 in any other Treaty settlement. That, of itself, is an issue of significance in this urgency application.

"how would such judicial review address the underlying Treaty issues raised in this claim more effectively than if clause 10.3 did not exist, and judicial review was directly about the exclusion of the "paragraph 1.1.5 member" under clause 10.2 rather than the processes of the TMGG?"

"can the Crown please explain how clause 10.3 makes the process better, not worse."

17. The Crown argues clause 10.3 is neutral.⁴

18. That is patently wrong given clause 10.3 gives TMGG the express power to exclude the Iwi of Hauraki as the paragraph 1.1.5 member.

"Please clarify what process the Crown anticipates that the local and especially central government members of the TMGG (who will be 5 of the 10 members) will undertake to determine the matters they "consider relate to or could reasonably be considered to have an actual or potential effect" on the Hauraki Collective's interests."

19. The Crown confirms no TMGG member should abstain on a clause 10.3 decision.⁵ The Crown presents assumptions on the

³ At paragraph 18.5.

⁴ At paragraph 20.3.

position local government members would fake but has not included Iwi of Hauraki Iwi in any meetings with them.

20. The Crown argues clause 10.2/10.3 decisions "will not determine matters concerning the *interests* of Hauraki Iwi."⁶ It makes a similar argument in attempting to draw a distinction between "other Iwi's *interests*" and a "recognized geographical *interest area*".⁷
21. The Crown's theoretical (romantic) distinction belies the real world. The sole purpose of clause 10.3 is to empower the TMGG, dominated by the TMIC Iwi who have no constraints on their participation, to make decisions that can result in the exclusion of the Iwi of Hauraki as the paragraph 1.1.5 member.
22. How are the customary interests of a tribe respected and realised when it is excluded from the table?

"• Does it mean what is confirmed in the TMIC Settlement Legislation or does "future" exclude that?

• Does it include the impending Hauraki Collective settlement legislation? If so, does the whole of clause 10 have no effect in respect of the Hauraki Collective's interests until its settlement legislation is passed?"

Does the Crown intend to define the Hauraki Collective's "recognised interest area" in the proposed Tauranga Moana Iwi Collective Settlement Act?

23. The Crown has answered in the negative.⁸
24. As confirmed by the Crown,⁹ the Iwi of Hauraki will not be included in the TMF arrangements "until their settlement legislation is passed". Thus, the Iwi of Hauraki will be placed behind TMIC in accessing redress over their rohe. This is another side-effect of the unprecedented and exclusionary way in which the TMF arrangements were developed as it is entirely possible for co-governance arrangements to make provision for all Iwi to participate from their establishment.

I also invite the Crown to advise the notified parties and the Tribunal of the proposed timetable for the TMIC Settlement Bill.

25. The Crown has responded appropriately (given its previous undertakings) in confirming the "timetable for introduction of the Bill will depend on the resolution of this application."¹⁰

TMIC POSITION

26. TMIC argues any changes to the TMIC Deed "are likely to require a re-ratification process ... that could threaten the

⁵ At paragraph 22.2.

⁶ At paragraph 22.1.

⁷ At paragraph 9.

⁸ At paragraph 23.4.

⁹ At paragraph 23.3.

¹⁰ At paragraph 24.

settlements of the Tauranga Moana iwi."¹¹ The Crown has not supported this assertion.

27. TMIC also argues there is prejudice because urgency would delay their settlements.¹²

28. As observed by the Tribunal (in its memorandum of directions of 9 July 2015):

"33. The Crown and TMIC see prejudice to the TMIC settlement by reason of delay should this application proceed. That may well be so as a matter of practice, though, of course, the Tribunal entirely appropriately has no power to determine the Crown's legislative programme nor determine the timing of introduction of a Settlement Bill. Those are matters for the Government of the day."

29. Also, as previously noted,¹³ any prejudice from delay to the TMIC settlement arises for two reasons:

- (a) The sustained period of breakdown in TMIC-Crown negotiations due, in large measure, to internal TMIC iwi conflict; and
- (b) The Crown's decision to not progress the TMIC iwi-specific settlement without the TMIC collective settlement.

30. It is also relevant on the issue of potential prejudice that the TMIC memorandum did not advise the Tribunal of the various financial and commercial on-account settlements already provided to the TMIC iwi by the Crown.

31. As to paragraph 29 above:

- (a) One manifestation of the internal TMIC conflict is that all but one element of the TMIC collective redress has been unwound via settlement amendment deeds ratified in July 2014 and signed in October 2014 by each of Ngāi Te Rangi (along with Ngā Potiki), Ngāti Pūkenga and Ngāti Ranginui.¹⁴ In other words, all that essentially remains in the TMIC Deed is the TMF regime redress.
- (b) it is therefore open to the Crown, and has been throughout 2015, to advance the TMIC iwi-specific settlements separate from, and in advance of, the TMIC Deed.

32. TMIC also argues its larger tribal population trumps the tribal population of the applicant iwi, and that should lead to a decision not to grant urgency.

¹¹ At paragraph 3.

¹² At paragraphs 3-4.

¹³ See, for example, paragraphs 69-70 in Wai 215, #2.711.

¹⁴ It is only possible to speculate as to why this ratification proceeded when the TMF discussions with Hauraki were still in train.

33. Obviously, the exercise by the Tribunal of its statutory power of decision is not based on who has the larger tribal population.
34. It is understood the Tribunal enquired as to tribal demographics because of the potential internal prejudice among the Iwi of Hauraki (and not as between Pare Hauraki and Tauranga Moana).
35. Moreover, the numbers given by TMIC for Pare Hauraki are incorrect and materially understate the position. It appears the TMIC person who provided their information is not aware of tribal census methodologies. For example, adjustments are made for generic line items such as:
- (a) "Hauraki (Coromandel) Region, not further defined";
 - (b) "Iwi not named – Pare Hauraki/Hauraki"; and
 - (c) "Ngāti Maru, region unspecified".
36. The TMIC assessment of the Iwi of Hauraki numbers also omits reference to Ngāti Pāoa who support the urgency application.

URGENT HEARING

37. It is for the Tribunal to decide whether urgency will be granted.
38. To assist the Tribunal, the Iwi of Hauraki address the following case management considerations (should urgency be granted):
- (a) Further documentation – given the fulsome submissions/memoranda provided to the Tribunal, the only additional material required is release of the withheld Crown documentation¹⁵ (on whatever confidential basis to the parties may be sought by the Crown and agreed).
 - (b) Evidence – given the narrow focus of the application, and the fulsome submissions/memoranda provided to the Tribunal, evidence is not required provided at least one Crown witness is available for questioning by the Tribunal and parties.
 - (c) Length of hearing – one to two days.
 - (d) Timing of hearing – the Iwi of Hauraki are ready to proceed at whatever time is available to the Tribunal.
 - (e) Venue – to facilitate an expeditious hearing, the Tribunal's Wellington office is a suitable venue.

CONCLUSION

¹⁵ See paragraph 16 in Wai 215, #2.711, and paragraph 36 in Wai 215, #2.719.

39. The Crown argues it is "difficult to see how any prejudice could arise for Hauraki iwi by virtue of clauses 10.2 and 10.3,"¹⁶
40. While the Crown has skirted around the issue, its response remains that if clause 10.3 causes prejudice, a remedy will lie with the High Court by way of judicial review.
41. The risk therefore lies solely with the iwi of Hauraki, in the event of exclusion by TMGG under clause 10.3, that it can succeed with judicial review. As previously addressed, judicial review is actually not a remedy given the need to establish unreasonableness on the part of the TMGG.
42. This all begs the question as to the purpose for clause 10.3. If it is truly so prosaic, why has both the Crown and TMIC been so dogged on its retention. And, why is the Crown treating its Treaty partners so differently and unequally.
43. The iwi of Hauraki appreciate the guidance of the Tribunal and look forward to the decision on the application for urgency.



Paul F Majurey

(31 July 2015)

¹⁶ At paragraph 13.

WAITANGI TRIBUNALWai 215
Wai 686**CONCERNING**

the Treaty of Waitangi Act 1975

AND

an application for an urgent hearing on behalf of the Hauraki Collective

DECISION ON APPLICATION FOR URGENCY**Introduction**

1. This application for an urgent hearing was originally filed on 19 September 2012 on behalf of a number of iwi in the Hauraki Collective. It was revived on 12 December 2014 with regards to clause 10.3 and related provisions of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed (TMIC) Deed (Wai 215, #2.682 & #2.707).
2. Clause 10.2 of the Legislative Matters Schedule in the TMIC Deed states:

The member under paragraph 1.1.5 is entitled to participate whenever the Tauranga Moana Governance Group is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a recognised interest area.
3. Clause 10.3 of the Legislative Matters Schedule in the TMIC Deed states:

In the event of any disagreement on whether paragraph 10.2 applies, the Tauranga Moana Governance Group will make a decision on the matter in accordance with paragraph 6 and the members under paragraph 1.1.5 and 1.1.10 will be entitled to participate in that process.
4. The applicants allege that the Hauraki iwi will suffer significant and irreversible prejudice as a result of the Crown's proposed TMIC Deed. The applicants also claim that there is no alternative remedy for the iwi of the Hauraki Collective to exercise.
5. The applicants seek the deletion of clause 10.3 from the TMIC Deed. The applicants consider that the deletion of clause 10.3 would have the following impacts:
 - a. A member from the Hauraki Collective would have the right to participate in the Tauranga Moana Governance Group (TMGG) in defined circumstances;
 - b. That member could participate and exercise one of ten votes in the TMGG; and
 - c. Any member that wishes to bring a challenge, may do so on its merits
6. On 26 March 2015, I was delegated the task of determining this application for an urgent hearing as a step preliminary to the substantive hearing of the claim (Wai 215, #2.720).

7. Having considered all submissions and evidence filed in support of the application, I have decided to grant the urgency application for the reasons set out below.

Procedural History

8. On 19 September 2012, the Hauraki Collective filed an application for an urgent hearing in relation to the impending initialling of the TMIC Deed (Wai 215, #2.682 & #2.683).
9. The applicants claimed that the Crown had provided undertakings that the Hauraki Collective would receive contemporaneous redress alongside the TMIC, however, they did not receive any offers of cultural or commercial redress. Furthermore, the applicants claimed they did not receive any indication of redress proposed to be included in the TMIC Deed. They alleged that given the likely areas and types of redress to be offered to TMIC, there was a very strong likelihood that the TMIC Deed could irreversibly prejudice the customary interests of Hauraki iwi.
10. The Tribunal then received a number of updates from both the applicants and the Crown as to actions that were being undertaken to finalise the content of the TMIC Deed (Wai 215, #2.684, #2.686, #2.687, #2.689, #2.690, #2.692 & #2.694).
11. On 24 October 2012, the Tribunal received a joint memorandum from the Crown and the applicants advising that an urgent hearing would not be required as an agreeable position had been met, but both parties sought leave to resume proceedings if necessary (Wai 215, #2.695). Accordingly, Judge Milroy adjourned the application and granted the leave sought (Wai 215, #2.696).
12. The applicants sought to revive the application on 25 July 2014 (Wai 215, #2.697). After further discussions, both parties sought once again to have the application adjourned *sine die* on 1 September 2014, with leave to revive, should it be necessary (Wai 215, #2.702). The Chairperson issued memorandum-directions on 9 September 2014 to that effect (Wai 215, #2.703).
13. On 12 December 2014, the applicants again sought to revive the application (Wai 215, #2.704, #2.705, #2.706, & #2.707). A judicial teleconference was held on 12 December 2014. The applicants sought to obtain the Crown's current position in relation to negotiations and to timetable the filing of submissions for these Tribunal proceedings. Leave was granted to revive the application and a timetable for filing was agreed upon. The applicants were directed to file submissions by 16 January 2015 and the Crown and interested parties by 9 February 2015 (Wai 215, #2.710).
14. The applicant's submissions in support of the application were filed on 28 January 2015 (Wai 215, #2.711). The Crown and TMIC filed their responses to the application on 20 February 2015 (Wai 215, #2.716 & #2.717).
15. On 23 February 2015, the Deputy Chairperson directed the applicants to file any submissions in reply to those of the Crown and TMIC by 9 March 2015 (Wai 215, #2.718). Submissions in reply were filed on 12 March 2015 (Wai 215, #2.719).
16. A joint memorandum from the Crown and applicants was filed on 3 April 2015, which sought to adjourn the application (Wai 215, #2.721). The adjournment was granted and parties were directed to update the Tribunal by 15 May 2015 (Wai 215, #2.722).
17. On 29 May 2015, the Crown filed a memorandum stating that no solution had been achieved and that the Tribunal should now consider whether the application for an urgent hearing should be granted (Wai 215, #2.723).

18. The applicants responded to the Crown's memorandum on 9 June 2015 (Wai #2.725). They submitted that, given the mutual desire to achieve resolution, attempts had continued to find common ground. The applicants sought to maintain the adjournment of the application. The adjournment was granted and parties were directed to update the Tribunal again by 17 June 2015 (Wai 215, #2.726).
19. On 23 June 2015, counsel for the applicants filed a memorandum updating the Tribunal on their progress (Wai 215, #2.728). Counsel submitted that during the adjournment, meetings with Crown Ministers did not eventuate and Hauraki iwi were now faced with the Crown taking the parties back to litigation despite the applicants' attempts to find a solution.
20. Crown counsel responded to the applicants' memorandum on 30 June 2015. The Crown submitted that the Minister of Treaty Negotiations had considered the applicants' request, but had declined to offer the facilitation of a further meeting as he was not persuaded that it would aid resolution of the matter (Wai 215, #2.731). In the Minister's letter to the applicants, he noted that the Crown is unable to force agreement on the parties and attempts to resolve this matter outside the Tribunal could not continue indefinitely (Wai 215, #2.731(a)).
21. On 1 July 2015, counsel for TMIC also submitted that this application should be determined without further adjournments as the delay in determining this application for urgency is causing prejudice to TMIC (Wai 215, #2.732).
22. On 9 July 2015, I issued memorandum-directions outlining my preliminary thoughts on this urgency application and sought further information from parties (Wai 215, #2.733). Counsel for the applicants was directed to file information indicating the size of the applicant group in proportion to the Hauraki Collective as a whole. Crown counsel was directed to file an explanation of how it sees judicial review as an alternative remedy and to clarify certain terms in the TMIC Deed.
23. As directed, parties filed the further information requested (Wai 215, #2.735 & #2.737). Counsel for TMIC filed a response to the applicants' and Crown's submissions on 23 July 2015 (Wai 215, #2.738). The applicants filed their reply on 3 August 2015 (Wai 215, #2.739).

Parties' Positions

Applicants' Submissions

24. The applicants are the following iwi of the Hauraki Collective:
 - a. Ngāti Hako;
 - b. Ngāti Maru;
 - c. Ngāti Tamaterā;
 - d. Ngāti Tara Tokanui; and
 - e. Te Patukirikiri.
25. The applicants submit that they represent approximately 54.38% of the total population of the Hauraki Collective. Counsel notes that Ngāti Pāoa also supports this application for urgency but does not wish to participate in these proceedings. With Ngāti Pāoa, the proportion of the Hauraki Collective who support this urgency application is 75.16%. Nevertheless, Ngāti Pāoa have made it clear that they put the making of progress on the Hauraki claim ahead of pursuing any prejudice alleged in this application (Wai 215, #2.735(a)).

26. The revived application, as filed on 12 December 2014, concerns clause 10.3 of the TMIC Deed and its related provisions of the Legislative Matters Schedule. This clause relates to the Tauranga Moana Framework (TMF) redress and TMGG.
27. The applicants allege that the proposed regime under the TMIC Deed has the following key elements:
 - a. The Hauraki Collective member of the TMGG will have TMF participation rights in certain situations;
 - b. In the event of any disagreement as to whether the Hauraki Collective should participate in the TMGG, the standard decision-making regime under section 6 of the Legislative Matters Schedule will apply. Of significance to the applicants is that the right to determine the dispute may extend to the very council(s) whose proposal may be being considered;
 - c. While the section 6 decision-making regime promotes consensus, the default is a simple majority of members. Thus the right of the Hauraki Collective to participate, regardless of the merits, is always subject to a majority vote of up to nine other members; and
 - d. While the Hauraki Collective member will have the right to seek judicial review in that situation, if the majority decision-making process has been observed, there would be no actual remedy. By this the applicants mean that the effect of clause 10.3 is that any judicial review would be limited to the decision making process rather than the merits of whether or not Hauraki iwi were entitled to participate in that particular matter.
28. The applicants further note that the extent to which the iwi of Hauraki may participate in the TMF redress is as follows:
 - a. The Crown accepts that Hauraki iwi have customary interests in the TMF redress area;
 - b. The Crown accepts that Hauraki iwi will have a seat on the TMGG alongside the four TMIC iwi seats by the creation of a fifth iwi seat (there are other seats for central and local government);
 - c. Unlike any of the four TMIC seats, the 'Hauraki fifth seat' can only participate in the TMGG, in accordance with clause 10.2, whenever the TMGG is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a recognised interest area;
 - d. The following key definitions state:
 - i. "recognised interests" means the interests of iwi, other than Tauranga Moana iwi, that are relevant to the TMF and are confirmed in legislation giving effect to future settlement of historical Treaty of Waitangi claims;
 - ii. "recognised interest area" means an area containing recognised interests of iwi, other than Tauranga Moana iwi that are relevant to the TMF and is confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi Claims.
 - e. Any dispute over whether clause 10.2 applies will be determined by a simple majority decision of the TMGG, as set out in clause 10.3.

29. The applicants allege that the substance of the Crown's proposal, as well as the process undertaken to develop the proposal, is not compliant with the principles of the Treaty of Waitangi (Wai 215, #2.707, paras 27 to 29).
30. Despite this urgency application and concerns raised by the iwi of the Hauraki Collective, the Crown proceeded with the signing of the TMIC Deed in late December 2014.
31. The applicants allege that clause 10.3 of the Legislative Matters Schedule and its related provisions cause prejudice by authorising a veto of Hauraki Collective participation in the TMF redress, which may be exercised without cause and without any requirement for a merits assessment.
32. Furthermore, the applicants submit that the only theoretical remedy for the Hauraki seat, if they were denied participation in the TMGG under clause 10.2, is judicial review by the High Court. However, the applicants submit that clause 10.3 itself, curbs any effect judicial review could have as a remedy. The applicants note that if basic process elements outlined in clause 10.3 had been observed, the High Court will have little, if any, basis to intervene on a judicial review; indeed, even if the Court might have found in favour of Hauraki iwi if clause 10.3 did not arise, and the question was directly whether clause 10.2 had been applied properly.
33. The applicants refer to *Te Raupatu o Tauranga Moana – Report on the Tauranga Moana Confiscation Claims*. The applicants submit that this report confirms that the Crown has failed to treat Hauraki iwi equally with other iwi and has failed to act honourably and in good faith towards them. The applicants consider this is a crucial point to consider as it appears history is repeating.
34. The applicants argue that the Crown's failure to treat Māori equally is demonstrated by the fact that there is no clause 10.3 style imposition on the TMIC iwi seats. A different approach has been taken with the overlapping interests for Ngāti Haua, Ngāti Hinerangi and Ngāti Raukawa and there has never been a Treaty settlement where some iwi in a co-governance regime have had the right to vote on the participation of other iwi with recognised interests. The applicants list the following settlements as examples of settlements which involved multi-iwi/hapū arrangements but did not contain the right to vote on the participation of other iwi: Waikato River, Te Hiku, Ngāi Tūhoe, and Whanganui River Treaty Settlements.
35. The applicants also refer to the Hauraki Collective co-governance regime for the Waihou, Piako and Coromandel rivers with Ngāti Hauā, Ngāti Hinerangi, and Ngāti Raukawa. In these co-governance regimes, neither the Crown nor Hauraki iwi ever opposed a joint seat for the rivers nor sought a clause 10.3 equivalent process. The applicants note in these examples that there is no bar on the seat having the ability to be elected as co-chair, and the above three iwi have had the benefit of multiple hui with representatives of Hauraki iwi and five councils as part of the Waihou, Piako and Coromandel co-governance regime negotiations.
36. It is further argued by the applicants that the Crown has failed to ensure rangatiratanga and active protection of the customary interests of iwi of the Hauraki Collective. The applicants submit that the Crown has promoted a Treaty settlement that leads to an outcome where the iwi of Hauraki can be excluded from TMGG participation in a large area of land confirmed to be squarely in the Hauraki rohe.
37. The applicants also allege that the Crown has breached its undertaking to the Hauraki Collective. On 24 October 2012, the Crown gave the following undertaking to the

Hauraki Collective, as part of an agreement to enable the initialling of the TMIC Deed, that was relied on by the Hauraki Collective:

The TMF will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interest than provided to the TMIC (Wai 215, #2.695).

38. Counsel for the applicants submits that the process that led to the Crown offering less favourable co-governance arrangements to the Hauraki iwi than TMIC iwi was neither fair nor transparent. Further to this, the applicants submit that clause 10.3 and its related provisions of the TMIC Deed, do not honour the Crown's undertaking (Wai 215, #2.707, paras 27 to 29).
39. In regards to the decision-making process in the TMIC Deed, the applicants question why any of the Ministerial/Council TMGG seats have the right to challenge the participation of the Hauraki seat.
40. The applicants are also concerned that the Crown is considering whether it will offer TMGG participation to Ngāti Hinerangi. The applicants submit that the Crown has provided no clarity to the question when asked, which leaves the Hauraki Collective in the position of not knowing the full extent of the prejudice caused by clause 10.3 of the regime.
41. The applicants further submit that the signing of the TMIC Deed is no bar to granting urgency and that any claim by the Crown of prejudice to TMIC that may occur by the granting of urgency would be self-imposed. The applicants also submit that there is no evidence that a focused urgent hearing would materially divert Crown resources from other negotiations.
42. Finally, the applicants submit that this is an exceptional and confined case. The Crown has negotiated a settlement that undermines the Hauraki Collective's fundamental rights of participation and the exercise of customary interests. This, the applicants argue, should be considered against the historical background of the Crown failing to honour its Treaty commitments to the same iwi in the very same area: something that the Waitangi Tribunal condemned in its *Te Raupatu o Tauranga Moana* report.

Crown's Response

43. The Crown opposes this application for urgency and submits that the matters which are the subject of complaint do not and cannot cause the applicants significant and irreversible prejudice. The Crown also considers that in any event, there are alternative remedies available to the applicants. Further to this, the Crown submits that the co-governance arrangements at the heart of this application are consistent with previous Crown commitments *vis a vis* the position of the Hauraki iwi.

Significant and Irreversible Prejudice

44. The Crown submits that clause 10.3 and its related provisions cannot be a source of significant or irreversible prejudice to Hauraki iwi. Clause 10.3 was designed to outline a decision making process in the hope that any disputes could be resolved at the TMGG table. It does not confer a right of veto on any group.

Alternative Remedies

45. In any event, the Crown submits that the processes confer relevant alternative remedies. Notably, the existence of judicial review for any decision which restricts the

participation of the Hauraki Collective seat in TMGG, is the ultimate protection of Hauraki iwi's rights under clause 10.2. Clause 10.3 does not make judicial review more or less available, or a successful judicial review more or less likely.

Co-governance Arrangements

46. In regards to the recognised interests test in the Legislative Schedule Matters of the TMIC Deed, the Crown notes that clause 10.2 should be viewed as the central provision, as it confers an absolute right of participation where matters relate to or could reasonably be considered to have an actual or potential effect on a recognised Hauraki Collective interest. As such, clause 10.2 incorporates an objective test. This means that the only way any of the nine non-Hauraki members could challenge the participation of Hauraki Collective is on a factual basis, which does not amount to a veto.
47. In response to the applicants' submission that the participation rights of Hauraki iwi are restricted in a manner that does not apply to TMIC, the Crown submits that relative representation was agreed upon by TMIC, the Crown and Hauraki iwi, before the issue of clause 10.3 arose. The Crown also considers that the arrangements appropriately reflect the relevant levels of interest held by the relevant groups in Tauranga Moana, as reflected in Tribunal reports.
48. The Crown further submits that clause 10.3 and its related provisions were included in the drafting at the conclusion of an extended period of negotiation between TMIC, the Hauraki Collective and the Crown. The Crown considers the final arrangements to be an appropriate compromise between the differing views. Further to this, the Crown submits that the TMIC Deed was negotiated in good faith with both parties, and acknowledges that both TMIC and Hauraki Collective made significant compromises.
49. In conclusion, the Crown submits that clause 10.3 and its related provisions cannot be the source of significant or irreversible prejudice as required by the Tribunal's urgency criteria and further notes that no alternative remedy is required in this case; the existence of judicial review protects the Hauraki iwi's rights under clause 10.2. The Crown considers that this matter should be the subject of further discussion among parties.

Tribunal Questions

50. By directions dated 9 July 2015, the Crown was directed to respond to a number of specific issues (Wai 215, #2.733). They included the following (with relevant Crown responses summarised following each issue).

Tribunal's Questions on Judicial Review as an Alternative Remedy

51. Can the Crown please explain whether clause 10.3 has some purpose that counterbalances the effect that clause 10.3 makes it more difficult to succeed in judicial review?
52. Can the Crown identify any wider purpose or other effect to clause 10.3 that might balance the prejudice perceived by the applicants?
53. Please clarify where judicial review has been specifically constructed in the manner of clause 10.3 in other settlements and how the Crown sees this 'remedy' as being different from the general right to judicial review that would exist in respect of statutory body decision making if there was no clause 10.3.

54. If the Crown relies upon clause 10.3 to ensure access to judicial review as an alternative remedy, how would such judicial review address the underlying Treaty issues raised in this claim more effectively than if clause 10.3 did not exist, and judicial review was directly about the exclusion of the “paragraph 1.1.5 member” under clause 10.2, rather than the processes of the TMGG? Please explain how clause 10.3 makes the process better, not worse.

Crown response

55. As previously submitted, the Crown considers clause 10.2 to be the paramount provision. It provides other iwi with recognised interests an absolute statutory right of participation whenever the TMGG is considering matters that relate to or could reasonably be considered to have an actual or potential effect on their recognised interests.
56. The Crown further submits that clause 10.3 absolutely requires a merits assessment and any decision made could be challenged on the basis that it is wrong. For instance, if the Hauraki Collective was excluded from participating and the basis of that decision was factually wrong, the fact that the clause 10.3 process was undertaken would not prejudice the judicial review proceedings because the decision itself would be unlawful. Clause 10.3 does not derogate from the absolute right conferred by clause 10.2. It allows parties an opportunity to resolve issues without having to resort to litigation. Therefore, the Crown submits, clause 10.3 will not prejudicially affect the iwi of Hauraki in relation to any question of determination of the right to participate.
57. The Crown notes that clause 10.3 ensures the Hauraki member is entitled to participate whenever the TMGG is considering whether participation conferred by clause 10.2 has been triggered.
58. In response to how judicial review would address underlying Treaty issues, the Crown submits that judicial review is available regardless of clause 10.3 and that while no Treaty issue would be engaged in such a proceeding, these issues would already have been determined by Crown recognition of the Hauraki iwi areas of interest in their settlement. The TMGG provisions are not intended to contain a special or express power of review, specifically; clause 10.3 has not been constructed to provide an additional, special, or express means of judicial review.
59. I note here that the Crown’s response addresses the questions summarised at paragraphs 51 and 54, but not those at paragraphs 52 and 53.

Tribunal’s Questions on Definition of “Recognised Interests” and “Recognised Interests Area”

60. Please clarify what process the Crown anticipates that the local and central government members of the TMGG will undertake to determine the matters they “consider relate to or could reasonably be considered to have an actual or potential effect” on the Hauraki Collective’s interests.
61. If those members would be expected to abstain and leave the decision to the other members does the Crown consider that to be an appropriate process?
62. Please clarify what “confirmed in legislation giving effect to future settlements” means in the definitions of “recognised interests” and “recognised interest areas”.
63. Does the Crown intend to define the Hauraki Collective’s “recognised interest area” in the proposed Tauranga Moana Iwi Collective Settlement Act?

Crown Response

64. The Crown submits that the test under clause 10.2, whether the Hauraki Collective should participate in any given decision, will be factual, and likely a scientific and/or geographical question.
65. Identifying a 'recognised interest', the Crown submits, will not involve issues of mana whenua, customary interests or other rights, but look at the potential impact on a previously recognised geographic interest area. That question would have already been determined through the recognition of the interests and areas of interests of the other iwi through their own Treaty settlement.
66. In its response, the Crown submits that the matters that could come to the TMGG for consideration are not uncertain or undetermined. The Crown provides 15 examples of those matters that could come before the TMGG. The Crown submits that, given the scope of matters the TMGG could consider is fixed, the recognised interests test is straightforward.
67. The Crown does not anticipate that any member should abstain from the process under clause 10.3. The Crown expects that any discussion would need to be informed by factual, and if necessary, expert advice about whether the matter in issue does in fact relate to, or could be reasonably considered to have an actual or potential effect on, the Hauraki Collective's recognised area of interest.
68. Accordingly, clause 10.3 will have no effect in respect of the interests of the relevant iwi of Hauraki until their settlement legislation is passed. The Crown notes that this arrangement is not at issue among parties and was agreed during negotiations among TMIC, Hauraki iwi and the Crown.

Tribunal's Question on the Proposed Timetable

69. The Crown is invited to advise the notified parties and the Tribunal of the proposed timetable for the TMIC Settlement Bill.

Crown Response

70. The Crown noted that the timetable for introduction of the Bill will depend on the resolution of this application.

Tauranga Moana Iwi Collective's Response

71. TMIC is comprised of the following Tauranga Moana iwi: Ngāi Te Rangi (with Ngā Potiki); Ngāti Pukenga; and Ngāti Ranginui.
72. TMIC opposes this application for urgency and submits that there is no, and not likely to be, prejudice to the applicants by the TMIC Deed and TMF.
73. Counsel for TMIC submits that the Hauraki iwi interests are recognised and as a consequence they will participate to the same extent as Tauranga Moana iwi in the TMF – whenever a decision or matter related to their recognised area of interest is actually or potentially affected. The scope of this participation is justified and reasonable and not prejudicial to the iwi of Hauraki. Furthermore, clause 10.2 provides that the Tauranga Moana iwi and Hauraki iwi are treated equally.

74. TMIC notes that it is committed to working with all participants on the operation of the TMGG, and the matters that are the subject of this application should be discussed in that forum.
75. TMIC submits that the Court of Appeal in *Attorney-General v Mair and Others* [2009] NZCA 625 has endorsed the approach of the Tribunal to assess the relative prejudice to the parties if urgency was granted to an application concerning Treaty settlements. The granting of urgency in this case will cause further and significant prejudice to TMIC as it will delay the implementation of their settlements.
76. Furthermore, it is submitted that the prejudice to TMIC will be far in excess of that suffered by the iwi of Hauraki. In terms of population, TMIC notes that the Tauranga Moana Iwi has a larger population than the iwi of Hauraki participating in this urgency application. TMIC has a population of 24,660 while the census figures for the applicants are 8,319, a third of the TMIC population. TMIC submit that the prejudice they will suffer is of a higher degree on the basis that there are a greater number of people affected by the delay.
77. Counsel also notes that TMIC have been engaged in the present claim and settlement process for more than two decades. They note that the current position that has been arrived at balances the concerns of TMIC, the majority of issues raised by the iwi of Hauraki, the views and concerns of local authorities, the views of other overlapping iwi and the Crown's obligations. Furthermore, any changes will likely require a re-ratification process which could threaten the Tauranga Moana iwi settlements. TMIC submit that they should be able to move forward to complete their settlements rather than being held up over one procedural clause.

Applicants' Reply

Process

78. In reply, the applicants submit that this application is about whether the process followed by the Crown in coming to a settlement has been in accordance with the principles of the Treaty, particularly whether negotiations were transparent and fair.
79. The applicants submit that in this case neither criterion was met. The fact that the Crown has not defended its negotiations process is telling, and any attempt to defend its process as been through collateral assertions; for instance, they point to the extended period of negotiation, the provision in the TMIC Deed for the interests of the iwi of Hauraki and clause 10.3 of the Legislative Schedule Matters of the TMIC Deed.
80. The applicants allege that, given the extent of Tribunal direction, as well as published guidance on the Crown's cross-claim policy and practice, the Crown's acceptance of the fact that the settling iwi did not want to talk to other iwi, is staggering.
81. The applicants liken this situation to that of Tamaki Makaurau where the Crown continued to proceed with a settlement despite challenges by other iwi and a lack of engagement by the settlement group. The applicants concede that there are factual differences but that there are substantive similarities, particularly the Crown deciding in this case that it was acceptable for TMIC to refuse to meet and attempt to resolve issues of overlap.
82. The applicants submit that the TMIC experience contradicts the practice applied by the Crown in the Hauraki iwi negotiations, where the Crown has required the settling iwi to engage with other iwi where there have been overlapping interests or cross claim issues.

Judicial Review

83. The applicants note that the Crown departed from its original position that judicial review is an alternative remedy available to the applicants. The Crown's current position is that while judicial review should not be considered a remedy, it might give rise to remedies for the party seeking judicial review. The applicants, in reply, argue that the Crown is aware that the High Court does not undertake a merits assessment in judicial review proceedings and so it could not be an meaningful remedy.
84. The applicants submit that it is of significance to this application that the Crown did not answer the Tribunal's question as to whether there has been an equivalent to clause 10.3 in any other Treaty settlement. The applicants claim this indicates there is no equivalent.

Recognised Interests

85. In response to the Crown's submission that clause 10.2 and 10.3 will not determine matters concerning the interests of Hauraki but will refer to a recognised geographical interest area, the applicants submit that the distinction made here by the Crown is 'romantic' and belies the 'real world'. Customary interests cannot be respected in the TMGG because the framework of 'recognised interests' is restrictive.
86. The applicants submit that the list provided by the Crown on matters that could be considered by the TMIC, outlines the minimum in terms of matters the TMGG may consider. The applicants submit that the purpose of the TMGG, as set out in clauses 3.3 to 3.4 of the Legislative Matters Schedule of the TMIC Deed, is to have an influence in local government decision-making within all parts to the TMF area and so, the applicants submit, in reality, the scope of matters that the TMGG could consider will be much broader. In addition, the applicants note that the Waitangi Tribunal has confirmed that the involvement of mana whenua in natural resource decision-making is primarily sought through Treaty settlements, not through the Resource Management Act 1991 and the Local Government Act 2002. The applicants submit that this is the experience of other co-governance/co-management regimes, such as the Tūpuna Maunga o Tāmaki Makaurau Authority.
87. The applicants submit that the Crown, in confirming that no member should abstain on a clause 10.3 decisions, has made assumptions on the positions local government members would take. At the same time, the iwi of the Hauraki has not been included in any meetings with local government members.
88. The applicants submit that they will suffer prejudice because the Crown has confirmed that the iwi of Hauraki will not be included in the TMGG until their settlement legislation has passed. This will place the iwi of Hauraki behind the TMIC in accessing redress over their rohe. The applicants further submit that this is another side-effect of the exclusionary way in which the TMF arrangements were developed.

Prejudice to TMIC

89. In response to the submission by TMIC that it would suffer prejudice because urgency would further delay settlement, the applicants submit that any prejudice from delay to the TMIC arises for two reasons. First, there was a sustained period of breakdown between the Crown and TMIC due to internal conflict within the TMIC. Second, the Crown made a decision not to progress the TMIC iwi-specific settlement without the TMIC collective settlement. The applicants also note that TMIC did not advise the

Tribunal of the various financial and commercial on-account settlements that have already been provided to the TMIC by the Crown.

Proportion of Hauraki Collective

90. TMIC submitted that, due to its larger population, it will be more prejudicially affected by this application for urgency and that should be taken into account in a decision. The applicants submit in reply that, the Tribunal enquired as to the tribal demographics because of the potential internal prejudice among the iwi of Hauraki rather than to make a comparison between TMIC and iwi of Hauraki. The applicants also note that TMIC was not aware of the tribal census methodologies and that adjustments are made for generic line items such as: "Hauraki (Coromandel) Region, not further defined"; "Iwi not named – Pare Hauraki/Hauraki"; and "Ngāti Maru, region unspecified". The applicants also note that the TMIC assessment of the iwi of Hauraki number omits reference to Ngāti Pāoa who support this urgency application.
91. In conclusion, the applicants submit that they have detailed fundamental errors with Crown process and practice. The iwi of Hauraki attempted throughout 2014 to resolve matters and only sought urgency when the Crown rebuffed those offers. Further to this, the applicants submit that with a range of multi-iwi co-governance/co-management regimes still to be negotiated, the guidance of the Tribunal is important.

Grounds for Urgency

92. In deciding an application for an urgent hearing it is important for the Tribunal to consider whether:¹
- a. The applicants can demonstrate that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown action;
 - b. There is no alternative remedy that, in the circumstances, it would be reasonable for the applicants to exercise; and
 - c. The applicants can demonstrate that they are ready to proceed urgently to a hearing.
93. The Tribunal may consider other factors including whether the claims challenges an important current or pending Crown action or policy, and any other grounds justifying urgency.
94. The Tribunal's resources are limited and must be used to hear a large number of claims, some of which have been waiting many years for an inquiry to take place. If an urgent application is granted, resources must be diverted away from existing inquiries, inevitably delaying the completion of those inquiries. Therefore, the Tribunal has stated that it will grant an urgent hearing only in exceptional cases.

Preliminary Assessment

95. On 9 July 2015, I recorded some preliminary observations regarding the material before me at that time.
96. I noted that this matter abounds with potential prejudice of varying degrees and nature to both parties, and to non-parties. My task is not to determine the merits of the

¹ *Waitangi Tribunal Guide to Practice and Procedure* at p 5.

applicant's substantive objection to the TMIC settlement, but to determine whether the grounds for an urgent hearing are established by them.

97. One of the factors the Tribunal can take into account includes the ability to demonstrate support. In *Attorney-General v Mair* [2009] NZCA 625 the Court of Appeal confirmed that an ability to demonstrate support is highly relevant when considering an urgency application, particularly where an iwi or hapū are divided. The Tribunal and Courts have been clear that numbers matter in such circumstances.²
98. It seems entirely appropriate to apply the same concept to a collective of iwi, such as the Hauraki Collective. In essence, "numbers matter".³ That said, the relative population of the TMIC in relation to the Hauraki iwi is not a relevant factor. Numbers matters to the demonstration of support within the Hauraki Collective but not to inter-iwi disputes. If it did matter, then a big iwi collective would always prevail over smaller iwi collective.
99. The broad principle is that urgency is an exceptional matter and adequate grounds must be made out by an applicant.
100. I also noted that it is clear that any significant and irreversible prejudice the applicants claim they will suffer needs to be balanced against the potential prejudice to others that might result from a decision to grant urgency.⁴
101. In that context, I noted that some iwi members of the Hauraki Collective do not support this application. It seems that they assess any prejudice identified in this application is outweighed by the prejudice to them resulting from the delay to the Hauraki Collective settlement negotiations due to the Crown policy of not negotiating with litigating claimants.⁵ The letter of 14 July 2015 can only be read as confirming that a significant sized Hauraki iwi, Ngāti Pāoa has made that assessment of the relative prejudices.⁶
102. Another two points of note were that if the application for urgency proceeds, and later the Hauraki Collective achieves its objective, those dissenting iwi will also benefit. Second, their failure to support this application does not speed their negotiations with the Crown so long as the Crown proposes only to negotiate with the Hauraki Collective and not various parts of it.
103. The Crown and TMIC see prejudice to the TMIC settlement by reason of delay should this application proceed. That may well be so as a matter of practice, though, of course, the Tribunal, entirely appropriately, has no power to determine the Crown's legislative programme nor can it determine the timing of introduction of a Settlement Bill. Those are matters for the Government of the day.
104. I noted there is also another urgency application before the Tribunal in respect of the TMIC Settlement (Wai 2521). I have since been advised that the Crown sought an extension to file a response on the Wai 2521 urgency application by 21 August 2015. This extension has been granted. There may be further filings as two interested parties joined the proceedings in July 2015.
105. I observed that Wai 215 has not progressed materially in the past six months.

² Waitangi Tribunal, *East Coast Settlement Report*, pp 48-50.

³ *Attorney-General v Mair* [2009] NZCA 625 at para 58.

⁴ See, for example, the decision in Wai 552, #2.35 at para 171.

⁵ That policy is not challenged in this process.

⁶ Wai 215, #2.735(a)

106. I advised parties that subject only to any more pressing commitments, I intended to resolve this application very soon after I received the information requested from the parties who stated that they want it resolved quickly.

Assessment of the Grounds for Urgency

107. The focus of my analysis is on the question: are the 55% of the iwi of Hauraki participating in this application able to demonstrate that they (and the other Hauraki iwi who support them in spirit but not formally) are likely to suffer significant and irreversible prejudice as a result of the pending Crown action to introduce and pursue enactment of legislation that gives effect to clause 10.3.
108. Considering the Tribunal's urgency criteria, I conclude:
- a. There is prejudice to Hauraki iwi as a result of the inclusion of clause 10.3. Whether or not it is significant is discussed below;
 - b. The prejudice is irreversible. It will be enshrined in legislation;
 - c. Numbers matter: but the applicants have a reasonable degree of support within Hauraki;
 - d. There is no reasonable alternative remedy; and
 - e. The applicants say they are ready to proceed. The issue is narrow, and as will be seen below, their readiness will be put to the test.

Significant and Irreversible Prejudice

109. Looking at the scale of prejudice, I believe, on the balance, that it is significant. The Crown rightly points out that clause 10.2 applies in quite tight defined circumstances. In many cases there will be little room for rational debate on whether or not there is an effect on a recognised interest area.
110. However, I do not accept the Crown's argument that *"the only issues for the TMGG in considering participation are factual"*.⁷ Clause 10.2 includes the wording *"could reasonably be considered to have ... potential effect on a recognised interest area"*. It seems to me that there is plenty of room for rational people to hold different views on whether, for example, an outfall outside the area could reasonably be considered to have a potential effect within the area.
111. Without clause 10.3, if the Hauraki iwi challenged a decision under clause 10.2 on the judicial review, the High Court could test that directly.
112. With clause 10.3, the test is different; the focus moves to whether the TMGG followed due process in making its decision. The High Court could well come to the conclusion that while it would not have excluded the Hauraki iwi member, because the decision making process was conducted in accordance with law, the Hauraki iwi must be denied a presence even though the TMGG reached a conclusion that the High Court would not have reached.
113. In passing, I note that clause 10.3 does confer a benefit on Hauraki iwi by making it clear that the paragraph 1.1.5 members (and the paragraph 1.1.10 member) are entitled to participate in the TMGG decision making process as to whether clause 10.2 is

⁷ Wai 215, #2.737, para 20.2

activated. Without it, the TMGG might say “*we have decided you are not affected, and because of that conclusion you were not entitled to participate in the process that led to it*”. If that is the perceived problem it can be addressed in other ways.

114. Of further relevance to the test for significant prejudice, is the likely areas affected. They are important lands in the Tauranga area. The area of interest for the Hauraki iwi in the Tauranga Moana iwi rohe includes Athenree Forest, and the Katikati and Te Puna land blocks. Their importance is both cultural and economic and pressures on them are likely to be intense. They are bordering much of the western end of Tauranga Harbour.
115. In concluding that the applicants are likely to suffer significant prejudice as a result of clause 10.3, I am not considering other potential prejudices that have not been argued, to date, and which will not be able to be argued in a substantive hearing on this issue. For instance, I am not considering the issue that the Hauraki iwi have no way to invoke clause 10.2 until their own settlement is resolved.

Relative Prejudice

116. Other factors that the Tribunal needs to take into account when granting urgency can include the relative prejudice to others. TMIC express concern that if clause 10.3 is to be removed, their ratification process might have to be repeated. This decision on an urgency application cannot be a decision to remove clause 10.3 (that is not for the Tribunal to make at any stage). It is not even a recommendation that clause 10.3 be removed. Whether it should be recommended to be removed will be the (only) issue at the substantive hearing. If TMIC shares the Crown’s view that clause 10.3 is neutral, then TMIC ought to be indifferent about whether or not it remains. If TMIC believes repetition of its ratification process might be required, it can further expand on the problem that would come at the hearing.
117. Wider prejudice is claimed in that the TMIC settlement legislation may be delayed still further. I do not believe there need be any material delay. As noted above, Wai 2521 is still to be resolved, and the Crown has sought an extension there until 21 August. If there is no resolution at that point then Wai 2521 will presumably continue.
118. If the TMIC settlement legislation cannot proceed because of Wai 215 (and as noted, that is not automatic because the programme of settlement legislation very properly is not directed by the Tribunal) then it presumably cannot proceed while Wai 2521 is unresolved.

Resourcing

119. In terms of assessing whether this claim will put pressure on Tribunal resources and delays for other inquiries, I stress that the issue is narrow and will remain so. A panel can be appointed with a view to submissions being exchanged by 21 August, with a hearing in early September. Applications for extension and late filing which have been common in this matter to date will, I hope, not be tolerated.

Decision for Urgency

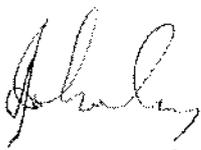
120. The application for urgency is granted for the reasons set out above with a limited focus on the appropriateness and application of clause 10.3 as it is worded in the Legislative Matters Schedule of the TMIC having regard to Crown’s obligations under the Treaty of Waitangi and its principles.

121. Specifically, the urgent inquiry would not expand to include
- a. Comparison with other settlement processes and outcomes unless they directly involve a provision similar to clause 10.3 and its application in practice;
 - b. Any prejudice to Hauraki iwi because they do yet have settlement legislation in which their recognised interests area are confirmed;
 - c. Any prejudice to Hauraki iwi arising from their level of representation on the TMGG.
122. The filing timetable for this inquiry is as follows:
- a. Applicants are to file a statement of claim by **5pm, Monday 10 August 2015**.
 - b. The Crown is to respond to the statement of claim by **5pm, Wednesday 12 August 2015**.
 - c. Parties are to file, preferably, a joint statement of issues by **12pm, Friday 14 August 2015**. If the parties cannot agree on a joint statement of issues, they are to file separate draft statements of issues.
 - d. The Tribunal will release the final statement of issues by **12pm, Tuesday 18 August 2015**.
 - e. Applicants are to file submissions by **12pm, Thursday Friday 21 August 2015**.
 - f. Crown and TMIC are to file submissions in response by **5pm, Wednesday 26 August 2015**.
 - g. Applicants are to file submissions in reply by **5pm, Friday 28 August 2015**.
 - h. Hearing will be held at the Waitangi Tribunal Offices, Wellington, as soon as practicable after all submissions have been received. Parties should anticipate a maximum one day hearing by no later than 11 September 2015.
123. Counsel are reminded that the issues are narrow and submissions should reflect that. Any extension of time to file documents will require exceptional circumstances.

The Registrar is to send a copy of this direction to all those on the notification lists for:

- Wai 215, the combined record of inquiry for the Tauranga Moana claims; and
- Wai 686, the combined record of inquiry for the Hauraki claims.

DATED at Wellington this 6th day of August 2015



David Cochrane
Tribunal Member

WAITANGI TRIBUNAL

IN THE WAITANGI TRIBUNAL

WAI 215 & 686

IN THE MATTER

of the Treaty of Waitangi Act 1975

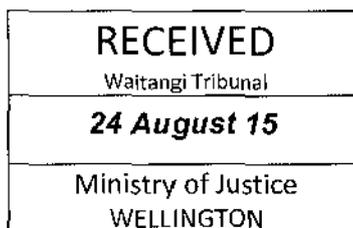
AND

IN THE MATTER

of an application for an urgent hearing on behalf of Iwi of Hauraki

IWI OF HAURAKI MEMORANDUM

(24 AUGUST 2015)



Paul F Majurey
PO Box 1585
Shortland Street
Auckland 1140
Tel +64 9 304 0294
Fax +64 9 309 1821

MAY IT PLEASE THE TRIBUNAL

1. The Tribunal will recollect the chorus call from the Crown (including the Minister) and TMIC to determine the urgency application. This was despite the repeated urging of the Iwi of Hauraki to devote time to finding a resolution, rather than the Crown's pursuit of the litigation path.
2. If this adjournment leads directly to the removal of clause 10.3 as has been sought since 2014 by the Iwi of Hauraki, then a short adjournment can be tolerated.
3. The Crown says it:
 - "7. .. cannot consider this alone. It must discuss any proposals and options with Tauranga Moana Iwi, with whom it has entered into a collective settlement, and the Hauraki parties to this litigation. This will take more time than is available in the current timetable."
4. The Iwi of Hauraki look forward to receiving the Crown's resolution proposal from the Minister.
5. Once this matter is dealt with, the Iwi of Hauraki will move immediately back into the negotiation process that has been denied us by the Crown since December 2014.

**Paul F Majurey**

(24 August 2015)

IN THE WAITANGI TRIBUNAL

Wai 2538

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Iwi of Hauraki Overlapping
Interests (Majurey) Claim

**MEMORANDUM-DIRECTIONS OF JUDGE P J SAVAGE CONCERNING THE
CROWN'S REQUEST TO PAUSE PROCEEDINGS AND INTERESTED PARTIES**

25 August 2015

Crown's request to pause proceedings

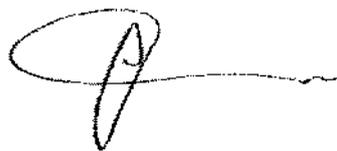
1. On 6 August 2015, urgency was granted to the Wai 2538 claim (Wai 2538, #2.5.15). The urgency decision set out a filing timetable for submissions and indicated that the Tribunal would convene a one day hearing by no later than 11 September 2015.
2. On 21 August 2015, the Crown filed a memorandum seeking to pause proceedings while it investigated steps that could be taken to dispose of the issues for hearing (Wai 2538, #3.1.48).
3. As directed, claimant counsel responded to the Crown's proposal on 24 August 2015, raising no significant objections to a pause in proceedings. (Wai 2538, #3.1.49).
4. The Tribunal also received memoranda from counsel for the Tauranga Moana Iwi Collective (Wai 2538, #3.1.50) and counsel for Ngāti Porou ki Hauraki (Wai 2538, #3.1.51). Similarly, both parties raised no objections to the Crown's proposal.
5. As inquiry parties are not opposed, the proceedings are therefore paused. The Crown is directed to update the Tribunal by **5pm, 1 September 2015** on whether there remain live issues for determination.
6. If there remain issues for inquiry by this Tribunal, a filing and hearing timetable will be set after that date.
7. Parties are to be aware that due to the availability of the Tribunal Panel a hearing may not be able to be accommodated before the end of September 2015.

Interested parties

8. Counsel for the Ngāti Hinerangi Trust (Wai 2538, #3.1.52) and Ngāti Porou ki Hauraki (Wai 2538, #3.1.50) have filed memoranda seeking leave for their clients to participate in these proceedings as interested parties.
9. I grant the leave sought.

The Registrar is to send this direction to all those on the notification list for Wai 2538, the Iwi of Hauraki Overlapping Interests (Majurey) Claim.

DATED at Wellington this 25th day of August 2015



Judge P J Savage
Presiding Officer

WAITANGI TRIBUNAL



Office of Hon Christopher Finlayson

31 AUG 2015

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Tēnā koutou

Resolving litigation in relation to the Tauranga Moana Framework: Comprehensive Settlement

Thank you for engaging with my officials on options for responding to the Waitangi Tribunal's (**the Tribunal**) 6 August decision granting the urgency application made on behalf of five Iwi of Hauraki in relation to the Tauranga Moana Iwi Collective (**TMIC**) Deed of Settlement (**TMIC Deed**). As you are aware, the Tribunal has limited the urgency hearing to consideration of clause 10.3 of the Legislative Matters Schedule, which relates to the Tauranga Moana Framework (**TMF**) and provides a process for resolving disagreements on the participation of Iwi with recognised interests.

I propose that the best way forward for resolving this litigation and progressing your collective and individual legislation is to remove the TMF from the Tauranga Moana Iwi Collective Bill (**TMIC Bill**) as an interim measure. This would also require an amendment to the TMIC Deed to remove the TMF. This proposal includes my agreement to seek the Legislation Cabinet Committee's approval to introduce the TMIC Bill (excluding the TMF) as soon as possible along with any completed individual Tauranga Moana Bills. My officials would then work with you to resolve TMF related matters which, once agreed, will enable the TMF to be introduced as a separate Bill.

I consider the TMF to be a critical element of the settlement package for the Tauranga Moana Iwi and offer this way forward so that your individual settlements can progress. I appreciate that deferring the enactment of the TMF is a significant decision for TMIC to make. The only alternative I see to this proposal is to delay the enactment of your individual and collective Bills.

I appreciate that the TMF is important to you, however, I make this decision to support your aspirations to proceed with your individual settlements and that you receive all of your settlement redress. I therefore set out below my commitment to you for completing the legislation necessary to support the TMF.

Crown commitments to the Tauranga Moana iwi

In January 2015 I signed, on behalf of the Crown, the TMIC Deed with the Tauranga Moana iwi and by doing so the Crown acknowledges the significant interests that Tauranga Moana iwi (Ngāti Pūkenga, Ngāi Te Rangi and Ngāti Ranginui and their hapū) have in the Tauranga Moana.

The TMIC Deed acknowledges the findings of the Waitangi Tribunal's 2010 Tauranga Moana Claims Inquiry that Tauranga Māori ought to have had the full protection of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga harbour recognised at all times, unless alienated by freely negotiated agreement, or when strictly necessary in the national interest.

As the TMIC Deed has been entered into by the Crown and TMIC, no changes can be made to this Deed without the prior agreement of TMIC and the Crown. Whilst a contemporary arrangement, I consider the TMF to be a critical element of the settlement package for the Tauranga Moana iwi and as such, this framework can only be given effect through a specific Tauranga Moana Bill.

In September 2014, TMIC and the Crown agreed for the TMF to include an additional fifth seat for other iwi with recognised interests in Tauranga Moana on the Tauranga Moana Governance Group (TMGG). At that time, I also informed you that I consider no further seats will be needed and I remain of this view. I reiterate that I consider the fifth seat will be able to provide for the participation of more than one iwi with recognised interests if required.

Progressing the Tauranga Moana legislation

If you agree to this proposal, my officials will instruct the Parliamentary Counsel Office to remove the TMF from the TMIC Bill and provide a revised TMIC Bill to you for final review and approval in the week of 7 September.

Because the TMF will be dealt with separately, the TMIC Bill and completed individual Tauranga Moana iwi Bills will progress through the House. I will request that the Māori Affairs Select Committee consider those Bills as soon as possible.

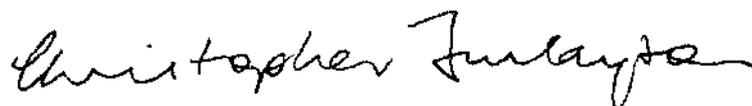
When TMIC and the Crown agree specific revisions to the TMF, the Office of Treaty Settlements (OTS) will draft a deed to amend to the TMIC Deed to permit the relevant TMF provisions to be provided into a new Bill and make this available for TMIC's review. Once the deed to amend has been signed and TMIC has approved the new TMF Bill, I will introduce the new TMF Bill.

Summary and next steps

If you can agree with this proposal, I have outlined the plan to complete the TMF in **Attachment one**, which includes the Crown's agreement to contribute towards costs for resolving three specific matters relating to the litigation.

Thank you for your efforts in recent weeks seeking an alternative way forward given the litigation. I understand this has been challenging. As you appreciate it is important to inform the Tribunal as to whether this resolves the litigation for the time being. I encourage you to respond to this proposal ideally by 1 September 2015.

Nāku noa, nā

A handwritten signature in black ink, reading "Christopher Finlayson". The signature is written in a cursive style with a large, sweeping flourish at the end.

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

Attachment one

Developing and implementing a TMF plan

If TMIC agrees with the proposal to remove the TMF from the TMIC legislation, the TMF matters to be worked on will be limited to the following areas:

- a) whether there should be a process, and the nature of that process if required, for resolving any disagreement on whether paragraph 10.2 of the TMIC Legislative Matters Schedule applies (10.3 in the signed TMIC Deed Legislative Matters Schedule);
- b) in the event that there is more than one iwi that the Crown determines has recognised interests within the Tauranga Moana, how the legislation will provide for the participation of two or more iwi with recognised interests where their interests overlap, through one seat on the Tauranga Moana Governance Group;
- c) the waters surrounding Motiti Island within the coastal marine area marked as "A" on the Tauranga Moana framework plan in the TMIC attachments; and
- d) confirmation of the recognised interest areas for iwi with recognised interests (limited to the Hauraki Collective, and if recognised, Ngāti Hinerangi and a Motiti group), to the extent that they have recognised interests).

Matters a) – c) are the limited list of issues that the Crown will seek TMIC's agreement on revisions the TMF and I consider no further issues are necessary. The Crown will endeavour to reach agreement with TMIC on any revisions in relation to matters a) – c) within 6 months of the plan being agreed. I agree to the Crown providing claimant funding to the TMIC iwi to participate in this process.

I note that d) is redress to iwi with recognised interests and will be provided for through that iwi's deed of settlement. However, I understand TMIC's desire to have the recognised interest areas confirmed before the TMF legislation is complete and to have a strong role in the process. I therefore agree that the Crown will undertake best endeavours to finalise the recognised interest areas within the timeframes set out in the TMF plan. I note however that reaching agreement on the recognised interest area is dependent on active engagement by the group/s with recognised interests within the Tauranga Moana.

The offer of any redress to a particular claimant group is subject to overlapping claims. As you are aware, the Crown encourages groups to reach agreement on overlapping matters. If all avenues of engagement are exhausted and matters remain unresolved between iwi, the Crown may have to make decisions. In reaching decisions on overlapping claims the Crown is guided by two principles:

- reaching a fair and appropriate settlement with the claimant group in negotiations; and,
- maintaining, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims.

I have instructed my officials to consult with TMIC by mid-September on a detailed plan that outlines the process for progressing work on matters a) to c). The TMF Plan will also outline how TMIC will be involved in the overlapping claims process for d).



PART OF THE MINISTRY OF JUSTICE

Office of Treaty Settlements

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30 October 2015

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c/o Spencer Webster
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c/o Areta Gray
aretagray@yahoo.co.nz

Tēnā koutou

Tauranga Moana Framework – process to resolve specific matters

This letter continues our communication with you on the process for resolving specific matters related to the Tauranga Moana Framework (TMF).

Resolving specific TMF matters

As we have agreed, the Tauranga Moana Collective Iwi Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Bill provides that separate legislation will be introduced for the TMF. TMIC and the Crown have also agreed amendments to the TMIC Deed and Deeds of Settlement for each Tauranga Moana group acknowledging the intention to provide for the TMF within separate legislation. Each Tauranga Moana Iwi Deed of Settlement will outline TMIC and the Crown's agreement that the TMF legislation will be developed once the following specific matters, arising through litigation on the TMF, have been resolved to the satisfaction of TMIC and the Crown, and in accordance with the principles of Te Tiriti o Waitangi /the Treaty of Waitangi:

- a) whether a process is required and, if so the nature of that process, for resolving the disagreements referred to in Part 1, paragraph 10.3 of the Appendix to Part 3 of the TMIC Deed Legislative Matters Schedule;
- b) in the event that there is more than one iwi that the Crown determines has recognised interests within the Tauranga Moana, how the legislation will provide for the participation of two or more iwi with recognised interests where their interests overlap, through one seat on the Tauranga Moana Governance Group (TMGG); and
- c) the waters surrounding Motiti Island within the coastal marine area marked as "A" on the Tauranga Moana framework plan in the TMIC attachments.

The TMGG and participation of other iwi

As you know, on 11 August 2014 the Minister for Treaty of Waitangi Negotiations (the **Minister**) communicated his decision to you to add a fifth iwi seat to the TMGG – with a corresponding fifth seat for local authorities/the Crown – to provide for the participation of other iwi with recognised interests in the Tauranga Moana catchment.

The Minister conveyed his intention that this fifth seat would be available for the representation of Hauraki iwi interests, but could also potentially accommodate the interests of other iwi whose interests merit participation of this nature.

As you are aware, the Crown has provided the iwi of Hauraki with the ability to participate on the fifth seat, with negotiations on their recognised interest area in the Tauranga Moana catchment still to be resolved. This recognised interest area will be subject to overlapping claims being resolved to the satisfaction of the Crown and will be recorded within their Hauraki Collective deed.

You are also aware that OTS is working on providing advice to the Minister on whether the interests of any other unsettled group may merit participation on the fifth iwi seat, and if so, their recognised interest area for the TMF. The work is focused on 1) the Ngāti Hinerangi negotiations, and 2) the review on Motiti kinship, to determine whether there are any unsettled claims in relation to Motiti Island. The outcome of the Motiti kinship review will assist with discussions we will hold with the TMGG on matter c) above.

In the event that a group, in addition to the Hauraki iwi, is provided with right to participate on the fifth seat, the Minister conveyed that it would be a matter of negotiation between the Crown and other the affected iwi¹ to determine how the fifth seat would operate in relation to their interests.

We will keep you informed on progress with this work and welcome submissions on your views at any stage – to inform the process outlined below, to inform OTS's advice on the interests of other groups in the TMF and in the event preliminary and final decisions are made by the Minister.

Next steps

We have attached a proposed two stage process we will undertake to resolve the outstanding matters in **Attachment 1**. Stage One will confirm which iwi will be involved in the TMF. Stage Two will finalise how these parties will work together in the operation of the TMF.

We will keep you informed as Stage One begins. We would like to meet with you before the end of December 2015 (in advance of Stage Two) to discuss the process of engagement with TMGG members and how to achieve the best outcomes for the TMGG.

Nāku noa, nā



Tim Fraser

Deputy Director Negotiations

¹ Including Ngā Hapū o Ngāti Ranginui, Ngāi Te Rangī, Ngāti Pūkenga and Hauraki iwi.

ATTACHMENT 2

Proposed process to resolve the specific TMF matters and recognised interest areas

The Crown proposes to complete the two stages outlined below over the next six months.

Stage One

The Office of Treaty Settlements (OTS) will seek the Minister for Treaty of Waitangi Negotiations' (the Minister) decision regarding the right to participate on the fifth iwi seat of the Tauranga Moana Governance Group for any remaining unsettled Large Natural Groups with recognised interests within the Tauranga Moana catchment. The right to participate on the fifth seat will be subject to the resolution of overlapping interests (including those of Tauranga Moana iwi) to the satisfaction of the Crown and will:

1. be commensurate with matters such as:
 - (a) the relative strength and nature of the association of the claimant group to the Tauranga Moana catchment, taken as a whole; and
 - (b) the nature of the claimant group's grievances in relation to the Tauranga Moana catchment; and
2. not undermine the fundamental elements of the Tauranga Moana arrangements set out in the TMIC Deed; and
3. not derogate from the Crown's recognition of the relationship between Tauranga Moana iwi and hapū and Tauranga Moana referred to in clauses 2.12 and 2.13 of the TMIC Deed; and
4. be designed to preserve and enhance relationships between Tauranga Moana iwi and other iwi.

In reaching decisions on overlapping claims the Crown is guided by two principles:

- reaching a fair and appropriate settlement with the claimant group in negotiations; and,
- maintaining, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims.

Stage Two

Once the Minister's final decision has been made on the participation of remaining groups, OTS will seek to engage with the TMGG members and others as appropriate on the resolution of matters a), b), and c) as detailed in the main letter. As it is important for the members of the TMGG to work together, we will seek to engage with the TMGG together as a group to resolve the specific outstanding matters.

OTS will also seek at this time to confirm with the Hauraki iwi recognised interest area in the Tauranga Moana catchment and the recognised interest area of any other group with the right to participate on the fifth seat. The recognised interest area will be subject to the resolution of overlapping interests (including those of Tauranga Moana iwi) to the satisfaction of the Crown.

OTS will seek to work with all TMGG members to resolve the outstanding TMF matters and to confirm the recognised interest area/s. Should it be helpful in the resolution of these matters, the Crown can provide a facilitator to aid in such discussions. If this is required, OTS will develop a short list of potential facilitators for the Minister's consideration and will seek your views on potential candidates.

As with the Crown's standard overlapping claims process, the strong preference is for the parties to reach agreement amongst themselves. If all avenues of engagement are exhausted and matters remain unresolved between iwi, the Crown will make the final decision on these matters.

Meeting Minutes regarding the Ngāi Te Rangi Claims Settlement Bill

Meeting between:	Ngāi Te Rangi Trustees and the Crown
Date:	9 December 2015
Venue:	Meeting Room 3, Trinity Wharf, Tauranga
Topic:	Progression of the Tauranga Moana Framework
Present:	Ngāi Te Rangi Trustees Spencer Webster Charlie Tawhiao Eddie Bluegum Purihake Ihaka Mate Samuels Turi Ngatai Ngaraima Taingahue Kalani Tarawa Te Awanuiarangi Black (<i>audio</i>) Crown Sue van Daatselaar (Principal Analyst) Jason Gough (Crown Law Office) Ron Hooper (Senior Analyst) (<i>audio</i>) Hamish Kirk (Analyst)

Introduction

1. Mihi and Karakia
2. The meeting began at 11am 9 December 2015.

Record of discussion and action points

3. Spencer Webster (SW) explained the reasons for being unable to provide a letter of support for their Bill, broadly these were because of concern about:
 - 3.1. Hauraki reach into the Tauranga Moana in general (noting that the matter of Kauri Point redress was a symptom of that concern);
 - 3.2. the map they have seen, provided by the Hauraki Collective, detailing Hauraki's recognised interest area in relation to the Tauranga Moana Framework; and
 - 3.3. Hauraki influence on other future discussions.
4. Sue van Daatselaar (SD) thanked the Ngāi Te Rangi Trustees for outlining their concerns. She noted that the Minister for Treaty of Waitangi Negotiations is also responsible for post-settlement commitments to iwi, and therefore the views of unsettled and settled iwi are equally as important

- to him. SD also explained that as settled iwi, the Crown seeks to change the relationship between Iwi and the Crown to that of a partnership and the quality of that relationship is important.
5. SD reiterated the Minister's desire to progress their legislation at the same time as all the other Tauranga Moana legislation and the steps required to make progress from here as follows:
 - 5.1. The Bill as it stands is ready to be progressed to introduction;
 - 5.2. All that is required is letters of support from the Ngāi Te Rangi and Ngā Pōtiki governance entities for the Bill to be introduced;
 - 5.3. The next likely opportunity for the Bill to be considered by the Cabinet Legislation Committee is in the second week of February 2016 though these dates are yet to be confirmed for 2016.
 6. SD noted that if Ngāi Te Rangi is unable to provide a letter to OTS by late January to support their legislation for introduction in February, officials will need to seek the Minister's decision on whether to delay the timing of the First Reading or select committee process for the *Tauranga Moana Iwi Collective Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Bill* or whether to proceed with advancing the Tauranga Moana legislation separately. The issue for the Crown is that if the Tauranga Moana Iwi Collective Redress Bill is enacted before the Ngāi Te Rangi Claims Settlement Bill is enacted, Ngāi Te Rangi would be receiving redress prior from the TMIC Bill prior to their claims being settled and the jurisdiction of the courts and Tribunals ousted. SD noted that any delay of the Ngā Hapū o Ngāti Ranginui Claims Settlement Bill would be unpopular.
 7. OTS officials left the meeting for the Trustees to consider this information.
 8. OTS returned to the meeting. SW responded that before a letter could be provided to support the legislation, Ngāi Te Rangi would like to meet with Ngāti Tamaterā to discuss their concerns directly. SW also said that the Ngāi Te Rangi Trustees would also like a chance to meet with the Minister to discuss their concerns.
 9. SV said that she would make contact the Minister's Office to find out when he is available to meet and asked SW to keep OTS informed of any meeting with Ngāti Tamaterā. SV said that it would be good to make these arrangements prior to Christmas if possible.
 - 9.1. **Action:** Ngāi Te Rangi to talk directly to Ngāti Tamaterā; and
 - 9.2. **Action:** OTS to find out when the Minister and Ngāi Te Rangi Trustees could meet to discuss their concerns.

Closing

10. The meeting closed at 1pm.



PART OF THE MINISTRY OF JUSTICE

Tab 16

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22 December 2015

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Charlie Tawhaio
Chairperson
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Email: Charlie@moanaradio.co.nz

Tēnā koe

Ngāti Rāhiri Tumutumu historical Treaty of Waitangi negotiations with the Crown

I write to update you on the Crown's negotiations with Ngāti Rāhiri Tumutumu for the settlement of Ngāti Rāhiri Tumutumu historical Treaty of Waitangi claims. The Crown signed an Agreement in Principle Equivalent with Ngāti Rāhiri Tumutumu in 2011 and we are continuing to progress negotiations for settlement of their historical Treaty claims.

Final agreement by the parties on redress will be subject to the resolution of overlapping claims to the satisfaction of the Crown. In reaching settlement with Ngāti Rāhiri Tumutumu, the Crown must ensure that the interests of overlapping groups are not prejudiced.

Ngāi Te Rangī is likely to have interests within areas where redress is proposed for Ngāti Rāhiri Tumutumu. The Crown will therefore be in contact with you in the new year to set out the details of the proposed redress in your area of interest.

It is the Crown's preference that overlapping claims be resolved by discussion between groups. I therefore encourage you to engage with Ngāti Rāhiri Tumutumu once redress details have been provided. Ngāti Rāhiri Tumutumu will contact you directly to discuss the proposed redress. If you have any questions for the Ngāti Rāhiri Tumutumu mandated negotiators, please contact by email Nicki Scott at nicki.scott@xtra.co.nz or, Jill Taylor at jilltaylor@vodafone.co.nz.

If you have questions regarding the overlapping claims process, or would like further information, please contact Leigh McNicholl, Negotiations and Settlement Manager, at Leigh.McNicholl@justice.govt.nz or (04) 494 9703.

Nāku noa, nā

Leah Campbell
Deputy Director Negotiations

cc: Nicki Scott, Ngāti Rāhiri Tumutumu mandated negotiator, nicki.scott@xtra.co.nz.
Jill Taylor, Ngāti Rāhiri Tumutumu mandated negotiator, jilltaylor@vodafone.co.nz.



Office of Hon Christopher Finlayson

Tab 17

31 AUG 2015

Te Pio Kawe
Chair
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Tēnā koutou

Resolving litigation in relation to the Tauranga Moana Framework: Comprehensive Settlement

Thank you for engaging with my officials on options for responding to the Waitangi Tribunal's (the Tribunal) 6 August decision granting the urgency application made on behalf of five Iwi of Hauraki in relation to the Tauranga Moana Iwi Collective (TMIC) Deed of Settlement (TMIC Deed). As you are aware, the Tribunal has limited the urgency hearing to consideration of clause 10.3 of the Legislative Matters Schedule, which relates to the Tauranga Moana Framework (TMF) and provides a process for resolving disagreements on the participation of Iwi with recognised interests.

I propose that the best way forward for resolving this litigation and progressing your collective and individual legislation is to remove the TMF from the Tauranga Moana Iwi Collective Bill (TMIC Bill) as an interim measure. This would also require an amendment to the TMIC Deed to remove the TMF. This proposal includes my agreement to seek the Legislation Cabinet Committee's approval to introduce the TMIC Bill (excluding the TMF) as soon as possible along with any completed individual Tauranga Moana Bills. My officials would then work with you to resolve TMF related matters which, once agreed, will enable the TMF to be introduced as a separate Bill.

I consider the TMF to be a critical element of the settlement package for the Tauranga Moana Iwi and offer this way forward so that your individual settlements can progress. I appreciate that deferring the enactment of the TMF is a significant decision for TMIC to make. The only alternative I see to this proposal is to delay the enactment of your individual and collective Bills.

I appreciate that the TMF is important to you, however, I make this decision to support your aspirations to proceed with your individual settlements and that you receive all of your settlement redress. I therefore set out below my commitment to you for completing the legislation necessary to support the TMF.

Crown commitments to the Tauranga Moana iwi

In January 2015 I signed, on behalf of the Crown, the TMIC Deed with the Tauranga Moana iwi and by doing so the Crown acknowledges the significant interests that Tauranga Moana iwi (Ngāti Pūkenga, Ngāi Te Rangi and Ngāti Ranginui and their hapū) have in the Tauranga Moana.

The TMIC Deed acknowledges the findings of the Waitangi Tribunal's 2010 Tauranga Moana Claims Inquiry that Tauranga Māori ought to have had the full protection of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga harbour recognised at all times, unless alienated by freely negotiated agreement, or when strictly necessary in the national interest.

As the TMIC Deed has been entered into by the Crown and TMIC, no changes can be made to this Deed without the prior agreement of TMIC and the Crown. Whilst a contemporary arrangement, I consider the TMF to be a critical element of the settlement package for the Tauranga Moana iwi and as such, this framework can only be given effect through a specific Tauranga Moana Bill.

In September 2014, TMIC and the Crown agreed for the TMF to include an additional fifth seat for other iwi with recognised interests in Tauranga Moana on the Tauranga Moana Governance Group (TMGG). At that time, I also informed you that I consider no further seats will be needed and I remain of this view. I reiterate that I consider the fifth seat will be able to provide for the participation of more than one iwi with recognised interests if required.

Progressing the Tauranga Moana legislation

If you agree to this proposal, my officials will instruct the Parliamentary Counsel Office to remove the TMF from the TMIC Bill and provide a revised TMIC Bill to you for final review and approval in the week of 7 September.

Because the TMF will be dealt with separately, the TMIC Bill and completed individual Tauranga Moana iwi Bills will progress through the House. I will request that the Māori Affairs Select Committee consider those Bills as soon as possible.

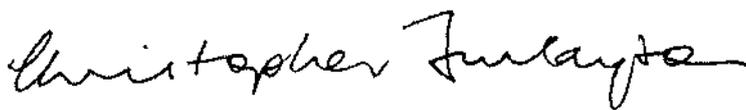
When TMIC and the Crown agree specific revisions to the TMF, the Office of Treaty Settlements (OTS) will draft a deed to amend to the TMIC Deed to permit the relevant TMF provisions to be provided into a new Bill and make this available for TMIC's review. Once the deed to amend has been signed and TMIC has approved the new TMF Bill, I will introduce the new TMF Bill.

Summary and next steps

If you can agree with this proposal, I have outlined the plan to complete the TMF in **Attachment one**, which includes the Crown's agreement to contribute towards costs for resolving three specific matters relating to the litigation.

Thank you for your efforts in recent weeks seeking an alternative way forward given the litigation. I understand this has been challenging. As you appreciate it is important to inform the Tribunal as to whether this resolves the litigation for the time being. I encourage you to respond to this proposal ideally by 1 September 2015.

Nāku noa, nā

A handwritten signature in black ink, reading "Christopher Finlayson". The signature is written in a cursive style with a large, prominent 'F'.

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

Attachment one

Developing and implementing a TMF plan

If TMIC agrees with the proposal to remove the TMF from the TMIC legislation, the TMF matters to be worked on will be limited to the following areas:

- a) whether there should be a process, and the nature of that process if required, for resolving any disagreement on whether paragraph 10.2 of the TMIC Legislative Matters Schedule applies (10.3 in the signed TMIC Deed Legislative Matters Schedule);
- b) in the event that there is more than one iwi that the Crown determines has recognised interests within the Tauranga Moana, how the legislation will provide for the participation of two or more iwi with recognised interests where their interests overlap, through one seat on the Tauranga Moana Governance Group;
- c) the waters surrounding Motiti Island within the coastal marine area marked as "A" on the Tauranga Moana framework plan in the TMIC attachments; and
- d) confirmation of the recognised interest areas for iwi with recognised interests (limited to the Hauraki Collective, and if recognised, Ngāti Hinerangi and a Motiti group), to the extent that they have recognised interests).

Matters a) – c) are the limited list of issues that the Crown will seek TMIC's agreement on revisions the TMF and I consider no further issues are necessary. The Crown will endeavour to reach agreement with TMIC on any revisions in relation to matters a) – c) within 6 months of the plan being agreed. I agree to the Crown providing claimant funding to the TMIC iwi to participate in this process.

I note that d) is redress to iwi with recognised interests and will be provided for through that iwi's deed of settlement. However, I understand TMIC's desire to have the recognised interest areas confirmed before the TMF legislation is complete and to have a strong role in the process. I therefore agree that the Crown will undertake best endeavours to finalise the recognised interest areas within the timeframes set out in the TMF plan. I note however that reaching agreement on the recognised interest area is dependent on active engagement by the group/s with recognised interests within the Tauranga Moana.

The offer of any redress to a particular claimant group is subject to overlapping claims. As you are aware, the Crown encourages groups to reach agreement on overlapping matters. If all avenues of engagement are exhausted and matters remain unresolved between iwi, the Crown may have to make decisions. In reaching decisions on overlapping claims the Crown is guided by two principles:

- reaching a fair and appropriate settlement with the claimant group in negotiations; and,
- maintaining, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims.

I have instructed my officials to consult with TMIC by mid-September on a detailed plan that outlines the process for progressing work on matters a) to c). The TMF Plan will also outline how TMIC will be involved in the overlapping claims process for d).

Tab 18

WAITANGI TRIBUNAL

Wai 215
Wai 686

CONCERNING

the Treaty of Waitangi Act 1975

AND

an application for an urgent hearing on behalf of the Hauraki Collective

DECISION ON APPLICATION FOR URGENCY

Introduction

1. This application for an urgent hearing was originally filed on 19 September 2012 on behalf of a number of iwi in the Hauraki Collective. It was revived on 12 December 2014 with regards to clause 10.3 and related provisions of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed (TMIC) Deed (Wai 215, #2.682 & #2.707).
2. Clause 10.2 of the Legislative Matters Schedule in the TMIC Deed states:

The member under paragraph 1.1.5 is entitled to participate whenever the Tauranga Moana Governance Group is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a recognised interest area.
3. Clause 10.3 of the Legislative Matters Schedule in the TMIC Deed states:

In the event of any disagreement on whether paragraph 10.2 applies, the Tauranga Moana Governance Group will make a decision on the matter in accordance with paragraph 6 and the members under paragraph 1.1.5 and 1.1.10 will be entitled to participate in that process.
4. The applicants allege that the Hauraki iwi will suffer significant and irreversible prejudice as a result of the Crown's proposed TMIC Deed. The applicants also claim that there is no alternative remedy for the iwi of the Hauraki Collective to exercise.
5. The applicants seek the deletion of clause 10.3 from the TMIC Deed. The applicants consider that the deletion of clause 10.3 would have the following impacts:
 - a. A member from the Hauraki Collective would have the right to participate in the Tauranga Moana Governance Group (TMGG) in defined circumstances;
 - b. That member could participate and exercise one of ten votes in the TMGG; and
 - c. Any member that wishes to bring a challenge, may do so on its merits
6. On 26 March 2015, I was delegated the task of determining this application for an urgent hearing as a step preliminary to the substantive hearing of the claim (Wai 215, #2.720).

7. Having considered all submissions and evidence filed in support of the application, I have decided to grant the urgency application for the reasons set out below.

Procedural History

8. On 19 September 2012, the Hauraki Collective filed an application for an urgent hearing in relation to the impending initialling of the TMIC Deed (Wai 215, #2.682 & #2.683).
9. The applicants claimed that the Crown had provided undertakings that the Hauraki Collective would receive contemporaneous redress alongside the TMIC, however, they did not receive any offers of cultural or commercial redress. Furthermore, the applicants claimed they did not receive any indication of redress proposed to be included in the TMIC Deed. They alleged that given the likely areas and types of redress to be offered to TMIC, there was a very strong likelihood that the TMIC Deed could irreversibly prejudice the customary interests of Hauraki iwi.
10. The Tribunal then received a number of updates from both the applicants and the Crown as to actions that were being undertaken to finalise the content of the TMIC Deed (Wai 215, #2.684, #2.686, #2.687, #2.689, #2.690, #2.692 & #2.694).
11. On 24 October 2012, the Tribunal received a joint memorandum from the Crown and the applicants advising that an urgent hearing would not be required as an agreeable position had been met, but both parties sought leave to resume proceedings if necessary (Wai 215, #2.695). Accordingly, Judge Milroy adjourned the application and granted the leave sought (Wai 215, #2.696).
12. The applicants sought to revive the application on 25 July 2014 (Wai 215, #2.697). After further discussions, both parties sought once again to have the application adjourned *sine die* on 1 September 2014, with leave to revive, should it be necessary (Wai 215, #2.702). The Chairperson issued memorandum-directions on 9 September 2014 to that effect (Wai 215, #2.703).
13. On 12 December 2014, the applicants again sought to revive the application (Wai 215, #2.704, #2.705, #2.706, & #2.707). A judicial teleconference was held on 12 December 2014. The applicants sought to obtain the Crown's current position in relation to negotiations and to timetable the filing of submissions for these Tribunal proceedings. Leave was granted to revive the application and a timetable for filing was agreed upon. The applicants were directed to file submissions by 16 January 2015 and the Crown and interested parties by 9 February 2015 (Wai 215, #2.710).
14. The applicant's submissions in support of the application were filed on 28 January 2015 (Wai 215, #2.711). The Crown and TMIC filed their responses to the application on 20 February 2015 (Wai 215, #2.716 & #2.717).
15. On 23 February 2015, the Deputy Chairperson directed the applicants to file any submissions in reply to those of the Crown and TMIC by 9 March 2015 (Wai 215, #2.718). Submissions in reply were filed on 12 March 2015 (Wai 215, #2.719).
16. A joint memorandum from the Crown and applicants was filed on 3 April 2015, which sought to adjourn the application (Wai 215, #2.721). The adjournment was granted and parties were directed to update the Tribunal by 15 May 2015 (Wai 215, #2.722).
17. On 29 May 2015, the Crown filed a memorandum stating that no solution had been achieved and that the Tribunal should now consider whether the application for an urgent hearing should be granted (Wai 215, #2.723).

18. The applicants responded to the Crown's memorandum on 9 June 2015 (Wai #2.725). They submitted that, given the mutual desire to achieve resolution, attempts had continued to find common ground. The applicants sought to maintain the adjournment of the application. The adjournment was granted and parties were directed to update the Tribunal again by 17 June 2015 (Wai 215, #2.726).
19. On 23 June 2015, counsel for the applicants filed a memorandum updating the Tribunal on their progress (Wai 215, #2.728). Counsel submitted that during the adjournment, meetings with Crown Ministers did not eventuate and Hauraki iwi were now faced with the Crown taking the parties back to litigation despite the applicants' attempts to find a solution.
20. Crown counsel responded to the applicants' memorandum on 30 June 2015. The Crown submitted that the Minister of Treaty Negotiations had considered the applicants' request, but had declined to offer the facilitation of a further meeting as he was not persuaded that it would aid resolution of the matter (Wai 215, #2.731). In the Minister's letter to the applicants, he noted that the Crown is unable to force agreement on the parties and attempts to resolve this matter outside the Tribunal could not continue indefinitely (Wai 215, #2.731(a)).
21. On 1 July 2015, counsel for TMIC also submitted that this application should be determined without further adjournments as the delay in determining this application for urgency is causing prejudice to TMIC (Wai 215, #2.732).
22. On 9 July 2015, I issued memorandum-directions outlining my preliminary thoughts on this urgency application and sought further information from parties (Wai 215, #2.733). Counsel for the applicants was directed to file information indicating the size of the applicant group in proportion to the Hauraki Collective as a whole. Crown counsel was directed to file an explanation of how it sees judicial review as an alternative remedy and to clarify certain terms in the TMIC Deed.
23. As directed, parties filed the further information requested (Wai 215, #2.735 & #2.737). Counsel for TMIC filed a response to the applicants' and Crown's submissions on 23 July 2015 (Wai 215, #2.738). The applicants filed their reply on 3 August 2015 (Wai 215, #2.739)

Parties' Positions

Applicants' Submissions

24. The applicants are the following iwi of the Hauraki Collective:
 - a. Ngāti Hako;
 - b. Ngāti Maru;
 - c. Ngāti Tamaterā;
 - d. Ngāti Tara Tokanui; and
 - e. Te Patukirikiri.
25. The applicants submit that they represent approximately 54.38% of the total population of the Hauraki Collective. Counsel notes that Ngāti Pāoa also supports this application for urgency but does not wish to participate in these proceedings. With Ngāti Pāoa, the proportion of the Hauraki Collective who support this urgency application is 75.16%. Nevertheless, Ngāti Pāoa have made it clear that they put the making of progress on the Hauraki claim ahead of pursuing any prejudice alleged in this application (Wai 215, #2.735(a)).

26. The revived application, as filed on 12 December 2014, concerns clause 10.3 of the TMIC Deed and its related provisions of the Legislative Matters Schedule. This clause relates to the Tauranga Moana Framework (TMF) redress and TMGG.
27. The applicants allege that the proposed regime under the TMIC Deed has the following key elements:
- a. The Hauraki Collective member of the TMGG will have TMF participation rights in certain situations;
 - b. In the event of any disagreement as to whether the Hauraki Collective should participate in the TMGG, the standard decision-making regime under section 6 of the Legislative Matters Schedule will apply. Of significance to the applicants is that the right to determine the dispute may extend to the very council(s) whose proposal may be being considered;
 - c. While the section 6 decision-making regime promotes consensus, the default is a simple majority of members. Thus the right of the Hauraki Collective to participate, regardless of the merits, is always subject to a majority vote of up to nine other members; and
 - d. While the Hauraki Collective member will have the right to seek judicial review in that situation, if the majority decision-making process has been observed, there would be no actual remedy. By this the applicants mean that the effect of clause 10.3 is that any judicial review would be limited to the decision making process rather than the merits of whether or not Hauraki iwi were entitled to participate in that particular matter.
28. The applicants further note that the extent to which the iwi of Hauraki may participate in the TMF redress is as follows:
- a. The Crown accepts that Hauraki iwi have customary interests in the TMF redress area;
 - b. The Crown accepts that Hauraki iwi will have a seat on the TMGG alongside the four TMIC iwi seats by the creation of a fifth iwi seat (there are other seats for central and local government);
 - c. Unlike any of the four TMIC seats, the 'Hauraki fifth seat' can only participate in the TMGG, in accordance with clause 10.2, whenever the TMGG is considering matters that relate to or could reasonably be considered to have an actual or potential effect on a recognised interest area;
 - d. The following key definitions state:
 - i. "recognised interests" means the interests of iwi, other than Tauranga Moana iwi, that are relevant to the TMF and are confirmed in legislation giving effect to future settlement of historical Treaty of Waitangi claims;
 - ii. "recognised interest area" means an area containing recognised interests of iwi, other than Tauranga Moana iwi that are relevant to the TMF and is confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi Claims.
 - e. Any dispute over whether clause 10.2 applies will be determined by a simple majority decision of the TMGG, as set out in clause 10.3.

29. The applicants allege that the substance of the Crown's proposal, as well as the process undertaken to develop the proposal, is not compliant with the principles of the Treaty of Waitangi (Wai 215, #2.707, paras 27 to 29).
30. Despite this urgency application and concerns raised by the iwi of the Hauraki Collective, the Crown proceeded with the signing of the TMIC Deed in late December 2014.
31. The applicants allege that clause 10.3 of the Legislative Matters Schedule and its related provisions cause prejudice by authorising a veto of Hauraki Collective participation in the TMF redress, which may be exercised without cause and without any requirement for a merits assessment.
32. Furthermore, the applicants submit that the only theoretical remedy for the Hauraki seat, if they were denied participation in the TMGG under clause 10.2, is judicial review by the High Court. However, the applicants submit that clause 10.3 itself, curbs any effect judicial review could have as a remedy. The applicants note that if basic process elements outlined in clause 10.3 had been observed, the High Court will have little, if any, basis to intervene on a judicial review; indeed, even if the Court might have found in favour of Hauraki iwi if clause 10.3 did not arise, and the question was directly whether clause 10.2 had been applied properly.
33. The applicants refer to *Te Raupatu o Tauranga Moana – Report on the Tauranga Moana Confiscation Claims*. The applicants submit that this report confirms that the Crown has failed to treat Hauraki iwi equally with other iwi and has failed to act honourably and in good faith towards them. The applicants consider this is a crucial point to consider as it appears history is repeating.
34. The applicants argue that the Crown's failure to treat Māori equally is demonstrated by the fact that there is no clause 10.3 style imposition on the TMIC iwi seats. A different approach has been taken with the overlapping interests for Ngāti Hauā, Ngāti Hinerangi and Ngāti Raukawa and there has never been a Treaty settlement where some iwi in a co-governance regime have had the right to vote on the participation of other iwi with recognised interests. The applicants list the following settlements as examples of settlements which involved multi-iwi/hapū arrangements but did not contain the right to vote on the participation of other iwi: Waikato River, Te Hiku, Ngāi Tūhoe, and Whanganui River Treaty Settlements.
35. The applicants also refer to the Hauraki Collective co-governance regime for the Waihou, Piako and Coromandel rivers with Ngāti Hauā, Ngāti Hinerangi, and Ngāti Raukawa. In these co-governance regimes, neither the Crown nor Hauraki iwi ever opposed a joint seat for the rivers nor sought a clause 10.3 equivalent process. The applicants note in these examples that there is no bar on the seat having the ability to be elected as co-chair, and the above three iwi have had the benefit of multiple hui with representatives of Hauraki iwi and five councils as part of the Waihou, Piako and Coromandel co-governance regime negotiations.
36. It is further argued by the applicants that the Crown has failed to ensure rangatiratanga and active protection of the customary interests of iwi of the Hauraki Collective. The applicants submit that the Crown has promoted a Treaty settlement that leads to an outcome where the iwi of Hauraki can be excluded from TMGG participation in a large area of land confirmed to be squarely in the Hauraki rohe.
37. The applicants also allege that the Crown has breached its undertaking to the Hauraki Collective. On 24 October 2012, the Crown gave the following undertaking to the

Hauraki Collective, as part of an agreement to enable the initialling of the TMIC Deed, that was relied on by the Hauraki Collective:

The TMF will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interest than provided to the TMIC (Wai 215, #2.695).

38. Counsel for the applicants submits that the process that led to the Crown offering less favourable co-governance arrangements to the Hauraki iwi than TMIC iwi was neither fair nor transparent. Further to this, the applicants submit that clause 10.3 and its related provisions of the TMIC Deed, do not honour the Crown's undertaking (Wai 215, #2.707, paras 27 to 29).
39. In regards to the decision-making process in the TMIC Deed, the applicants question why any of the Ministerial/Council TMGG seats have the right to challenge the participation of the Hauraki seat.
40. The applicants are also concerned that the Crown is considering whether it will offer TMGG participation to Ngāti Hinerangi. The applicants submit that the Crown has provided no clarity to the question when asked, which leaves the Hauraki Collective in the position of not knowing the full extent of the prejudice caused by clause 10.3 of the regime.
41. The applicants further submit that the signing of the TMIC Deed is no bar to granting urgency and that any claim by the Crown of prejudice to TMIC that may occur by the granting of urgency would be self-imposed. The applicants also submit that there is no evidence that a focused urgent hearing would materially divert Crown resources from other negotiations.
42. Finally, the applicants submit that this is an exceptional and confined case. The Crown has negotiated a settlement that undermines the Hauraki Collective's fundamental rights of participation and the exercise of customary interests. This, the applicants argue, should be considered against the historical background of the Crown failing to honour its Treaty commitments to the same iwi in the very same area: something that the Waitangi Tribunal condemned in its *Te Raupatu o Tauranga Moana* report.

Crown's Response

43. The Crown opposes this application for urgency and submits that the matters which are the subject of complaint do not and cannot cause the applicants significant and irreversible prejudice. The Crown also considers that in any event, there are alternative remedies available to the applicants. Further to this, the Crown submits that the co-governance arrangements at the heart of this application are consistent with previous Crown commitments *vis a vis* the position of the Hauraki iwi.

Significant and Irreversible Prejudice

44. The Crown submits that clause 10.3 and its related provisions cannot be a source of significant or irreversible prejudice to Hauraki iwi. Clause 10.3 was designed to outline a decision making process in the hope that any disputes could be resolved at the TMGG table. It does not confer a right of veto on any group.

Alternative Remedies

45. In any event, the Crown submits that the processes confer relevant alternative remedies. Notably, the existence of judicial review for any decision which restricts the

participation of the Hauraki Collective seat in TMGG, is the ultimate protection of Hauraki iwi's rights under clause 10.2. Clause 10.3 does not make judicial review more or less available, or a successful judicial review more or less likely.

Co-governance Arrangements

46. In regards to the recognised interests test in the Legislative Schedule Matters of the TMIC Deed, the Crown notes that clause 10.2 should be viewed as the central provision, as it confers an absolute right of participation where matters relate to or could reasonably be considered to have an actual or potential effect on a recognised Hauraki Collective interest. As such, clause 10.2 incorporates an objective test. This means that the only way any of the nine non-Hauraki members could challenge the participation of Hauraki Collective is on a factual basis, which does not amount to a veto.
47. In response to the applicants' submission that the participation rights of Hauraki iwi are restricted in a manner that does not apply to TMIC, the Crown submits that relative representation was agreed upon by TMIC, the Crown and Hauraki iwi, before the issue of clause 10.3 arose. The Crown also considers that the arrangements appropriately reflect the relevant levels of interest held by the relevant groups in Tauranga Moana, as reflected in Tribunal reports.
48. The Crown further submits that clause 10.3 and its related provisions were included in the drafting at the conclusion of an extended period of negotiation between TMIC, the Hauraki Collective and the Crown. The Crown considers the final arrangements to be an appropriate compromise between the differing views. Further to this, the Crown submits that the TMIC Deed was negotiated in good faith with both parties, and acknowledges that both TMIC and Hauraki Collective made significant compromises.
49. In conclusion, the Crown submits that clause 10.3 and its related provisions cannot be the source of significant or irreversible prejudice as required by the Tribunal's urgency criteria and further notes that no alternative remedy is required in this case; the existence of judicial review protects the Hauraki iwi's rights under clause 10.2. The Crown considers that this matter should be the subject of further discussion among parties.

Tribunal Questions

50. By directions dated 9 July 2015, the Crown was directed to respond to a number of specific issues (Wai 215, #2.733). They included the following (with relevant Crown responses summarised following each issue).

Tribunal's Questions on Judicial Review as an Alternative Remedy

51. Can the Crown please explain whether clause 10.3 has some purpose that counterbalances the effect that clause 10.3 makes it more difficult to succeed in judicial review?
52. Can the Crown identify any wider purpose or other effect to clause 10.3 that might balance the prejudice perceived by the applicants?
53. Please clarify where judicial review has been specifically constructed in the manner of clause 10.3 in other settlements and how the Crown sees this 'remedy' as being different from the general right to judicial review that would exist in respect of statutory body decision making if there was no clause 10.3.

54. If the Crown relies upon clause 10.3 to ensure access to judicial review as an alternative remedy, how would such judicial review address the underlying Treaty issues raised in this claim more effectively than if clause 10.3 did not exist, and judicial review was directly about the exclusion of the "paragraph 1.1.5 member" under clause 10.2, rather than the processes of the TMGG? Please explain how clause 10.3 makes the process better, not worse.

Crown response

55. As previously submitted, the Crown considers clause 10.2 to be the paramount provision. It provides other iwi with recognised interests an absolute statutory right of participation whenever the TMGG is considering matters that relate to or could reasonably be considered to have an actual or potential effect on their recognised interests.
56. The Crown further submits that clause 10.3 absolutely requires a merits assessment and any decision made could be challenged on the basis that it is wrong. For instance, if the Hauraki Collective was excluded from participating and the basis of that decision was factually wrong, the fact that the clause 10.3 process was undertaken would not prejudice the judicial review proceedings because the decision itself would be unlawful. Clause 10.3 does not derogate from the absolute right conferred by clause 10.2. It allows parties an opportunity to resolve issues without having to resort to litigation. Therefore, the Crown submits, clause 10.3 will not prejudicially affect the iwi of Hauraki in relation to any question of determination of the right to participate.
57. The Crown notes that clause 10.3 ensures the Hauraki member is entitled to participate whenever the TMGG is considering whether participation conferred by clause 10.2 has been triggered.
58. In response to how judicial review would address underlying Treaty issues, the Crown submits that judicial review is available regardless of clause 10.3 and that while no Treaty issue would be engaged in such a proceeding, these issues would already have been determined by Crown recognition of the Hauraki iwi areas of interest in their settlement. The TMGG provisions are not intended to contain a special or express power of review, specifically; clause 10.3 has not been constructed to provide an additional, special, or express means of judicial review.
59. I note here that the Crown's response addresses the questions summarised at paragraphs 51 and 54, but not those at paragraphs 52 and 53.

Tribunal's Questions on Definition of "Recognised Interests" and "Recognised Interests Area"

60. Please clarify what process the Crown anticipates that the local and central government members of the TMGG will undertake to determine the matters they "consider relate to or could reasonably be considered to have an actual or potential effect" on the Hauraki Collective's interests.
61. If those members would be expected to abstain and leave the decision to the other members does the Crown consider that to be an appropriate process?
62. Please clarify what "confirmed in legislation giving effect to future settlements" means in the definitions of "recognised interests" and "recognised interest areas".
63. Does the Crown intend to define the Hauraki Collective's "recognised interest area" in the proposed Tauranga Moana Iwi Collective Settlement Act?

Crown Response

64. The Crown submits that the test under clause 10.2, whether the Hauraki Collective should participate in any given decision, will be factual, and likely a scientific and/or geographical question.
65. Identifying a 'recognised interest', the Crown submits, will not involve issues of mana whenua, customary interests or other rights, but look at the potential impact on a previously recognised geographic interest area. That question would have already been determined through the recognition of the interests and areas of interests of the other iwi through their own Treaty settlement.
66. In its response, the Crown submits that the matters that could come to the TMGG for consideration are not uncertain or undetermined. The Crown provides 15 examples of those matters that could come before the TMGG. The Crown submits that, given the scope of matters the TMGG could consider is fixed, the recognised interests test is straightforward.
67. The Crown does not anticipate that any member should abstain from the process under clause 10.3. The Crown expects that any discussion would need to be informed by factual, and if necessary, expert advice about whether the matter in issue does in fact relate to, or could be reasonably considered to have an actual or potential effect on, the Hauraki Collective's recognised area of interest.
68. Accordingly, clause 10.3 will have no effect in respect of the interests of the relevant iwi of Hauraki until their settlement legislation is passed. The Crown notes that this arrangement is not at issue among parties and was agreed during negotiations among TMIC, Hauraki iwi and the Crown.

Tribunal's Question on the Proposed Timetable

69. The Crown is invited to advise the notified parties and the Tribunal of the proposed timetable for the TMIC Settlement Bill.

Crown Response

70. The Crown noted that the timetable for introduction of the Bill will depend on the resolution of this application.

Tauranga Moana Iwi Collective's Response

71. TMIC is comprised of the following Tauranga Moana iwi: Ngāi Te Rangi (with Ngā Potiki); Ngāti Pukenga; and Ngāti Ranginui.
72. TMIC opposes this application for urgency and submits that there is no, and not likely to be, prejudice to the applicants by the TMIC Deed and TMF.
73. Counsel for TMIC submits that the Hauraki iwi interests are recognised and as a consequence they will participate to the same extent as Tauranga Moana iwi in the TMF – whenever a decision or matter related to their recognised area of interest is actually or potentially affected. The scope of this participation is justified and reasonable and not prejudicial to the iwi of Hauraki. Furthermore, clause 10.2 provides that the Tauranga Moana iwi and Hauraki iwi are treated equally.

74. TMIC notes that it is committed to working with all participants on the operation of the TMGG, and the matters that are the subject of this application should be discussed in that forum.
75. TMIC submits that the Court of Appeal in *Attorney-General v Mair and Others* [2009] NZCA 625 has endorsed the approach of the Tribunal to assess the relative prejudice to the parties if urgency was granted to an application concerning Treaty settlements. The granting of urgency in this case will cause further and significant prejudice to TMIC as it will delay the implementation of their settlements.
76. Furthermore, it is submitted that the prejudice to TMIC will be far in excess of that suffered by the iwi of Hauraki. In terms of population, TMIC notes that the Tauranga Moana Iwi has a larger population than the iwi of Hauraki participating in this urgency application. TMIC has a population of 24,660 while the census figures for the applicants are 8,319, a third of the TMIC population. TMIC submit that the prejudice they will suffer is of a higher degree on the basis that there are a greater number of people affected by the delay.
77. Counsel also notes that TMIC have been engaged in the present claim and settlement process for more than two decades. They note that the current position that has been arrived at balances the concerns of TMIC, the majority of issues raised by the iwi of Hauraki, the views and concerns of local authorities, the views of other overlapping iwi and the Crown's obligations. Furthermore, any changes will likely require a re-ratification process which could threaten the Tauranga Moana iwi settlements. TMIC submit that they should be able to move forward to complete their settlements rather than being held up over one procedural clause.

Applicants' Reply

Process

78. In reply, the applicants submit that this application is about whether the process followed by the Crown in coming to a settlement has been in accordance with the principles of the Treaty, particularly whether negotiations were transparent and fair.
79. The applicants submit that in this case neither criterion was met. The fact that the Crown has not defended its negotiations process is telling, and any attempt to defend its process as been through collateral assertions; for instance, they point to the extended period of negotiation, the provision in the TMIC Deed for the interests of the iwi of Hauraki and clause 10.3 of the Legislative Schedule Matters of the TMIC Deed.
80. The applicants allege that, given the extent of Tribunal direction, as well as published guidance on the Crown's cross-claim policy and practice, the Crown's acceptance of the fact that the settling iwi did not want to talk to other iwi, is staggering.
81. The applicants liken this situation to that of Tamaki Makaurau where the Crown continued to proceed with a settlement despite challenges by other iwi and a lack of engagement by the settlement group. The applicants concede that there are factual differences but that there are substantive similarities, particularly the Crown deciding in this case that it was acceptable for TMIC to refuse to meet and attempt to resolve issues of overlap.
82. The applicants submit that the TMIC experience contradicts the practice applied by the Crown in the Hauraki iwi negotiations, where the Crown has required the settling iwi to engage with other iwi where there have been overlapping interests or cross claim issues.

Judicial Review

83. The applicants note that the Crown departed from its original position that judicial review is an alternative remedy available to the applicants. The Crown's current position is that while judicial review should not be considered a remedy, it might give rise to remedies for the party seeking judicial review. The applicants, in reply, argue that the Crown is aware that the High Court does not undertake a merits assessment in judicial review proceedings and so it could not be an meaningful remedy.
84. The applicants submit that it is of significance to this application that the Crown did not answer the Tribunal's question as to whether there has been an equivalent to clause 10.3 in any other Treaty settlement. The applicants claim this indicates there is no equivalent.

Recognised Interests

85. In response to the Crown's submission that clause 10.2 and 10.3 will not determine matters concerning the interests of Hauraki but will refer to a recognised geographical interest area, the applicants submit that the distinction made here by the Crown is 'romantic' and belies the 'real world'. Customary interests cannot be respected in the TMGG because the framework of 'recognised interests' is restrictive.
86. The applicants submit that the list provided by the Crown on matters that could be considered by the TMIC, outlines the minimum in terms of matters the TMGG may consider. The applicants submit that the purpose of the TMGG, as set out in clauses 3.3 to 3.4 of the Legislative Matters Schedule of the TMIC Deed, is to have an influence in local government decision-making within all parts to the TMF area and so, the applicants submit, in reality, the scope of matters that the TMGG could consider will be much broader. In addition, the applicants note that the Waitangi Tribunal has confirmed that the involvement of mana whenua in natural resource decision-making is primarily sought through Treaty settlements, not through the Resource Management Act 1991 and the Local Government Act 2002. The applicants submit that this is the experience of other co-governance/co-management regimes, such as the Tūpuna Maunga o Tāmaki Makaurau Authority.
87. The applicants submit that the Crown, in confirming that no member should abstain on a clause 10.3 decisions, has made assumptions on the positions local government members would take. At the same time, the iwi of the Hauraki has not been included in any meetings with local government members.
88. The applicants submit that they will suffer prejudice because the Crown has confirmed that the iwi of Hauraki will not be included in the TMGG until their settlement legislation has passed. This will place the iwi of Hauraki behind the TMIC in accessing redress over their rohe. The applicants further submit that this is another side-effect of the exclusionary way in which the TMF arrangements were developed.

Prejudice to TMIC

89. In response to the submission by TMIC that it would suffer prejudice because urgency would further delay settlement, the applicants submit that any prejudice from delay to the TMIC arises for two reasons. First, there was a sustained period of breakdown between the Crown and TMIC due to internal conflict within the TMIC. Second, the Crown made a decision not to progress the TMIC iwi-specific settlement without the TMIC collective settlement. The applicants also note that TMIC did not advise the

Tribunal of the various financial and commercial on-account settlements that have already been provided to the TMIC by the Crown.

Proportion of Hauraki Collective

90. TMIC submitted that, due to its larger population, it will be more prejudicially affected by this application for urgency and that should be taken into account in a decision. The applicants submit in reply that, the Tribunal enquired as to the tribal demographics because of the potential internal prejudice among the iwi of Hauraki rather than to make a comparison between TMIC and iwi of Hauraki. The applicants also note that TMIC was not aware of the tribal census methodologies and that adjustments are made for generic line items such as: "Hauraki (Coromandel) Region, not further defined"; "Iwi not named – Pare Hauraki/Hauraki"; and "Ngāti Maru, region unspecified". The applicants also note that the TMIC assessment of the iwi of Hauraki number omits reference to Ngāti Pāoa who support this urgency application.
91. In conclusion, the applicants submit that they have detailed fundamental errors with Crown process and practice. The iwi of Hauraki attempted throughout 2014 to resolve matters and only sought urgency when the Crown rebuffed those offers. Further to this, the applicants submit that with a range of multi-iwi co-governance/co-management regimes still to be negotiated, the guidance of the Tribunal is important.

Grounds for Urgency

92. In deciding an application for an urgent hearing it is important for the Tribunal to consider whether:¹
- a. The applicants can demonstrate that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown action;
 - b. There is no alternative remedy that, in the circumstances, it would be reasonable for the applicants to exercise; and
 - c. The applicants can demonstrate that they are ready to proceed urgently to a hearing.
93. The Tribunal may consider other factors including whether the claims challenges an important current or pending Crown action or policy, and any other grounds justifying urgency.
94. The Tribunal's resources are limited and must be used to hear a large number of claims, some of which have been waiting many years for an inquiry to take place. If an urgent application is granted, resources must be diverted away from existing inquiries, inevitably delaying the completion of those inquiries. Therefore, the Tribunal has stated that it will grant an urgent hearing only in exceptional cases.

Preliminary Assessment

95. On 9 July 2015, I recorded some preliminary observations regarding the material before me at that time.
96. I noted that this matter abounds with potential prejudice of varying degrees and nature to both parties, and to non-parties. My task is not to determine the merits of the

¹ *Waitangi Tribunal Guide to Practice and Procedure* at p 5.

- applicant's substantive objection to the TMIC settlement, but to determine whether the grounds for an urgent hearing are established by them.
97. One of the factors the Tribunal can take into account includes the ability to demonstrate support. In *Attorney-General v Mair* [2009] NZCA 625 the Court of Appeal confirmed that an ability to demonstrate support is highly relevant when considering an urgency application, particularly where an iwi or hapū are divided. The Tribunal and Courts have been clear that numbers matter in such circumstances.²
 98. It seems entirely appropriate to apply the same concept to a collective of iwi, such as the Hauraki Collective. In essence, "numbers matter".³ That said, the relative population of the TMIC in relation to the Hauraki iwi is not a relevant factor. Numbers matters to the demonstration of support within the Hauraki Collective but not to inter-iwi disputes. If it did matter, then a big iwi collective would always prevail over smaller iwi collective.
 99. The broad principle is that urgency is an exceptional matter and adequate grounds must be made out by an applicant.
 100. I also noted that it is clear that any significant and irreversible prejudice the applicants claim they will suffer needs to be balanced against the potential prejudice to others that might result from a decision to grant urgency.⁴
 101. In that context, I noted that some iwi members of the Hauraki Collective do not support this application. It seems that they assess any prejudice identified in this application is outweighed by the prejudice to them resulting from the delay to the Hauraki Collective settlement negotiations due to the Crown policy of not negotiating with litigating claimants.⁵ The letter of 14 July 2015 can only be read as confirming that a significant sized Hauraki iwi, Ngāti Pāoa has made that assessment of the relative prejudices.⁶
 102. Another two points of note were that if the application for urgency proceeds, and later the Hauraki Collective achieves its objective, those dissenting iwi will also benefit. Second, their failure to support this application does not speed their negotiations with the Crown so long as the Crown proposes only to negotiate with the Hauraki Collective and not various parts of it.
 103. The Crown and TMIC see prejudice to the TMIC settlement by reason of delay should this application proceed. That may well be so as a matter of practice, though, of course, the Tribunal, entirely appropriately, has no power to determine the Crown's legislative programme nor can it determine the timing of introduction of a Settlement Bill. Those are matters for the Government of the day.
 104. I noted there is also another urgency application before the Tribunal in respect of the TMIC Settlement (Wai 2521). I have since been advised that the Crown sought an extension to file a response on the Wai 2521 urgency application by 21 August 2015. This extension has been granted. There may be further filings as two interested parties joined the proceedings in July 2015.
 105. I observed that Wai 215 has not progressed materially in the past six months.

² Waitangi Tribunal, *East Coast Settlement Report*, pp 48-50.

³ *Attorney-General v Mair* [2009] NZCA 625 at para 58.

⁴ See, for example, the decision in Wai 552, #2.35 at para 171.

⁵ That policy is not challenged in this process.

⁶ Wai 215, #2.735(a)

106. I advised parties that subject only to any more pressing commitments, I intended to resolve this application very soon after I received the information requested from the parties who stated that they want it resolved quickly.

Assessment of the Grounds for Urgency

107. The focus of my analysis is on the question: are the 55% of the iwi of Hauraki participating in this application able to demonstrate that they (and the other Hauraki iwi who support them in spirit but not formally) are likely to suffer significant and irreversible prejudice as a result of the pending Crown action to introduce and pursue enactment of legislation that gives effect to clause 10.3.
108. Considering the Tribunal's urgency criteria, I conclude:
- a. There is prejudice to Hauraki iwi as a result of the inclusion of clause 10.3. Whether or not it is significant is discussed below;
 - b. The prejudice is irreversible. It will be enshrined in legislation;
 - c. Numbers matter: but the applicants have a reasonable degree of support within Hauraki;
 - d. There is no reasonable alternative remedy; and
 - e. The applicants say they are ready to proceed. The issue is narrow, and as will be seen below, their readiness will be put to the test.

Significant and Irreversible Prejudice

109. Looking at the scale of prejudice, I believe, on the balance, that it is significant. The Crown rightly points out that clause 10.2 applies in quite tight defined circumstances. In many cases there will be little room for rational debate on whether or not there is an effect on a recognised interest area.
110. However, I do not accept the Crown's argument that "*the only issues for the TMGG in considering participation are factual*".⁷ Clause 10.2 includes the wording "*could reasonably be considered to have ... potential effect on a recognised interest area*". It seems to me that there is plenty of room for rational people to hold different views on whether, for example, an outfall outside the area could reasonably be considered to have a potential effect within the area.
111. Without clause 10.3, if the Hauraki iwi challenged a decision under clause 10.2 on the judicial review, the High Court could test that directly.
112. With clause 10.3, the test is different; the focus moves to whether the TMGG followed due process in making its decision. The High Court could well come to the conclusion that while it would not have excluded the Hauraki iwi member, because the decision making process was conducted in accordance with law, the Hauraki iwi must be denied a presence even though the TMGG reached a conclusion that the High Court would not have reached.
113. In passing, I note that clause 10.3 does confer a benefit on Hauraki iwi by making it clear that the paragraph 1.1.5 members (and the paragraph 1.1.10 member) are entitled to participate in the TMGG decision making process as to whether clause 10.2 is

⁷ Wai 215, #2.737, para 20.2

activated. Without it, the TMGG might say "*we have decided you are not affected, and because of that conclusion you were not entitled to participate in the process that led to it*". If that is the perceived problem it can be addressed in other ways.

114. Of further relevance to the test for significant prejudice, is the likely areas affected. They are important lands in the Tauranga area. The area of interest for the Hauraki iwi in the Tauranga Moana iwi rohe includes Athenree Forest, and the Katikati and Te Puna land blocks. Their importance is both cultural and economic and pressures on them are likely to be intense. They are bordering much of the western end of Tauranga Harbour.
115. In concluding that the applicants are likely to suffer significant prejudice as a result of clause 10.3, I am not considering other potential prejudices that have not been argued, to date, and which will not be able to be argued in a substantive hearing on this issue. For instance, I am not considering the issue that the Hauraki iwi have no way to invoke clause 10.2 until their own settlement is resolved.

Relative Prejudice

116. Other factors that the Tribunal needs to take into account when granting urgency can include the relative prejudice to others. TMIC express concern that if clause 10.3 is to be removed, their ratification process might have to be repeated. This decision on an urgency application cannot be a decision to remove clause 10.3 (that is not for the Tribunal to make at any stage). It is not even a recommendation that clause 10.3 be removed. Whether it should be recommended to be removed will be the (only) issue at the substantive hearing. If TMIC shares the Crown's view that clause 10.3 is neutral, then TMIC ought to be indifferent about whether or not it remains. If TMIC believes repetition of its ratification process might be required, it can further expand on the problem that would come at the hearing.
117. Wider prejudice is claimed in that the TMIC settlement legislation may be delayed still further. I do not believe there need be any material delay. As noted above, Wai 2521 is still to be resolved, and the Crown has sought an extension there until 21 August. If there is no resolution at that point then Wai 2521 will presumably continue.
118. If the TMIC settlement legislation cannot proceed because of Wai 215 (and as noted, that is not automatic because the programme of settlement legislation very properly is not directed by the Tribunal) then it presumably cannot proceed while Wai 2521 is unresolved.

Resourcing

119. In terms of assessing whether this claim will put pressure on Tribunal resources and delays for other inquiries, I stress that the issue is narrow and will remain so. A panel can be appointed with a view to submissions being exchanged by 21 August, with a hearing in early September. Applications for extension and late filing which have been common in this matter to date will, I hope, not be tolerated.

Decision for Urgency

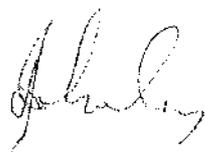
120. The application for urgency is granted for the reasons set out above with a limited focus on the appropriateness and application of clause 10.3 as it is worded in the Legislative Matters Schedule of the TMIC having regard to Crown's obligations under the Treaty of Waitangi and its principles.

121. Specifically, the urgent inquiry would not expand to include
- a. Comparison with other settlement processes and outcomes unless they directly involve a provision similar to clause 10.3 and its application in practice;
 - b. Any prejudice to Hauraki iwi because they do yet have settlement legislation in which their recognised interests area are confirmed;
 - c. Any prejudice to Hauraki iwi arising from their level of representation on the TMGG.
122. The filing timetable for this inquiry is as follows:
- a. Applicants are to file a statement of claim by **5pm, Monday 10 August 2015**.
 - b. The Crown is to respond to the statement of claim by **5pm, Wednesday 12 August 2015**.
 - c. Parties are to file, preferably, a joint statement of issues by **12pm, Friday 14 August 2015**. If the parties cannot agree on a joint statement of issues, they are to file separate draft statements of issues.
 - d. The Tribunal will release the final statement of issues by **12pm, Tuesday 18 August 2015**.
 - e. Applicants are to file submissions by **12pm, Thursday Friday 21 August 2015**.
 - f. Crown and TMIC are to file submissions in response by **5pm, Wednesday 26 August 2015**.
 - g. Applicants are to file submissions in reply by **5pm, Friday 28 August 2015**.
 - h. Hearing will be held at the Waitangi Tribunal Offices, Wellington, as soon as practicable after all submissions have been received. Parties should anticipate a maximum one day hearing by no later than 11 September 2015.
123. Counsel are reminded that the issues are narrow and submissions should reflect that. Any extension of time to file documents will require exceptional circumstances.

The Registrar is to send a copy of this direction to all those on the notification lists for:

- Wai 215, the combined record of inquiry for the Tauranga Moana claims; and
- Wai 686, the combined record of inquiry for the Hauraki claims.

DATED at Wellington this 6th day of August 2015



David Cochrane
Tribunal Member

WAITANGI TRIBUNAL

Ratu 21 Pipiri 2016

Tēnā koutou e ngā rangatira o ngā Iwi o Hauraki,

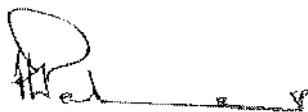
Nei rā te mihi ki a koutou mō ngā manaakitanga i uhia mai ki runga i a mātou o Tauranga Moana i te Paraire kātahi anō ka pāhure ake.

Ko te painga o te hui, i whai wāhi ai a Hauraki me ngā Iwi o Tauranga Moana ki te noho tahi, te kōrero tahi, kanohi ki te kanohi, rangatira ki te rangatira. Ka mihi ki tērā āhuatanga.

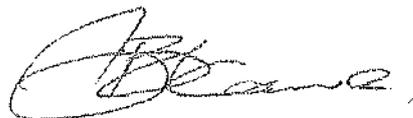
Heoi anō, kāore anō kia tau ngā take ki waenganui i a tātou katoa. Nō reira, ko te hiahia me haere tonu ngā kōrero kia mōhio pai ai tātou katoa kei hea ngā rerekētanga o te kōrero, ā, i te mutunga iho, ko te tūmanako ia, he maramatanga ka puta, ka hohou te rongō.

Nō reira kei aku rangatira, he reo pōhiri tenei nā ngā iwi o Tauranga Moana, kia tae mai koutou o Hauraki ki te marae o Otawhiwhi, kia haere tonu ngā whakawhitiwhiti kōrero ki waenganui i a tātou hei te 15 o Hōngōngoi, 10:00 a te ata.

Nau piki mai, nau kake mai!



Hauata Palmer



Huikakahu Kawe

5 October 2016

Māori Affairs Select Committee

via email:	Māori Affairs Select Committee	maori.affairs@parliament.govt.nz
	Chairman, Tutehounuku (Nuk) Korako	Nuk.Korako@parliament.govt.nz
	Deputy Chairperson, Nanaia Mahuta	nanaia.mahuta@parliament.govt.nz
Members:	Marama Fox	Marama.FoxMP@parliament.govt.nz
	Pita Paraone	pita.paraone@parliament.govt.nz
	Marama Davidson	marama.davidson@parliament.govt.nz
Green Party MPs:	Catherine Delahunty	Catherine.delahunty@parliament.govt.nz
	Denise Roche	denise.roche@parliament.govt.nz

Tēnā koutou katoa,

In line with recent communications with the Chairman of the Māori Affairs Select Committee (MASC), we understand that MASC will reconvene to deliberate on the Tauranga Moana Iwi Bills next week. To assist with that meeting, the Tauranga Moana Iwi Collective (TMIC) confirms its position as follows:

1. At present, our concern is that our individual Bills state that our historical claims are settled when we have yet to settle our redress for Tauranga Moana.
2. TMIC are therefore seeking support for an amendment to our individual Iwi bills that preserves the right to negotiate redress for Tauranga Moana following enactment of our individual Iwi legislation. As stated in the Ngāti Ranginui submission to MASC, the amendment we seek is as follows:

“(a) Option one: Provide that clause 87 takes effect once the Tauranga Moana Framework legislation is enacted. This could be achieved by adding a new clause after 87(4). Our suggested language is set out below (amendments in bold and underlined).”

87 Settlement of historical claims final

- (1) The historical claims are settled.
- (2) The settlement of the historical claims is final, and, on and from the settlement date, the Crown is released and discharged from all obligations and liabilities in respect of those claims.
- (3) Subsections (1) and (2) do not limit—
 - (a) the deed of settlement; or
 - (b) the collective deed.
- (4) Despite any other enactment or rule of law, on and from the settlement date, no court, tribunal, or other judicial body has jurisdiction (including the jurisdiction to inquire or further inquire, or to make a finding or recommendation) in respect of—
 - (a) the historical claims; or
 - (b) the deed of settlement; or
 - (c) Parts 4 to 6; or
 - (d) the redress provided under the deed of settlement or Parts 4 to 6; or
 - (e) each of the following, to the extent it relates to Ngā Hapū o Ngāti Ranginui:
 - (i) the collective deed;
 - (ii) the collective Act;
 - (iii) the redress provided under the collective deed or the collective Act.

(5) This clause takes effect on and from the date that the Tauranga moana framework legislation is enacted.

(6) Subsection (4) does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or implementation of the deed of settlement, the collective deed, Parts

4 to 6, or the collective Act.

(7) In this section,—

collective Act means Parts 1 to 3 of the Tauranga Moana Iwi Collective Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2015

collective deed means the collective deed defined in section 8 of the collective Act.”

3. The reasons we are seeking this guarantee are as follows:
- a. TMIC do not agree to the terms of the Tauranga Moana Framework (TMF) in its current form.
 - i. In particular, we do not accept the Crown’s view that other iwi (including Hauraki) have interests to warrant a seat on the Tauranga Moana Governance Group. We have asked for the Crown to provide the evidence upon which they made a decision for a 5th seat. We have not been provided with this information from the Office of Treaty Settlements (OTS).
 - ii. Our position is that iwi representation at a governance level is for iwi who hold and exercise mana moana, that is Ngāi Te Rangi, Ngāti Ranginui and Ngāti Pūkenga.
 - b. TMIC articulated its position to the Minister on 15 September 2016. The Minister advised that he was committed to working with TMIC to find a solution.
 - c. Following TMIC’s meeting with the Minister, TMIC and OTS have initiated discussions to resolve TMF, however, we are yet to agree to a solution.
 - d. Unless OTS agrees to remove the 5th seat, we believe that at a solution will not be found by the time that our Bills are expected to be enacted (by December 2016).
4. Whilst we are encouraged by the support of the Māori Affairs Select Committee members for resolving TMF issues (and seek that this continue), TMIC’s immediate request to the members is to recommend support for the amendment of our individual Bills in a timely manner that allows us to achieve settlement by December 2016.
5. In summary, an amendment to our Bills achieves two key objectives for TMIC:
- a. enables legislation of our Individual Iwi Bills by December 2016;
 - b. preserves the right to continue to find a solution for TMF.

Thank you again for your support. We look forward to catching up again after your meeting next week.

Na mātou



Charlie Tāwhiao
Chairperson
Ngāi Te Rangi Settlement Trust



Jocelyn Mikaere
Chairperson
Te Tāwharau o Ngāti Pūkenga
Trust

Te Pio Kawe
Chairperson
Ngā Hapū o Ngāti Ranginui
Settlement Trust

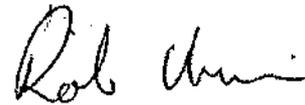
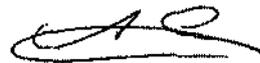
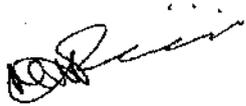
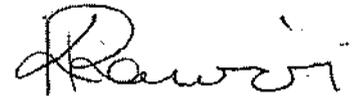
**Tauranga Moana Framework Workshop
Saturday 20 August 2016, 9am – 12pm
Tauranga Moana Trust Board**

Agreed:

GOAL

To achieve a Tauranga Moana Framework that:

- 1) is given effect to through settlement **legislation**;
- 2) preserves **Tauranga Moana, Tauranga Tangata** - that Ngāti Ranginui, Ngāi Te Rangi and Ngāti Pūkenga have mana whenua, mana moana and mana tangata from Nga Kuri a Whareī to Te Tumu, accepting that the Framework Area extends from Waiorooro to Wairakei
- 3) recognises the relationship that Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga have with the people of Mōtiti.
- 4) contains the **same provisions** as agreed in the TMIC Deed (except the 5th seat provisions).



Tuesday 18th October 2016

Maori Affairs Select Committee

Attention : Tutehounuku Korako

Tenā Koe Nuk

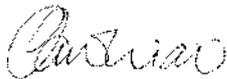
Further to our recent telephone conversation, this letter is to formally advise that whilst we have supported an amendment to our Bill to preserve our right to Tauranga Moana redress (as stated in our letter 5 October 2016), we need to stress that any delay to legislation for Ngāi Te Rangi will have a substantial impact for our Hapu constituents.

The priority for Ngāi Te Rangi therefore, is to achieve legislation this year, and we ask that the Māori Affairs Select Committee progress the Ngāi Te Rangi Bill to its 2nd reading as soon as possible.

For the past eighteen months we have been preparing for the transfer of settlement assets and significant time and costs have been incurred as a result. Any delay in legislation compromises Ngāi Te Rangi's ability to plan and move forward

If an amendment to our Bill to preserve Moana redress is compromising our ability to achieve legislation this year, then the Ngāi Te Rangi Bill must proceed as it is on the understanding that the Crown is fully committed to working with us to resolve outstanding redress for Tauranga Moana.

Naku noa na



Charlie Tawhiao
Chairman

21 October 2016

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Tēnā koutou

Tauranga Moana Framework (TMF): Options to strengthen TMF and define Hauraki Interests

I am writing further to our meeting on 13 September 2016. Thank you all for making the time to meet with us.

At that meeting, we all agreed that while it was important to reflect on the steps that led us to this point, it was more important given our current situation, where you remain uneasy about proceeding with the TMF, that we agree on options to move forward.

With that in mind, Rick Barker and I agreed to provide you with information outlining:

- A statement of aspirations from the Hauraki Collective in relation to the Tauranga Moana framework;
- An outline of the basis upon which the Crown agreed that Hauraki's interests in the Tauranga Moana catchment warranted their participation in one of the 10 seats at the TMF table;
- An outline of possible enhancements to the TMF that would strengthen and clarify the relationship that Tauranga Moana Iwi have with the Moana and its surrounding catchment;
- An outline of options for removing the TMF from the deeds of settlement and allowing TMIC to build their own relationship with Councils outside of the settlement process.

Statement of Aspirations from the Hauraki Collective

You have requested the Crown seek from the Hauraki Collective a statement of Hauraki aspirations and values. Hauraki's response is attached at **Appendix 1**.

The basis upon which the Crown agreed that Hauraki had sufficient interests

- X The Crown does not seek to determine cultural interests and it is preferable that iwi agree these between themselves. However in this case, the Crown has relied upon the Waitangi Tribunal's clear findings, as presented in its report entitled *Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims 2004*.

In considering these findings, it must be remembered that the Tauranga Moana Framework is not simply Tauranga Moana – it is the entire catchment which takes in land interests as well as where these may intersect with interests in the Moana itself.

We attach the section from the Tribunal's report outlining the Crown's payment to Hauraki iwi for their interests in Te Puna-Katikati blocks at Appendix 2 but highlight the key "treaty finding" below:

Section 2.4.2

The [Marutuahu] confederation's claims concern the Te Puna-Katikati purchase – it asserts that it has exclusive 'mana whenua' in the Katikati block and shared interests to Ongare and Uretara in the northern part of the Te Puna block, and that it has wahi tapu 'located deep into the Te Puna Block'. We accept that the confederation had interests in the Katikati block and the northern part of the Te Puna block, but we do not believe that its interests excluded other hapū from also having customary rights within any part of those blocks. We consider that the area was a contested zone, an area where the rights of the confederation overlapped with those of Ngāi Te Rangi. The extent of each side's rights was in dispute at 1840, and was still disputed in 1864 when the purchase of the Te Puna-Katikati blocks commenced. Moreover, as we have indicated above, we believe that assertions of exclusive interests and clear boundary lines between groups are not consistent with Māori custom. We also endorse the *Rekohu* Tribunal's concerns about the use of the term 'mana whenua', particularly when it is used to assert that one group has exclusive authority within a particular area.

- X On the basis of these interests, in 2012, the five Hauraki iwi made an application to the Waitangi Tribunal that the Crown's negotiation of exclusive co-governance arrangements for Tauranga Moana with only the Tauranga iwi would affect Hauraki's interests and would prevent the negotiation of similar redress with Hauraki in the shared areas of interest as noted above. The Tribunal granted their application for urgency.

- X In 2012 the Crown stated in the context of this application: '*the TMF will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC*'.

In considering the interests of Hauraki as acknowledged by the Tribunal and the non-exclusivity of that area, the area to which the TMF applies being the entire catchment including land based interests and the undertaking above, it was clear that the Crown could not create a whole new arrangement specific to the

interests of Hauraki in that part of the catchment – it simply would not work for councils or for the overall health and wellbeing of the Moana to split it into two parts.

Based on all of this information, the Minister agreed to provide for a fifth seat to account for membership of other iwi with interests in the TMF area.

Enhancements to the TMF

You asked us to look at options to strengthen and clarify the Tauranga Moana Iwi Collective (TMIC) connection with the TMF area. There are two possible enhancements. The first is a site of significance statement for the TMF area for all TMIC iwi. The second is to provide a statutory acknowledgement for all TMIC iwi for the TMF area so that TMIC iwi are a party to any resource management proceedings. I note this redress might take some time to develop and would lead to alteration of your settlement legislation. However, if this would assist you in supporting the TMF, we would be happy to explore this.

Alternative options

We discussed at the meeting other forms of redress that might replace the TMF, should you decide not to proceed with the arrangements. These are set out below.

Option 1: Change the TMF to more standard redress

Should TMIC iwi not want to progress with the TMF, the Crown could provide standard natural resources redress. This redress includes either an Advisory Board, where Councils “have regard to” board advice. While the Board is advisory it provides a forum for iwi to provide their perspective directly to councils. An alternative is the formation of a joint Iwi/Council Committee that has input into regional policy statements. This joint Iwi/council committee identifies a perspective that will reflect Iwi views. The redress is similar to the TMF and Hauraki Iwi would be likely to seek representation. Either of these options would require ratification and amendments to the current Bills in the House.

Option 2: Crown encourage development of Tauranga Moana Iwi Collective and council relationships post-settlement

A second option would be for the Crown to facilitate the formalisation of the Tauranga iwi and council relationship post-settlement. The Crown could encourage the development of an Iwi/Council Memorandum of Understanding (MOU) that formalises the relationship and the process for engagement between iwi and Council. Such an MOU could be similar to the Iwi Participation Agreements (IPAs) proposed in the legislation to amend the Resource Management Act currently being considered by Parliament and could support the relationship until the Resource Management Act is amended. The Councils and iwi can also agree on Joint Management Agreements where appropriate. The Crown also proposes that, as with the proposals above, all TMIC iwi should have a Statutory Acknowledgment to the TMF area to support their unique relationship with Tauranga Moana.

I can understand the difficult decisions before you, but as we discussed at the meeting, we are all agreed this matter should be moved to a conclusion as soon as possible. With that in mind, I look forward to your response within two weeks of receiving this letter.

If you think a meeting would be helpful, we are happy to meet again if this aids your decision making.

Nāku noa, nā



Lillian Anderson
Director OTS

Appendix 1: Statement of the aspirations and values of the Pare Hauraki in relation to Tauranga Moana

Pare Hauraki looks forward to participating in the Tauranga Moana Governance Group in order to:

- restore and enhance the ability of the moana and its catchments to provide nourishment and spiritual sustenance;
- protect and enhance the wellbeing and cultural integrity of the moana and its catchments; and
- exercise intergenerational responsibilities of kaitiakitanga for the moana and catchments.

Pare Hauraki will be working alongside the other iwi to ensure our collective views and responsibilities are reflected in the various instruments promulgated under the Resource Management Act, Local Government Act, Fisheries Act and other legislation, and in day to day decision-making.

Appendix 2: Extract from TE RAUPATU O TAURANGA MOANA: Report on the Tauranga Confiscation Claims (Wai 215; 2004)

7.5.2 Hauraki payments

After the Tauranga meeting, Mackay returned to Auckland, whereupon Whitaker instructed him to proceed to Thames and pay Hauraki Maori for their claims to Te Puna–Katikati, according to the arrangements agreed at Tauranga. This, he did, paying the Hauraki claimants a total of £2160 over the next two months as follows:

- A payment of £100 was made to the Ngati Hura hapu of Ngati Paoa on 10 August for their claims over Katikati and Te Aroha. A deed of conveyance was signed by five members of Ngati Hura, surrendering their rights to both Katikati and Te Puna.
- A payment of £500 was made to the Ngati Pukenga of Manaia on 14 August for claims between Katikati and Waimapu and inland to the mountains. Of this, £150 was paid for their interests in the Te Puna–Katikati blocks and £350 for interests in the confiscated block. In the deed signed by 18 members of Tawera, two 50-acre sections and two town allotments at Te Papa were ‘reconveyed’ to Ngati Pukenga chiefs Paroto Tawhiorangi, Ruka Huritaupoki, and Te Riritahi. The fate of these sections is discussed in chapters 10 and 11. The deed conveyed Ngati Pukenga’s claims to ‘the Katikati, Puna, Wairoa and Waimapu blocks’ to the Crown.
- A payment of £1145 was made to Ngati Tamatera and Ngati Maru on 3 September for claims over Katikati, Aroha-atua, and land ‘between the Katikati piece and Te Puna’. Five ‘burial ground reserves’, totalling 75 acres, were also recorded as being set aside for them

in the deed of conveyance, which was signed by Te Moananui, Taraia, and 24 others.

- A payment of £25 was made to two claimants from Ngati Whanaunga. This was later increased to £35, and the two claimants signed the same deed as Ngati Tamatera and Ngati Maru had. The nature of the claim was not recorded by Mackay in his report, and the date of the payment is also unknown.

Referenced to James Mackay, 'Report on the Katikati Purchase and Other Questions Relating to the District of Tauranga', 26

- June 1867, Lc 1/1867/114 (Raupatu Document Bank , vol 7,(pp2329–2334)



3 November 2016

Hon Christopher Finlayson
Parliament Buildings
WELLINGTON

via email: Christopher.Finlayson@parliament.govt.nz

E te Minita, tēnā koe

Ngāti Hinerangi Overlapping Claims: Preliminary Decision

Tauranga Moana iwi acknowledge your letters to each of us in respect of the above matter and collectively respond as follows:

1. Your preliminary decision regarding Ngāti Hinerangi redress in Tauranga Moana is disappointing as there seems to be little consideration of our concerns.
2. TMIC nor Ngāti Ranginui and Ngāi Te Rangi have not had an opportunity to speak directly with your team regarding our concerns.
3. This letter therefore seeks a meeting time with you and your team to discuss our concerns both collectively and individually.
4. We are available to meet on the following dates:
Friday 11 November
Monday 14 November
Friday 18 November

We look forward to your response.

Na mātou

Charlie Tāwhiao
Chairperson
**Ngāi Te Rangi
Settlement Trust**

Jocelyn Mikaere
Chairperson
**Te Tāwharau o
Ngāti Pūkenga Trust**

Te Pio Kawe
Chairperson
**Ngā Hapū o Ngāti Ranginui
Settlement Trust**



3 November 2016

Lil Anderson
Director
Office of Treaty Settlements
WELLINGTON

via email only: lillian.anderson@justice.govt.nz

Tēnā koe Lil

Tauranga Moana Framework and Hauraki

1. This is the TMIC response to your letter of 21 October 2016.
2. Before addressing substantive issues in your letter, we make some preliminary comments:
 - 2.1 Our meeting was on 16 not 13 September 2016, or were you referring to another meeting?
 - 2.2 We are concerned at the delays in receiving information from the Office of Treaty Settlements (OTS). Time is of the essence and this letter comes more than a month after our September meeting yet does not appear to contain anything of significance or complexity that required such a lengthy delay;
 - 2.3 The information we have received is not complete. The letters provided in respect of the offers to the Hauraki Collective and individual Iwi were not substantial and amounted to 4 – 5 letters yet took more than a fortnight to arrive after the 16 September meeting. Bearing in mind, we had actually requested that information much earlier than that;
 - 2.4 In particular, the information provided still does not advise what other redress is being provided to the Hauraki Collective or individual Iwi. We mentioned some items at our meeting, namely, another statutory acknowledgement and a fisheries protocol extending into the moana. There is no confirmation that the table provided is the complete list of any redress that touches on or concerns any part of Tauranga Moana. In our view, OTS cannot rely on its 2013 overlapping claims process. In addition, as you know the 2013 correspondence was not received by Ngā Hapū o Ngāti Ranginui Settlement Trust. Our concern is that our first knowledge of new redress items will be in the initialled deeds for the Hauraki Collective or the individual Iwi.
3. Accordingly, these matters need your urgent attention.

Determination of Hauraki Interest by the Crown.

4. You suggest that the Crown does not seek to determine cultural interests yet that is exactly what the Crown does and has done in this case. The offers to the Hauraki Collective and individual iwi will result not only in a determination of cultural interests but the creation of new cultural interests. Effectively, the Crown is elevating Hauraki to a position they were not at in 1840 or 1864 or subsequently. In that regard, you are doing more than redressing Treaty breaches and furthermore disregarding fundamental principles of te ao Māori that govern relationships between iwi and the environment. The Crown's assessment of interests is also unsatisfactory and extremely rudimentary in our view. It does not address a number of other factors such as:
 - 4.1 The tikanga related to customary interests and mana whenua does not appear to have been addressed;
 - 4.2 The significance of Tauranga Moana to the Tauranga Moana iwi in terms of their identity and position. Indeed your decision making has now put that under threat;
 - 4.3 The Crown does not engage in terms of mana whenua, mana moana. There is no assessment of what actually was the interests of Hauraki at 1840 or 1864 (if any) and whether or not this justifies them having a governance seat at the same level as the other Tauranga iwi and being able to effectively comment on water issues throughout Tauranga Moana, not just in the Katikati block of the parts of the Te Puna block where they may have had some historical associations. There is a perversity in the Crown's review of the Tribunal's findings which were based on the Crown acquisition of the Katikati and Te Puna blocks in 1864. There the Crown acted in a self-interested manner with the aim of ensuring a clear Crown title rather than assessing accurately the levels of interests and associations held by any groups;
 - 4.4 More fundamentally though, you have failed to address the point that the Hauraki Collective and its constituent iwi (except for Ngāti Pūkenga) do not have a history of either asserting the moana as integral to their identity and there is no history of them caring for or exercising kaitiakitanga in relation to the moana prior to or since 1840. There are no petitions or participation in relation to water matters, there are no Environment Court cases or such like. There is nothing except seeking for payment for the Katikati Te Puna transaction. The statement of aspirations from the Hauraki collective is therefore hollow and lacks integrity.
5. Therefore, the determination by the Crown will ultimately taint the settlements achieved with the Tauranga iwi. They will not be seen as an end to the grievances but rather merely a creation of a further grievance on our people.
6. The whole fifth seat mechanism was proposed as a way to avoid delays to our settlements. Yet despite that our settlements have been delayed by three and four years and we are still awaiting justice.
7. Your suggestion that the Tauranga Moana framework negotiated by the Tauranga iwi would affect the Hauraki interests is not explained. Please explain. The Framework does not preclude Hauraki from participating in the various RMA processes which before now they have not sought to participate in at all. The real issue is that the Crown has created new interests for Hauraki, and you are now making every effort to protect such interests without substantial reason.
8. It is also not lost on TMIC that Hauraki representatives actually told us that they could

do better than we had negotiated which is why they wanted to negotiate their own redress. It was only when they were unsuccessful in that endeavour that they sought to be included in our redress. Ultimately it is this inflexibility to provide that alternative that is the source of the problems we are now facing with the Tauranga Moana framework. More fundamentally, even if you consider that Hauraki has an interest it does not mean that their interests are equal in respect of the moana. That is what your assessment fails to address and the fifth seat actually negates.

Proposed enhancements to the TMF

9. In the context of the comments above, it will be clear that the proposed enhancements do not begin or even try to address the fundamental issues with the Tauranga Moana framework. They are largely providing what we already have and are of a lower quality and not at all going to address the issues of mana and cultural interests in Tauranga Moana. The TMIC deed already provides a statement of significance and a statutory acknowledgement so this does not provide us anything new. We can and do participate in all resource management proceedings right now.

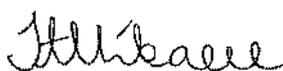
Proposed alternative options

10. TMIC has not considered these and it is not appropriate to give them consideration while the more fundamental issues remain. TMIC drew strength from our meeting with the Minister on 15 September in that he expressed a genuine desire to work closely with Tauranga Moana iwi to find solutions for us. The subsequent communications of OTS are failing to give effect to the Minister's intent.
11. In relation to the Tauranga Moana framework, our position is that iwi representation at a governance level is for iwi who hold and exercise mana moana, that is Ngāi Te Rangī, Ngāti Ranginui and Ngāti Pūkenga. We do not accept that any other iwi have interests that warrant a right to a seat on the Tauranga Moana Governance Group.
12. Tauranga Moana is the source of our identity, belonging and continuity as a people. It is incumbent on the Crown to give serious consideration to options that respect our position.

Na mātou



Charlie Tāwhiao
Chairperson
Ngāi Te Rangī
Settlement Trust



Jocelyn Mikaere
Chairperson
Te Tāwharau o
Ngāti Pūkenga Trust



Te Pio Kawe
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Tab 5

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Tēnā koutou

Tauranga Moana Framework and Hauraki

This draft letter is to provide options on how Tauranga Moana Iwi Collective (TMIC) and the Crown can progress Tauranga iwi settlement legislation given the concerns TMIC have raised about the progress of the Tauranga Moana Framework (TMF). We discussed these proposals during our telephone conference of Friday 25 November.

We noted your letter of 3 November stated 'no other iwi have interests that warrant a right to a seat on the Tauranga Moana Governance Group' of the TMF.

X We acknowledge TMIC's current concerns with representation on the Tauranga Moana Governance Group (TMGG) for the TMF but note the Crown has undertaken in its letter to the Waitangi Tribunal "the TMF will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC." The Crown does not believe that it can now in good faith withdraw its offer to Hauraki iwi for their interests to be represented by the fifth seat mechanism. X

Despite the challenges posed by these positions we welcome TMIC's request the Crown consider options that respect your position.

Expedite legislation through House

The legislation is currently drafted based on the assumption the Crown, TMIC and Hauraki will work on finalising the outstanding representation issues. Ngā Hapū o Ngāti Ranginui have requested their

historical claims not be settled by their legislation until the TMF legislation is passed and we understand other TMIC iwi support Ngā Hapū o Ngāti Ranginui in their position. Given that the commitments are in the Collective all three TMIC iwi and the Crown will need to agree to any changes.

The Crown does not generally agree to exceptions to the full and final settlement of historical treaty claims. On this occasion the Crown is willing to agree to the partial settlement of claims i.e. the settlement of all historical claims other than those that relate to the Tauranga Moana area identified in the draft TMF document.

Doing this though means your legislation would not be reported back from the Māori Affairs Committee until March 2017. Looking ahead there are three options for progressing your legislation.

Option 1

The first option is that TMIC iwi commit to their legislation as it stands while TMIC and iwi with overlapping claims in the TMF area work on how the fifth seat could be used to reflect their interests in Tauranga Moana. The Crown accepts that given TMIC's position above TMIC iwi are not likely to be able to agree to this. The advantage of this option is it does not require amendment to the legislation or Deeds of Settlement that will cause delays to the passing of your legislation. If you were to agree to this option, we could immediately put a request to the House Business Committee to allow your Bills to have second reading on 7 December 2016.

Option 2

Option 2 sees the Crown agree that TMIC iwi historical Waitangi Tribunal claims to the TMF area **would not be settled**. TMIC and iwi with overlapping claims in the TMF area would still need to work together on how the fifth seat could be used to reflect the customary interests of iwi, other than TMIC iwi, in Tauranga Moana. Under this option Tauranga iwi would need to consult with their beneficiaries on the changes by early February 2017 so the Māori Affairs Committee could report back to the House on the first available date (3 March 2017).

Option 3

Option 3 is where TMIC iwi agree to remove the TMF from the redress entirely and the Crown agrees TMIC iwi Waitangi Tribunal historical claims to the TMF area **are not settled**. At some time in the future the Crown and TMIC iwi could undertake negotiations under the Coast and Harbours Redress Guidelines (see Attachment 1). This would require TMIC iwi to re-ratify their Deeds of Settlement by early February

2017 so the Māori Affairs Committee could report back to the House on the first available date (3 March 2017).

Thank you for your positive engagement on this challenging issue for TMIC iwi.

Nāku noa, nā

Doris Johnston
Acting Director

cc: Lil Anderson
Encl:

Attachment 1



May 2016

PARAMETERS FOR TREATY SETTLEMENT NEGOTIATIONS OVER HARBOURS AND OTHER PARTS OF THE COAST

Cabinet proposals

The Government has been working on an approach to fairly and consistently look at the claims of iwi and hapū in relation to harbours and other parts of the coast in their historical Treaty of Waitangi negotiations. Cabinet has recently agreed parameters to guide those negotiations.

Background

The Crown has agreed an arrangement for Tauranga Moana and is working to resolve some remaining matters. It has also commenced negotiations over Kaipara Harbour. A number of other harbours will be subject to negotiations in the future. The Crown is also committed to negotiations on Hauraki ulf T kapa Moana and other limited parts of the coast could also be subject to negotiations.

In some of the negotiations a harbour will be the sole focus but in other situations redress for the harbours will be considered through comprehensive negotiations.

The Government has given close scrutiny to the overlaps between the Marine and Coastal Area (Takutai Moana) Act 2011 and redress that could be offered in negotiations involving harbours. The Crown needs to ensure any rights under that legislation are not undermined. The Government's approach balances needs to achieve enduring settlements, protect existing rights and local democracy and ensure effective resource management.

The parameters

1. Geographical scope

The scope of negotiations over a particular harbour will generally not extend past the mouth although exceptions may be made on a case-by-case basis. Decisions about the seaward scope of negotiations on other parts of the coast will be made by Cabinet.

Negotiations could encompass just the waters of the harbour but could also cover the catchments. Cabinet will assess the appropriate scope under existing natural resource guidelines and guiding considerations.

2. Consistency with existing legislation

Redress must be consistent with existing legislation e.g. the provisions of the Marine and Coastal Area (Takutai Moana) Act 2011, the Resource Management Act 1991, the Fisheries Act 1986 and the Conservation Act 1986.

3. Maintaining the integrity of the Marine and Coastal Area (Takutai Moana) Act 2011

No redress will be offered that is equal to or greater than the following rights granted for customary marine title holders under sections subsections (a)-(f) of section 62 of the Act:

- a. a permission right under the Resource Management Act 1991;2
- b. a conservation permission right;
- c. rights to protect wāhi tapu and wāhi tapu areas
- d. rights in relation to marine mammal watching permits and the New Zealand Coastal Policy Statement;
- e. prima facie ownership of taonga tūturu or
- f. ownership of certain minerals.

Redress may include provision for a document to be prepared by an entity established through the settlement (e.g. a joint committee) provided appropriate measures are included in settlement legislation to ensure the primacy of an existing or future planning document prepared by a customary marine title holder. A maximum weighting of "recognise and provide for" will apply to that document in relation to obligations by a local authority under the Resource Management Act 1991.

4. Potential redress providing for involvement of groups in decision making

Subject to approval by Cabinet under the existing natural resource guidelines and guiding considerations claimants may be offered an arrangement to give them input into decision making involving the harbour or part of coast.

In determining representation of multiple groups on an entity established through a settlement to provide for involvement in decision making the following matters will be taken into account: areas of interest, what other redress is available to each group, the nature of historical grievances, the strength and nature of associations of each group, communities of interest and the extent to which multiple membership is important for ensuring integrated management.

5. Involving all groups with interests

All groups with known associations and interests in a harbour (including groups that have comprehensive settlements) should have the opportunity to be involved at an early stage in negotiations about resource management arrangements, except that where groups are not mandated provision should be made for them to be involved in the arrangement once they are mandated. This is to ensure good contemporary governance.

6. Range of redress available

A full range of standard redress can be considered in negotiations where the harbour or part of the coast is being dealt with as part of comprehensive negotiations.

Where negotiations are dealing discretely with a harbour or part of the coast, redress may be

limited to cultural redress without financial implications. Cabinet must agree in advance if cultural redress with fiscal implications is to be offered.

7. Potential funding for good governance (agreed in parallel with settlement)

Funding may be provided on a case-by-case basis, subject to Cabinet pre-approval for good governance initiatives. The potential funding is not redress and is negotiated in parallel with the settlement of historical claims.

E spencer@kwlaw.co.nz

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Cc: Nightingale, Tony; Hooper, Ron
Subject: FW: Hauraki redress lists for TMIC

Tena koutou

Pleased find attached, Hauraki redress overlapped with Ngai Te Rangi and Ngati Ranginui. I understand there is a fishing protocol that Ngati Pukenga has agreed with Hauraki, I will provide this tomorrow. We are hoping to initial a deed with the Hauraki Collective on Thursday.

Tomorrow, I will also provide the final letter to you with drafting as discussed in last week's teleconferences. For your info, Crown Law have confirmed that you don't need to make a decision on whether you keep the TMF or not right now as we are not proposing to settle the Tauranga Moana claims related to governance, water quality or the health and wellbeing of the Moana as it relates to your health and wellbeing. When you do decide, and should you decide to go with harbours guidelines instead of the TMF then you would need to reratify. I will make this clear in the letter we send tomorrow.

Many thanks for your patience.

Be in touch tomorrow,
Nashwa



Nashwa Boys | Deputy Director, Continuous Improvement | Office of Treaty Settlements
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Te Tari Whakataui Take e pa ana ki te Tiriti o Waitangi

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Thank you.

Hauraki Collective

Redress proposed in Framework Agreement and Agreement in Principle Equivalents

Tauranga Moana Framework

Waihou and Piako rivers and Coromandel waterways Natural Resource Arrangements

Marutūāhu Collective

Cultural redress vestings

- Mahurangi Scenic Reserve, Marutūāhu PSGE to be administering body
- 2.5 ha from Motuora Island Recreation Reserve
- A vesting of 0.5ha from Tiritiri Matangi Scientific Reserve with Department of Conservation to retain full management and administration authority
- 2.37 ha from Motuihe Island Recreation Reserve, Marutūāhu PSGE to be administering body
- Guardhouse building on Fort Takapuna Recreation Reserve
- Blackett's Point: 97 Gladstone Road (site of the Fred Ambler lookout) and 110A Gladstone Road (small grassed bank)

Other cultural redress

- Statutory acknowledgements to be agreed (but to include the NZTA land at Mechanics Bay and exploration for Fort Takapuna)
- Coastal statutory acknowledgement
- Agreement with NZTA about involvement in the Grafton Gully project
- Cultural redress in respect of Tāmaki Block/Kohimarama being explored
- Cultural redress in respect of Hamlins Hill (Mutukaroa) being explored

Commercial redress

- Maramarua CFL (not including the Maungaroa Bush Covenant Area)
- 3 NZDF properties on Calliope Road and NZDF degaussing site (Whangaparaoa Peninsula)
- Landbank properties (final list to be confirmed) - DSP where possible
- 4 NZDF North Shore housing blocks, subject to a short term leaseback to the NZDF

PROPOSED REDRESS FOR HAURAKI AND OVERLAPPING CLAIMS CONSULTATION WITH NGATI RANGINUI

- NZDF Tāmaki Leadership Centre (Whangaparaoa Peninsula), subject to long term leaseback to the NZDF
- NZDF naval museum property at Torpedo Bay, jointly with Ngāi Tai ki Tāmaki, subject to long term leaseback to NZDF
- DSP of Panmure Probation Centre and Boston Road Probation Centre for up to two years, subject to leaseback to the Department of Corrections
- Potential DSP of specified list of Ministry of Education school sites (land only) for up to two years, subject to leaseback to the Ministry of Education
- Deferred purchase of any NZTA land at Mechanics Bay that becomes surplus within 35 years of settlement date
- Short-term deferred purchase of tennis court area and existing local purpose reserve at Blckett’s Point (Gladstone Park), terms and conditions to be agreed, subject to agreement of Auckland Council
- Shared RFR with Ngāti Whātua o Kaipara over specified properties
- Exclusive RFR area in the Kaipara negotiation area
- Shared RFR area in the Mahurangi negotiation area with Te Kawerau ā Maki and Te Rūnanga o Ngāti Whātua
- RFR redress in respect of Aotea being explored

Hako

Redress

Cultural redress vestings:

- Victoria Street property
- Crown Hill Road property
- County Road property
- Waimama Recreation Reserve
- 250 ha within Coromandel Forest Park from Kauaeranga to Ohinemuri:
 - Te Karo Bay
 - Kauaeranga A
 - Kauaeranga B
 - Wentworth Valley A
 - Wentworth Valley B
 - Tairua)
 - Maratoto
 - Omahu

Hako

Redress

- Karangahake maunga tihi
- Pukehangi maunga tihi
- Part Kopuatai Wetland Management Reserve (Cookson lease)
- Part Kopuatai Wetland Management Reserve (Povey lease)
- Patetonga Conservation Area (Spreeuwenberg lease area)
- Patetonga Conservation Area (Williams lease area)
- Part Matahuru Scenic Reserve
- Part Orokawa Scenic Reserve
- Patiki Place
- Statutory acknowledgements over
- Waiponga Reserve
- Ahuahu Great Mercury Island landing reserve (joint with Ngāti Hei, Ngāti Maru, Ngāti Porou ki Hauraki, Ngāti Tamaterā, Ngaati Whanaunga)
- Tanners Point, Athenree (joint with Ngāti Tara Tokonui)
- 69 Broadway, Waihi Beach (joint with Ngāti Tara Tokonui)

Vest and vest back and overlay classification:

- Kopuatai wetland area (joint with Ngāti Maru)

Statutory acknowledgements:

- Uretara Stream, Ohinemuri River, Piako River, Waihou River, Coastal statutory acknowledgement, Part Kaimai Mamaku Conservation Park

Statements of Association:

- Tāmaki Makaurau, Te Aroha maunga, Moehau maunga

Commercial redress:

- Waihi Beach School (land only)
- Pouarua peat block
- Part Tararu Conservation Area (part)

Ngāti Maru

Topics

Cultural redress vestings:

- Port Jackson Recreation Reserve (part)
- Fletcher Bay Recreation Reserve (part)
- Coromandel Forest Park – Manaia
- Tararu Conservation Area (part)
- Thornton Bay Scenic Reserve
- Kauaeranga River Mouth Conservation Area
- Opoutere Beach Recreation Reserve (part)
- Pauanui Conservation Area (part)
- Coromandel Forest Park - Omahu
- Patetonga Lake Wildlife Management Reserve (Wenn Lease and part Troughton Lease)
- Matahuru Scenic Reserve
- Sites on Aotea:
 - Part of Cape Barrier Conservation Area and Cape Barrier Marginal Strip
- Part of Danby Field
- Tararu maunga
- Part of Dickson Park
- 200 ha within Coromandel Forest Park around Omahu, Hikutaia and Kauaeranga –
 - Te Ipuomoehau
 - Table Mountain
 - Chiefs Head
 - Motutapere
 - Kaitarakihi
 - Hikurangi
 - Ngapuketurua
- Part of Tairua Forest Conservation Area – Puketaiko
- Pukewhakatara, Takaihuehue, Paewai, Kaimai Mamaku Forest Park (joint with Ngāti Tamaterā)
- Nga Tukituki a Hikawera and Tangitu, Kaimai Mamaku Forest Park (joint with Ngāti Tamaterā)

Ngāti Maru

Redress

- Tiroa, Waipapa Scenic Reserve (joint with Ngāti Tamaterā)

Vest and vest back and overlay classification:

- Kopuatai wetland area (joint with Hako)

Statutory acknowledgements:

- Crown owned land in the Mercury Islands group

Commercial redress:

- Danby Field site (land only)
- Balance of Port Jackson Recreation Reserve, (up to 557 ha)
- Railway land from Richmond Street to Kauaeranga River, (Approx 3.5)
- Thames Boat Club hardstand, (0.3004)
- Patetonga Lake Wildlife Management Reserve (part Troughton Lease)

Ngāti Tamaterā

Redress

Cultural redress vestings:

- Coromandel Forest Park - Moehau maunga (part)
- Fantail Bay Recreation Reserve (part)
- Fletcher Bay Recreation Reserve (part)
- Stony Bay Recreation Reserve (part) and Sandy Bay Recreation Reserve (part)
- Waikawau Bay Farm Park Recreation Reserve (part)
- Papa Aroha Scenic Reserve
- Waikawau Boat Ramp site
- Te Puru Scenic Reserve

Ngāti Tamaterā

Redress

- Orokawa Scenic Reserve (northern block)
- Coromandel Forest Park - Mackaytown area
- Coromandel Forest Park - Karangahake
- Sites on Aotea:
 - Hilltop Recreation Reserve –
 - Tryphena North Conservation Area
- Reserves administered by TCDC along the Thames Coast:
 - Te Mata North Reserve
 - Tapu Reserve land
 - Waiomu Domain Recreation Reserve (part) -
 - Te Puru Esplanade Recreation Reserve
- Pukewhakatara, Takaihuehue, Paewai, Kaimai Mamaku Forest Park (joint with Ngāti Maru)
- Nga Tukituki a Hikawera and Tangitu, Kaimai Mamaku Forest Park (joint with Ngāti Maru)
- Tiroa, Waipapa Scenic Reserve (joint with Ngāti Maru)

Statutory acknowledgements:

- Ohinemuri River, Whangapoua Conservation Area (Aotea), Tikapa Moana (Ngāti Tamaterā statement of association as part of the Marutūāhu Collective)

Statements of Association:

- The significance of Ngā Turehu o Moehau (native frogs at Moehau), and puna in Waiaro, Paeroa and other places to Ngāti Tamaterā, Te Aputa, Windy Point, Pouraka, Browns Island (Motukorea) and Tāmaki Maunga

Commercial redress:

- Te Puru School, Thames (land only)
- Balance of Sandy Bay, Stony Bay, Fletcher Bay, Waikawau Bay Farm park and Fantail Bay Recreation Reserves

Ngāti Tara Tokonui

Redress

Cultural redress vestings:

- Orokawa Scenic Reserve (southern block)
- Mackaytown Recreation Reserve
- Coromandel Forest Park (Mimitu pa site)
- Karangahake Scenic Reserve (part)
- Dearle Street Conservation Area
- Rawaka Drive, Katikati
- Ngāti Koi Domain (Motueku)
- 69 Broadway, Waihi Beach (joint with Hako)
- Tanners Point, Athenree (joint with Hako)

Overlay classification:

- Karangahake Scenic Reserve

Statutory acknowledgements:

- Aongatete River and its tributaries, Victoria Battery Historic Reserve, Karangahake Walkway Conservation Area, Owharoa Falls Scenic Reserve, Waikino Conservation Area, Waiorongomai(part Kaimai Mamaku Conservation Park), Ohinemuri River, Uretara Stream, Opoutere Beach Recreation Reserve, Waiiau River and its tributaries, Waimata Stream and its tributaries, Coastal Statutory Acknowledgement Area

Statements of Association:

- Te Aroha maunga and Moehau maunga

Commercial redress:

- Paeroa College

Ngāti Rāhiri Tumutumu

Redress

Still under offer

Tatijana Simonlarsen

From: Boys, Nashwa <Nashwa.Boys@justice.govt.nz>
Sent: Tuesday, 20 December 2016 6:09 p.m.
To: Spencer Webster
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: FW: Hauraki redress lists for TMIC
Attachments: Tauranga RFR properties.docx; Tauranga RFR handshake.pdf; 2016 09 16 Letter to N Ranginui re overlapping claims for Waihou Piako rivers.pdf; 2016 09 16 Letter to N Te Rangī re overlapping claims for Waihou Piako r....pdf; 2016 10 11 Letter to Charlie Tawhiao, Ngai Te Rangī Settlement Trust.pdf; Hauraki MPI protocol.docx; Deed drafting for Hauraki Collective on Tauranga Moana FINAL (2).docx

Tēnā kōe Spencer,

Spencer, thank you for your email this morning. I attach the following:

- The list of RFR properties agreed between Hauraki and TMIC
- The letters to Ngati Ranginui and Ngati te Rangī regarding Waihou Piako redress for Hauraki Collective iwi.
- I also attach the MPI protocol that was agreed with Ngati Pukenga.
- For your information I attach the preservation of interests drafting in the Hauraki Collective.

The lists sent yesterday are of the redress being provided that has undergone an overlapping claims process in 2013/2014.

I note your concern around the MPI Fisheries Protocol. I understand that this was signed between Ngati Pukenga and the Hauraki Collective in late 2014. Unlike all of the redress attached in the lists to you yesterday, I could not find any evidence of an overlapping claims process having been run. Thus, this redress will remain square-bracketed in the Hauraki Collective deed until we can run an overlapping claims process in the New Year.)

Additionally, I understand your concern around the coastal statutory acknowledgement. This has not changed since overlapping claims were run in 2013/2014. Any changes to it would need to go through another overlapping claims process.

Please know that we still intend to initial deeds with the Hauraki and Marutuahu collectives this Thursday and Friday respectively.

If you wish to discuss any of this or have further questions, I am available for a teleconference tomorrow - just let me know what time suits.

In regard to your request for info, please see the answers to your questions below.

1. The Hauraki Collective redress related to Tauranga Moana includes:
 - Hauraki Athenree Forest. This was the subject of agreement between the Hauraki Collective and TMIC.
 - MPI Fisheries protocol. This protocol was included in the Ngāti Pukenga Deed to Amend in 2014.
 - The Waihou Piako Coromandel natural resources co-governance arrangement. We have consulted with Ngāi Te Rangī and Ngāti Ranginui on overlapping claims.
 - Tauranga RFR properties. See point seven.
2. The drafting preserves the redress in the TMF for Hauraki iwi. In the event TMIC decide not to proceed with the TMF then the drafting preserves the opportunity for Hauraki iwi to participate in those negotiations. (The Hauraki Collective has not agreed to the Crown providing drafting relating to the TMF to Ngāi Te Rangī and Ngāti Ranginui.)

3. We do not have a list of the waterways included in the Waihou Piako Coromandel natural resources co-governance arrangement. We have previously provided Ngāi Te Rangī and Ngāti Ranginui with a map of the catchment.
4. The only Marutūāhu Collective statutory acknowledgement that touches the Ngāi Te Rangī and Ngāti Ranginui AOIs is the coastal statutory acknowledgement. This was subject to an overlapping claims process with Ngāi Te Rangī and Ngāti Ranginui in 2013 and 2014.
5. There are no landbank properties in the Marutūāhu Collective deed that touch the Ngāi Te Rangī and Ngāti Ranginui AOIs.
6. There are no MOE properties in the Marutūāhu Collective deed that touch the Ngāi Te Rangī and Ngāti Ranginui AOIs. There are no MOE properties in the Hauraki Collective deed.
7. Property redress in Tauranga areas of interest:
 - The list of Tauranga RFR properties is attached. This list was agreed through a selection process in 2014. A photograph of the conclusion of this process is also attached.
 - Landbank properties for individual iwi in the Ngāi Te Rangī and Ngāti Ranginui AOIs are set out in the table below

No	Address	Iwi of Hauraki
8	400 Woodland Road, Katikati	Ngāti Maru
11	132 Park Road, Katikati	Ngāti Tamaterā
15	69 Broadway Road, Waihi Beach	Hako Ngāti Tara Tokanui
26	1679 State Highway 2, Athenree	Ngāti Tamaterā Ngāti Tara Tokanui

Nga mihi,
Nashwa



Nashwa Boys | Deputy Director, Continuous Improvement | Office of Treaty Settlements
 DDI: +64 04 471 4258 | Ext: 62958 | Cell: 027 807 2062 | www.ots.govt.nz
 Te Tari Whakataua Take e pa ana ki te Tiriti o Waitangi

Confidentiality notice:

This email may contain information that is confidential or legally privileged. If you have received it by mistake, please:

- (1) reply promptly to that effect, and remove this email and the reply from your system;
- (2) do not act on this email in any other way.

Thank you.



PART OF THE MINISTRY OF JUSTICE

Office of Treaty Settlements
Justice Centre | 19 Aitken Street | DX SX10111 | Wellington
T 04 494 9800 | F 04 494 9801
www.ots.govt.nz

16 September 2016

Te Pio Kawe
Chair
Ngā Hapū o Ngāti Ranginui Settlement Trust
tepio.kawe@boffamiskell.co.nz

Tēnā koe

Proposed redress for the Hauraki Collective over the Waihou and Piako rivers and the Coromandel waterways

As you may be aware, the Hauraki Collective signed a framework agreement with the Crown in October 2010 (available online at <https://www.govt.nz/treaty-settlement-documents/hauraki/>). The framework agreement set out the Hauraki Collective's aspirations for co-governance of the Waihou and Piako rivers.

The Hauraki Collective comprise of Hako, Ngāi Tai ki Tāmaki, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Ngāti Porou ki Hauraki, Ngāti Pūkenga, Ngāti Rāhiri Tumutumu, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngaati Whanaunga and Te Patukirikiri. These iwi are also in negotiations with the Crown for iwi-specific Treaty of Waitangi settlement redress. Iwi-specific overlapping claims will be conducted at a later date.

The Crown is currently negotiating co-governance arrangements over the waterways of the Waihou River, Piako River and Coromandel catchments as part of the Hauraki Collective's Treaty settlement redress. This also includes arrangements for Raukawa and Ngāti Hauā as provided for in their deeds of settlement and Ngāti Hinerangi as provided for in its Agreement in Principle. A map (**Appendix One**) and description (**Appendix Two**) of the proposed redress is attached to this letter. Final agreement on any redress is subject to the resolution of any overlapping claims to the Crown's satisfaction.

The area of interest of Ngāti Ranginui (as per the Ngāti Ranginui deed of settlement) includes an area of the Waihou River catchment within which the co-governance arrangement applies. As such the Crown seeks your views relating to the proposed redress by **30 September 2016**. We request you give us feedback in writing, whether that is confirmation of support or no objection, specification of any agreement reached with the Hauraki Collective relating to the redress proposed, or identification of issues for discussion.

The Hauraki Collective has asked the Crown to reconsider the decision that direct incorporation of the strategy document arising from the proposed redress into the Waikato Regional Policy Statement be at the discretion of the Waikato Regional Council. If Ministers agree to reconsider this matter direct incorporation of the strategy document would be made mandatory. In the event that this is re-considered by Ministers, if you have any views or information on this alternative redress, I ask you to also provide it to officials by **30 September 2016**. Should Ministers agree to reconsider this, we do not envisage any further consultation in respect of this matter given the engagement at this time.

Direct Engagement

The Crown prefers that groups engage directly on the proposed redress and, where possible, resolve any issues themselves. The Office of Treaty Settlements (OTS) encourages you to engage directly with the Chair of the Hauraki Collective, Paul Majurey, to discuss any matters you may wish to raise. Please ensure any correspondence or agreements with the Hauraki Collective are sent to OTS for our record.

The Crown acknowledges that such discussions can sometimes be complex. Should the need arise the Crown is able to assist in these discussions if all parties agree. OTS officials are also available at any time during this process to meet with you directly to discuss any issue.

We recognise that sometimes all avenues of engagement are exhausted and matters remain unresolved between overlapping groups. In this event, as the Crown is ultimately responsible for the overall overlapping claims process, the Minister for Treaty of Waitangi Negotiations may be required to make a decision. If this step becomes necessary, the Minister will take into account the feedback provided by the Hauraki Collective and other claimant groups with interests as well as relevant historical research. The Minister will then advise all groups concerned of his preliminary decision on the unresolved overlapping claims. If a final Ministerial decision is required, there will be an opportunity to comment on the preliminary decision and provide further information.

Next Steps

The table below sets out the next steps in the process and timeframes:

Next steps	Date
OTS writes to all overlapping groups advising of proposed redress to the Hauraki Collective, and seeks a written response	16 September 2016
Overlapping groups to provide any written response to OTS	30 September 2016
OTS reports to the Minister for Treaty of Waitangi Negotiations on overlapping claims engagement and seeks a preliminary decision if required. The Minister writes to groups and the Hauraki Collective to confirm either: <ul style="list-style-type: none">• that overlapping claims are resolved; or• the outcome of his preliminary decision and seek any further information	7 October 2016
Where a preliminary decision has been made, overlapping groups and the Hauraki Collective provide further information and views to OTS	21 October 2016
OTS reports to the Minister for Treaty of Waitangi Negotiations to seek a final decision on overlapping claims.	28 October 2016
Minister for Treaty of Waitangi Negotiations writes to inform overlapping groups and the Hauraki Collective of his final decision.	31 October 2016

Please provide OTS with any feedback on your views relating to the proposed redress by **30 September 2016**.

The Hauraki Collective can be reached via the Chair Paul Majurey at paul.majurey@ahmlaw.nz or on 027 495 5741.

If you have any queries for the Office of Treaty Settlements on this process please contact me at leah.campbell@justice.govt.nz or on 04 913 9202.

Nāku noa, nā

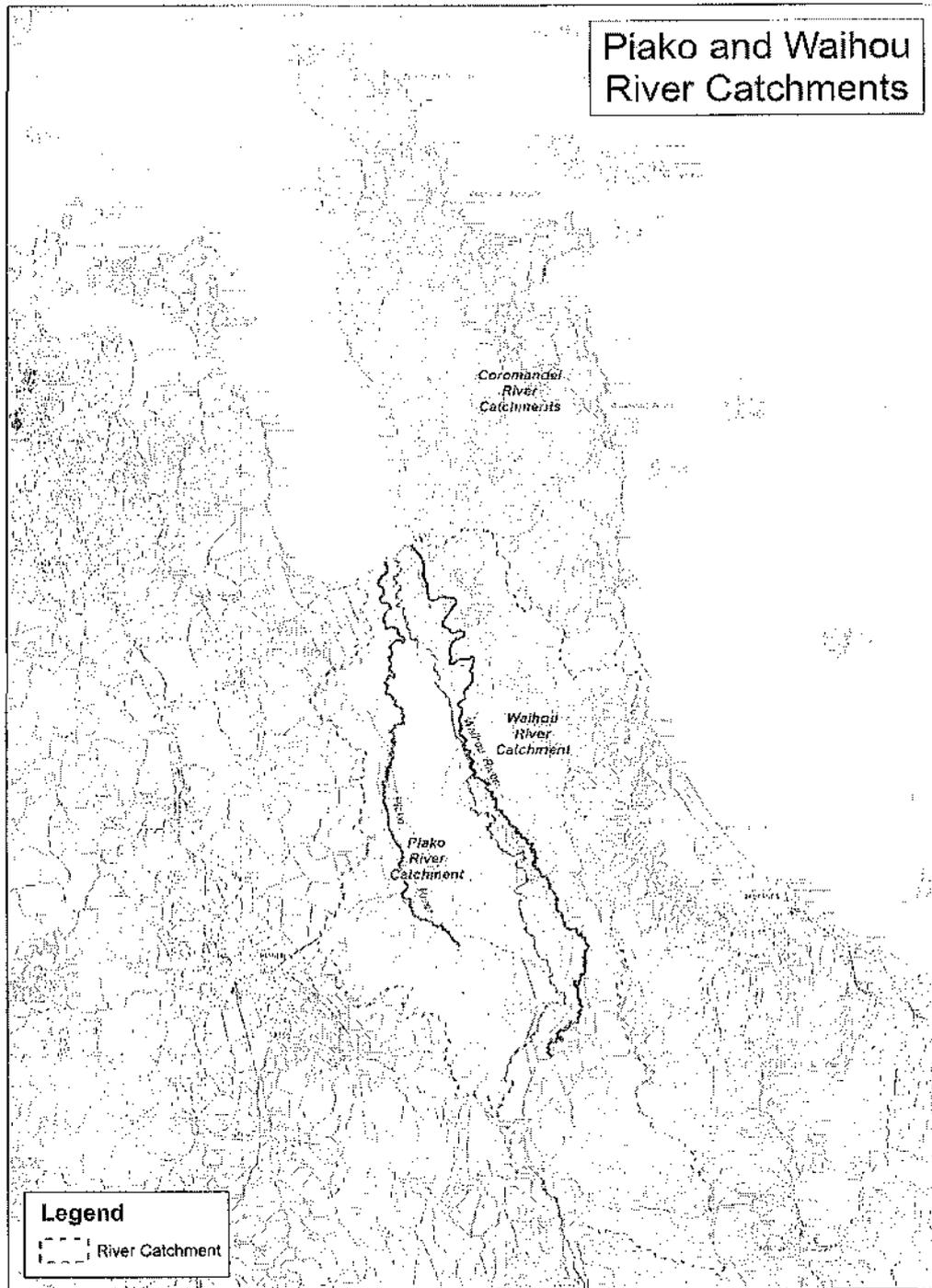
A handwritten signature in black ink that reads "Leah Campbell". The signature is written in a cursive style with a large initial 'L'.

Leah Campbell

Deputy Director, Negotiations and Settlements

cc: Rick Barker, Lead Negotiator, rick.barker@justice.govt.nz
Paul Majurey, Chair, Hauraki Collective, paul.majurey@ahmlaw.nz

Appendix One: Map showing the area covered by Co-governance arrangements for Waihou River, Piako River and Coromandel waterways



Appendix Two: Description of Co-governance arrangements for Waihou River, Piako River and Coromandel waterways

Subject	Proposal	
Coverage	Waterways of the Waihou, Piako and Coromandel catchments (refer to map provided)	
Form of body	Standalone statutory body comprising 50:50 balance of council and iwi membership Ability to establish and delegate to sub-committees for catchments	
Membership	<p>Council members:</p> <ul style="list-style-type: none"> • Waikato Regional Council • Thames-Coromandel District Council • Hauraki District Council • South Waikato District Council • Matamata-Piako District Council 	<p>Iwi members:</p> <ul style="list-style-type: none"> • Hauraki Collective: Ngāti Hako, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Ngāti Porou ki Hauraki, Ngāti Pūkenga, Ngāti Rahiri Tumutumu, Ngāi Tai ki Tāmaki, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngaati Whanaunga and Te Patukirikiri • Ngāti Haua, Raukawa and Ngāti Hinerangi
Purpose	<p>The purpose of the Authority will be to provide co-governance, oversight and direction for the taonga that is the waterways of the Coromandel, Waihou and Piako catchments, in order to promote:</p> <ul style="list-style-type: none"> • a co-ordinated and intergenerational approach; • the Pare Hauraki World View and Programme for a Culture of Natural Resource Partnership; • the values of Raukawa; • the values of Ngāti Hauā; • the values of Ngāti Hinerangi; and • community aspirations for the Waihou, Piako and Coromandel catchments 	
Functions	<p>Promote the integrated and co-ordinated management of the waterways of the Waihou, Piako and Coromandel catchments.</p> <p>Prepare a strategy document for the waterways of the Waihou, Piako and Coromandel catchments (the Waihou Piako Coromandel Catchments Plan).</p> <p>Maintain a register of accredited hearing commissioners for the Waihou, Piako and Coromandel catchments.</p> <p>Provide oversight of the monitoring of activities in and the state of the waterways of</p>	

Subject	Proposal
	<p>the Waihou, Piako and Coromandel catchments including through the implementation and effectiveness of the Waihou Piako Coromandel Catchments Plan.</p> <p>Engage with stakeholders, including liaising with the community, departments and iwi in relation to the waterways of the Waihou, Piako and Coromandel catchments.</p>
Upper Waihou, Piako sub-committee	There will be a sub-committee for the upper Waihou, Piako catchments to support participation of Ngāti Haua, Ngāti Hinerangi and Ngāti Raukawa – role includes developing strategies and policy content for overarching catchments plan.
Strategy / Plan	<p>One overarching plan - high level strategic document (no rules or methods)</p> <p>Discretion of full Waikato Regional Council to directly incorporate plan into Regional Policy Statement (RPS).</p> <p>Otherwise, plan recognition to be “recognise and provide for” in the RPS and when councils are preparing or changing regional and district planning instruments</p> <p>Councils to have regard to plan when making decisions on resource consents until RMA documents have recognised and provided for the plan</p> <p>Councils to ‘have particular regard to’ the plan when functions, powers or duties exercised under the LGA to extent relevant to legislation.</p>
Hearing commissioners for notified consents	<p>Hearings Commissioner register to be developed and agreed by Authority</p> <p>When appointing Hearings Commissioners local authorities must have particular regard to the commissioner register.</p>

	Parcel ID	Address	Description	Land holding Agency
1.	4533574	Katikati	0.2582 hectares, more or less, being Part Lot 2 DP 14325. Part Gazette notice S291001.	New Zealand Transport Agency
2.	4516502, 4349595, 4427202, 4422262, 4348988 and 4270921	Katikati	0.3194 hectares, more or less, being Parts Lot 1 DPS 18155, Parts Allotment 115 Tahawai Parish and Part Allotment 52 Tahawai Parish. All Gazette notice B298084.	New Zealand Transport Agency
3.	4391965, 4511608 and 4433549	Katikati	0.3587 hectares, more or less, being Section 2 SO 23764/1. Part Gazette notice B616919.1. 2.0904 hectares, more or less, being Lot 1 DPS 33673. All Gazette notice B616919.2. 2.9505 hectares, more or less, being Lot 1 DPS 30921. All Gazette notice B616919.3.	New Zealand Transport Agency
4.	4283818	Whakamarama	0.2428 hectares, more or less, being Lot 1 DPS 15263. All computer freehold register SA13B/1106.	New Zealand Transport Agency
5.	4516197	Whakamarama	0.1100 hectares, more or less, being Lot 1 DPS 24491. All computer freehold register SA23A/834.	New Zealand Transport Agency
6.	4342172	Whakamarama	0.7815 hectares, more or less, being Lot 1 DPS 12986. All computer freehold register	New Zealand Transport Agency
7.	Katikati Primary School	28 Beach Road, Katikati	0.6130 hectares, more or less, being Lot 4 DPS 71113. All computer freehold register SA57A/764. 1.6891 hectares, more or less, being Lot 8 DP 14076 and Part Allotment 44 and Part Allotment 72 Parish of Tahawai. All computer freehold register SA343/74. 0.9045 hectares, more or less, being Part Allotment 44 Tahawai	Ministry of Education

			Parish. All Proclamation 9333. 0.1609 hectares, more or less, being Lot 1 DP 33016. All Gazette notice B137959.	
8.	Teacher's Residence PF 1957	33 Park Road, Katikati	0.0999 hectares, more or less, being Lot 4 DP 31304. All computer freehold register 675555.	LINZ Treaty Settlements Landbank
9.	Teacher's Residence	134 Park Road, Katikati	0.0948 hectares, more or less, being Lot 2 DP 447399. All computer freehold register 564613.	[Ministry of Education]
10	4285628	Tahawai	0.0961 hectares, more or less, being Closed Road Survey Office Plan 45505. Part Gazette notice S578671.	New Zealand Transport Agency
11	4368950	Omokoroa	0.5937 hectares, more or less, being Lot 1 DPS 21267. All computer freehold register SA21B/116.	New Zealand Transport Agency
12	4451720	Athenree	0.1871 hectares, more or less, being Part Allotment 94 Katikati Parish. All Gazette notice S339966.	New Zealand Transport Agency
13	4415007*	Aongatete	0.1518 hectares, approximately, being Crown Land Survey Office Plan 18925.	[LINZ]



Office of Hon Christopher Finlayson

11 OCT 2016

Charlie Tawhiao
Chair
Ngāi Te Rangi Settlement Trust

By email: charlie@moanaradio.co.nz

Tēnā koe

Offer to the Hauraki Collective of a natural resource arrangement for the Waihou, Piako and Coromandel waterways

On 16 September 2016 my officials wrote to you seeking comment on the Crown's offer to the Hauraki Collective of a natural resource arrangement for the Waihou, Piako and Coromandel waterways to the extent the catchment is within the Ngāi Te Rangi area of interest. Officials asked that comments be provided by 30 September 2016.

I am advised no response has been received. In lieu of any response, I consider there are no overlapping claims between Ngāi Te Rangi and Hauraki Collective to be considered in relation to the natural resource arrangement for the Waihou, Piako and Coromandel waterways.

If you have any further queries, please contact Leah Campbell, Deputy Director, Negotiations and Settlements, at leah.campbell@justice.govt.nz or 04 913 9202.

Nāku noa, nā

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

CC: Paul Majurey, Chair, Hauraki Collective, paul.majurey@ahmlaw.nz



Ngāi Te Rangi Iwi

21 December 2016

Hon Christopher Finlayson
Private Bag 18041
Parliament Buildings
WELLINGTON 6160

via email: Christopher.Finlayson@parliament.govt.nz

E te Minita,

Ngāi Te Rangi strongly objects to the initialling of the Hauraki Collective and Marutuahu Deeds of Settlement this Thursday 22 December 2016.

We have been requesting information from the Office of Treaty Settlements on the Hauraki redress package for months and we are extremely frustrated that the full extent of this information was only provided last night with notice that the Crown intends to proceed with an initialling this Thursday.

We are outraged by the redress itself but also that the Crown intends to move forward with these Deeds when no engagement has occurred with us on such significant matters.

There are key redress items that we are reviewing for the first time. The proposed Tauranga Moana Framework redress includes statements that are completely inaccurate and unjustified. There is also a MPI Protocol and a coastal statutory acknowledgement that encompasses our heartlands, including Matakana Island. The Crown is disrespecting the mana of Ngāi Te Rangi and our tikanga by offering this redress, and furthermore refusing to provide us with sufficient time to receive, review and respond.

We request that the Crown postpone the initialling this Thursday or remove this redress from their settlement.

Nāku nā,

Charlie Tawhiao
Chairman
Ngāi Te Rangi Iwi

Tatijana Simonlarsen

From: Boys, Nashwa <Nashwa.Boys@justice.govt.nz>
Sent: Wednesday, 21 December 2016 1:53 p.m.
To: Spencer Webster
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: RE: Hauraki redress lists for TMIC
Attachments: Hauraki iwi Treaty settlement offers - Ngāi Te Rangi consultation (1.92 MB)

Kia ora Spencer

As discussed just now, the text in the email below gives the details of the four landbank properties. There are no MoE properties.

Regarding the MPI Fisheries protocol, as we can't find evidence of an overlapping claims process being run around the RFR map, it is being removed from the Hauraki Collective deed. We will run an overlapping claims process on this in the New Year.

Regarding the coastal statutory acknowledgement, I attach evidence that the Crown consulted with Ngai Te Rangi on this in 2013. Ngai Te Rangi did not engage in this process, so there was no final decision for the Minister to make.

Please feel free to call me if there's anything else you need - 027 807 2062.

Kind regards

Nashwa

From: Spencer Webster [mailto:Spencer@kwlaw.co.nz]
Sent: Wednesday, 21 December 2016 12:11 p.m.
To: Boys, Nashwa
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: RE: Hauraki redress lists for TMIC

Tena koe Nashwa

Your email raises a number of issues and does not provide all of the information requested. While you may say the redress in the Deeds has been through an overlapping claims process, the fact that the MPI protocol had not and we brought this to your attention, we cannot rely solely on the Crown's assurances. Furthermore, the correspondence from OTS in 2013 did not disclose what was collective redress other than in isolated instances.

For instance, the Primary Industries protocol document you provided actually discloses further redress that was not in the Ngati Pukenga Deed to amend. Redress that we ought to have been made aware of and had the opportunity to comment on. I refer specifically to the following:

- An advisory committee in clauses 1.1 and 1.2;
- A fisheries RFR as set out in clauses 1.3-1.10. This applies in the Ngai Te Rangi exclusive moana territories including around Matakana Island when their commercial fisheries boundary is north of that area. A proper process by you would have revealed this.

Therefore, we need you to release the information so we can do our own checking and provide comments.

Further to that, we requested the statutory acknowledgements that will be included in the Collective Deeds. One that I can say we have never received and has not gone through a proper process is the coastal statutory acknowledgement. The letter from OTS to Ngai Te Rangi dated 18 October 2013 merely records the following:

Coastal statutory acknowledgement	To be confirmed	?
-----------------------------------	-----------------	---

Hardly, the level of disclosure that a good faith partner would provide in an overlapping claims process. By contrast, our coastal statutory acknowledgement had to be negotiated with overlapping claimants who received a map of the proposed area covered. This is the same opportunity we were afforded with our other neighbours such as Waitaha.

In respect of the RFRs, can you confirm that the only RFRs are those that resulted from the TMIC-Hauraki process.

Can you also provide us with the list of the landbank and MOE properties. Again, we need to check these against the records.

Lastly, I note that there is a relationship agreement with DOC included. What is the coverage of that redress? Are there any other similar redress items?

Spencer Webster
Director

KONING WEBSTER LAWYERS

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From: Boys, Nashwa [<mailto:Nashwa.Boys@justice.govt.nz>]
Sent: Tuesday, 20 December 2016 6:09 PM
To: Spencer Webster
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: FW: Hauraki redress lists for TMIC

Tēnā kōe Spencer,

Spencer, thank you for your email this morning. I attach the following:

- The list of RFR properties agreed between Hauraki and TMIC
- The letters to Ngati Ranginui and Ngati te Rangi regarding Waihou Piako redress for Hauraki Collective iwi.
- I also attach the MPI protocol that was agreed with Ngati Pukenga.
- For your information I attach the preservation of interests drafting in the Hauraki Collective.

The lists sent yesterday are of the redress being provided that has undergone an overlapping claims process in 2013/2014.

I note your concern around the MPI Fisheries Protocol. I understand that this was signed between Ngati Pukenga and the Hauraki Collective in late 2014. Unlike all of the redress attached in the lists to you yesterday, I could not find any evidence of an overlapping claims process having been run. Thus, this redress will remain square-bracketed in the Hauraki Collective deed until we can run an overlapping claims process in the New Year.

Additionally, I understand your concern around the coastal statutory acknowledgement. This has not changed since overlapping claims were run in 2013/2014. Any changes to it would need to go through another overlapping claims process.

Please know that we still intend to initial deeds with the Hauraki and Marutuahu collectives this Thursday and Friday respectively.

If you wish to discuss any of this or have further questions, I am available for a teleconference tomorrow - just let me know what time suits.

In regard to your request for info, please see the answers to your questions below.

1. The Hauraki Collective redress related to Tauranga Moana includes:
 - Hauraki Athenree Forest. This was the subject of agreement between the Hauraki Collective and TMIC.
 - MPI Fisheries protocol. This protocol was included in the Ngāti Pukenga Deed to Amend in 2014.
 - The Waihou Piako Coromandel natural resources co-governance arrangement. We have consulted with Ngāi Te Rangī and Ngāti Ranginui on overlapping claims.
 - Tauranga RFR properties. See point seven.
2. The drafting preserves the redress in the TMF for Hauraki iwi. In the event TMIC decide not to proceed with the TMF then the drafting preserves the opportunity for Hauraki iwi to participate in those negotiations. The Hauraki Collective has not agreed to the Crown providing drafting relating to the TMF to Ngāi Te Rangī and Ngāti Ranginui.
3. We do not have a list of the waterways included in the Waihou Piako Coromandel natural resources co-governance arrangement. We have previously provided Ngāi Te Rangī and Ngāti Ranginui with a map of the catchment.
4. The only Marutūāhu Collective statutory acknowledgement that touches the Ngāi Te Rangī and Ngāti Ranginui AOIs is the coastal statutory acknowledgement. This was subject to an overlapping claims process with Ngāi Te Rangī and Ngāti Ranginui in 2013 and 2014.
5. There are no landbank properties in the Marutūāhu Collective deed that touch the Ngāi Te Rangī and Ngāti Ranginui AOIs.
6. There are no MOE properties in the Marutūāhu Collective deed that touch the Ngāi Te Rangī and Ngāti Ranginui AOIs. There are no MOE properties in the Hauraki Collective deed.
7. Property redress in Tauranga areas of interest:
 - The list of Tauranga RFR properties is attached. This list was agreed through a selection process in 2014. A photograph of the conclusion of this process is also attached.
 - Landbank properties for individual iwi in the Ngāi Te Rangī and Ngāti Ranginui AOIs are set out in the table below

No	Address	Iwi of Hauraki
8	400 Woodland Road, Katikati	Ngāti Maru
11	132 Park Road, Katikati	Ngāti Tamaterā
15	69 Broadway Road, Waihi Beach	Hako Ngāti Tara Tokanui
26	1679 State Highway 2, Athenree	Ngāti Tamaterā Ngāti Tara Tokanui

Nga mihi,
Nashwa



Nashwa Boys | Deputy Director, Continuous Improvement | Office of Treaty Settlements
DDI: +64 04 471 4258 | Ext: 62958 | Cell: 027 807 2062 | www.ots.govt.nz
Te Tari Whakatau Take e pa ana ki te Tiriti o Waitangi

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Thank you.

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- (1) reply promptly to that effect, and remove this email and the reply from your system;
- (2) do not act on this email in any other way.

Thank you.

Tatijana Simonlarsen

From: Levy, Adam <Adam.Levy@justice.govt.nz>
Sent: Saturday, 19 October 2013 3:42 p.m.
To: 'mita@hotmail.co.nz'; 'charlie@moanaradio.co.nz'
Cc: 'mcenteer@actrix.co.nz'; 'patsy@aehl.co.nz'; 'Paul.Majurey@ahjmlaw.com';
'liane.ngamane@hotmail.com'; Taylor, Benedict; 'josie.anderson@rocketmail.com';
'mike@thepolicyshop.org.nz'; 'amelia.w@vodafone.co.nz'; 'ngakoma@xtra.co.nz';
'russellkaru@xtra.co.nz'; 'kenlinstead@yahoo.com'
Subject: Hauraki iwi Treaty settlement offers - Ngāi Te Rangi consultation
Attachments: IMAGE.bmp; Ngai Te Rangi consult.pdf; Hako offer.pdf; Maru offer.pdf; Tamatera offer.pdf; Tara Tokanui offer.pdf; Marutuahu Collective offer.pdf

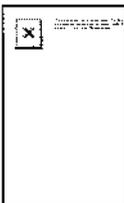
It appears the file names were too long to allow some recipients to open them. For completeness I am re-sending to all. Aroha mai

Kia ora

Please find attached a letter relating to Hauraki iwi Treaty settlement offers.

Ngā mihi,

Adam Levy



Adam Levy | Negotiation and Settlement Manager | Office of Treaty Settlements
DDI: (04) 918 8520 | Ext: 58520 | Mobile: 027 838 9776 | www.ots.govt.nz
Te Tari Whakatau Take e pa ana ki te Tiriti o Waitangi



PART OF THE MINISTRY OF JUSTICE

Office of Treaty Settlements
Justice Centre | 19 Aitken Street | DX SX10111 | Wellington
T 04 494 9800 | F 04 494 9801
www.ots.govt.nz

18 October 2013

Charlie Tawhiao and Mita Ririnui
Chairpersons
Te Rūnanga o Ngāi Te Rangī Iwi Trust
PO Box 4369
MT MAUNGANUI SOUTH 3149

Email: charlie@moanaradio.co.nz and mita@hotmail.com

Tēnā kōrua

Proposed redress for Hauraki iwi

Further to my letter of 4 October 2013 the Minister for Treaty of Waitangi Negotiations recently made a Treaty settlement offer to the following Hauraki iwi: Ngāti Tamaterā, Ngāti Maru, Ngāti Tara Tokanui, Ngāti Hako and the Marutūāhu Collective.

The proposed redress is subject of the resolution of overlapping claims to the Crown's satisfaction. In this case the area of interest of Ngāi Te Rangī (as per the Ngāi Te Rangī deed of settlement) includes an area where redress is being offered to the Hauraki iwi.

This letter **encloses** the proposed redress offers and seeks your view. As you are aware, the Crown's preference is for iwi to engage directly on the proposed redress and resolve any issues themselves. The Hauraki iwi will be seeking to engage with you on the proposed redress packages. You may wish to take steps yourselves to approach those iwi. If you have no issues to raise in respect of the redress offers we would appreciate you advising of this.

The Crown seeks feedback from you on the outcome of any engagement with the Hauraki iwi and identification of unresolved issues by **30 October 2013**.

If you cannot reach agreement the Minister will make a preliminary decision. The types of information that would assist the Minister are:

- a. historical and cultural information;
- b. whether and how you consider your interests (including cultural and commercial) might be affected by the proposals; and
- c. any other information that you consider may assist the Crown in assessing the appropriateness, or otherwise, of the offer to Hauraki iwi, when balanced with your interests.

This is an open process and any information you provide will be made available to the Hauraki iwi and they will have a chance to comment on it unless you request otherwise. You will also have an opportunity to comment on the Minister's preliminary view. The timeframes for this process are detailed in the appended table.

Any queries in relation to the Ngāti Tamaterā redress proposal can be directed to John McEnteer at mcenteer@actrix.co.nz or 021 985 127, or Liane Ngamane at liane.ngamane@hotmail.com or 021 133 2760.

Any queries in relation to the Ngāti Maru redress proposal can be directed to Paul Majurey at paul.majurey@ahjmlaw.com or 027 495 5741, or Waati Ngamane at ngakoma@xtra.co.nz or 021 118 1757.

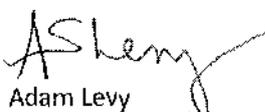
Any queries in relation to the Ngāti Tara Tokanui redress proposal can be directed to Amelia Williams at amelia.w@vodafone.co.nz or 021 501 312 or Russell Karu at russellkaru@xtra.co.nz or 027 572 5278.

Any queries in relation to the Ngāti Hako redress proposal can be directed to Josie Anderson at josie.anderson@rocketmail.com or 021 467 833, or John Linstead at kenlinstead@yahoo.com or 027 293 2060.

Any queries in relation to the Marutūāhu Collective redress proposal can be directed to Paul Majurey whose contact details are outlined above.

If you have any queries for the Office of Treaty Settlements on this process please contact me on (04) 918 8520 or 027 838 9776.

Nāku noa, nā



Adam Levy

Negotiation and Settlement Manager

Office of Treaty Settlements

cc: Michael Dreaver, Chief Crown Negotiator,
Patsy Reddy, Chief Crown Negotiator,
Benedict Taylor, Negotiation and Settlements Manager,
John McEnteer, Negotiator, Ngāti Tamaterā,
Liane Ngamane, Negotiator, Ngāti Tamaterā,
Paul Majurey, Negotiator, Ngāti Maru & Chairperson, Marutūāhu Collective,
Waati Ngamane, Negotiator, Ngāti Maru,
Amelia Williams, Negotiator, Ngāti Tara Tokanui,
Russell Karu, Negotiator, Ngāti Tara Tokanui,
Josie Anderson, Negotiator, Ngāti Hako,
John Linstead, Negotiator, Ngāti Hako

ATTACHMENT ONE: CONSULTATION TIMEFRAMES

	Key Steps	Date
1	Office of Treaty Settlements notifies iwi outlining the overlapping claims process	7 October 2013
2	Office of Treaty Settlements writes to iwi disclosing the proposed redress package for Individual Hauraki iwi	18 October 2013
3	Iwi to provide feedback and/or advise of any agreements reached with Hauraki iwi	30 October 2013
4	Office of Treaty Settlements assessment of submissions and report to the Minister seeking a preliminary decision on any unresolved claims	31 October – 7 November 2013
5	Minister to advise iwi of preliminary decisions, and if required, the Chief Crown Negotiator or OTS officials will meet with iwi	11 November 2013
6	Responses from iwi on Minister's decision	19 November 2013
7	Report to Minister on final decisions	20 November – 26 November 2013
8	Minister releases final decisions on overlapping claims on Hauraki redress packages	29 November 2013

Crown redress offer for Ngāti Hako

HISTORICAL ACCOUNT/CROWN ACKNOWLEDGEMENTS/APOLOGY			
Ngāti Hako specific historical account, Crown acknowledgements, and Crown apology			
CULTURAL REDRESS			
Transfers			
Site	Held by	Size of property	Encumbrances^{1,2,3,4}
Kopuatai Wetland Management Reserve (Povey Lease area)	DOC	37.3 ha	Mechanism for protection of conservation values to be determined
Kopuatai Wetland Management Reserve (Cookson Lease area)	DOC	28 ha	Mechanism for protection of conservation values to be determined
Te Karo Bay (Sailors Grave Road), Coromandel Forest Park	DOC	3 ha	Mechanism for protection of conservation values to be determined
Karangahake Gorge site within Kaimai Mamaku Forest Park	DOC	100 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Matahuru Scenic Reserve	DOC	25 ha	Scenic reserve status Iwi PSGE to be appointed as administering for the new reserve
Coromandel Forest Park (sites from Ohinemuri to Kauaeranga)	DOC	250 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Orokawa Scenic Reserve	DOC	40 ha	Scenic reserve status Iwi PSGE to be appointed as administering for the new reserve

¹ All vestings subject to any existing third party interests, which are still to be confirmed through disclosure

² Crown still to confirm approach to continued inclusion of sites within the Hauraki Gulf Marine Park

³ Where land adjoins a waterway, and is not remaining as a reserve, Part 4A of the Conservation Act regarding the reservation of marginal strips will apply.

⁴ Crown still to propose approach to any ongoing DOC management of transfer sites, in particular for pest control

Ahuahu Great Mercury Island Landing Reserve <i>Joint with Ngāti Hei, Ngāti Maru, Ngāti Porou ki Hauraki, Ngāti Tamaterā, Ngāti Whanaunga</i>	DOC	0.814 ha	Mechanism for protection of conservation values to be determined
Crown Hill Road, Karangahake	LINZ	0.8094 ha	To be determined following disclosure
Cnr County Road/Crown Hill Road, Karangahake	LINZ	0.0799 ha	To be determined following disclosure
Tanners Point, Athenree - 25% interest <i>Joint with Ngāi Te Rangi and Ngāti Tara Tokanui</i>	OTS landbank	0.1961 ha	As identified in the disclosures supplied for this property
69 Broadway, Waihi Beach - 25% interest <i>Joint with Ngāi Te Rangi and Ngāti Tara Tokanui</i>	OTS landbank	0.0587 ha	As identified in the disclosures supplied for this property

Potential transfers subject to confirmation of availability and necessary approvals

Site	Held by	Size of property	Encumbrances
Tararu Conservation Area <i>Subject to further discussion with Ngāti Maru</i>	DOC	50 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Karaka Conservation Area <i>Subject to further discussion with Ngāti Maru</i>	DOC	50 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Patetonga Conservation Area (Spreeuwenberg Lease)	DOC	71.3 ha	Mechanism for protection of conservation values to be determined
Patetonga Conservation Area (Williams Lease)	DOC	50.8 ha	Mechanism for protection of conservation values to be determined
Patiki Place Recreation Reserve, Whangamata	TCDC	0.5030 ha	To be determined
Waiponga Recreation Reserve, Opoutere	TCDC	0.8930 ha	To be determined

Vest and vest back		
Site	Held By	Area
The Kopuatai Wetland Area comprised of Torehape Wetland Management Reserve; Kopuatai Wetland Management Reserve; and Flax Block Wildlife Management Reserve <i>Joint with Ngāti Maru and possibly other iwi subject to further discussion with Ngāti Maru</i>	DOC	To be confirmed, area retained in Crown ownership only
Overlay Classification		
Site	Held By	Area
The Kopuatai Wetland Area comprised of Torehape Wetland Management Reserve; Kopuatai Wetland Management Reserve; and Flax Block Wildlife Management Reserve <i>Joint with Ngāti Maru and possibly other iwi subject to further discussion with Ngāti Maru</i>	DOC	To be confirmed, area retained in Crown ownership only
Statutory Acknowledgements		
Site	Area	
Waiorongomai, Kaimai Mamaku Conservation Park	250 ha	
Ngatamahinerua, Kaimai Mamaku Conservation Park	To be confirmed	
Wairere Falls Scenic Reserve	To be confirmed	
Wairakau Scenic Reserve	128.2264 ha	
Mueller St, Conservation Area, Waihi	To be confirmed	
Waimama Recreation Reserve, Whiritoa Bay	To be confirmed	
Ohinemuri River	To be confirmed	
Uretara Stream	To be confirmed	
Crown-owned land in the Mercury Islands group	To be confirmed	
Coastal Statutory Acknowledgement	To be confirmed	

Statements of Association
Tāmaki Makaurau
Piako River, including Waitoa River.
Statement of association for Te Aroha maunga and Moehau maunga, if desired
Other statements of association to be determined

COMMERCIAL REDRESS	
Site	Terms
Ministry of Education school site Sale and leaseback (land only) of one school site on settlement date - Waihi Beach Primary School being investigated	Subject to confirmation the land is available for sale and leaseback Agreement to MoE sale and leaseback conditions
Landbank Properties Purchase of Hauraki landbank properties as agreed with the Hauraki Collective	Settlement date transfer or within 60 days via the Hauraki Collective PSGE
Other Pouarua Peat Block	One year deferred selection, with further details to be explored

Crown redress offer for Ngāti Maru

HISTORICAL ACCOUNT/CROWN ACKNOWLEDGEMENTS/APOLOGY			
Ngāti Maru specific historical account, Crown acknowledgements, and Crown apology			
CULTURAL REDRESS			
Transfers			
Site	Held by	Size of property	Encumbrances^{1,2,3, 4}
Part of Te Matuku Bay Scenic Reserve	DOC	1-2 ha <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve
Part of Port Jackson Recreation Reserve	DOC	100 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control
Part of Fletcher Bay Recreation Reserve	DOC	30 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control
Part of Coromandel Forest Park – Manaia area	DOC	Approx 110 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined

¹ All vestings subject to any existing third party interests, which are still to be confirmed through disclosure

² Crown still to confirm approach to continued inclusion of sites within the Hauraki Gulf Marine Park

³ Where land adjoins a waterway, and is not remaining as a reserve, Part 4A of the Conservation Act regarding the reservation of marginal strips will apply.

⁴ Crown still to propose approach to any ongoing DOC management of transfer sites, in particular for pest control

Part of Tararu Conservation Area	DOC	150 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Thornton's Bay Scenic Reserve	DOC	43.89 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve
Kauaeranga River Mouth Conservation Area	DOC	0.87 ha	Unencumbered except for existing lease to Thames Boat Club Marginal strip provisions apply
Part of Opoutere Beach Recreation Reserve	DOC	10 ha <i>Exact location to be determined</i>	Recreation reserve status Iwi PSGE to be appointed as administering body for the new reserve
Part of Pauanui Conservation Area	DOC	150 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
105 Isabel Street, Whangamata <i>Joint with Ngāti Hako, Ngāti Tamaterā, and Ngāti Whanaunga (offer for these iwi is commercial redress)</i> OR Additional hectares at an alternative site (new site or increase to an existing site) OR Cultural revitalisation funding	OTS landbank	0.0607 ha	As identified in the disclosures supplied for this property
Part of Coromandel Forest Park – Areas around Omahu, Hikutaia and Kauaeranga	DOC	200 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Part of Kaimai Mamaku Conservation Park (in relation to Ngā Tukituki a Hikawera and Tangitu) <i>Joint with Ngāti Tamaterā and Ngāti Rahiri Tumutumu</i>	DOC	15 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined

Part of Kaimai Mamaku Conservation Park (in relation to Pukewhakarātara (20ha), Takaihuehue (2ha), and Paewai (2ha)) <i>Joint with Ngāti Tamatera</i>	DOC	24 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Part of Waipapa River Scenic Reserve (in relation to Tiroa) <i>Joint with Ngāti Tamaterā</i>	DOC	2 ha <i>Exact location to be determined</i>	Scenic Reserve status Administering body to be appointed with representatives from both iwi PSGEs
Great Mercury Island Landing Reserve <i>Joint with Ngāti Hako, Ngāti Hei, Ngāti Porou ki Hauraki, Ngāti Tamaterā, Ngāti Whanaunga</i>	DOC	0.814 ha	Mechanism for protection of conservation values to be determined
One of the following:			
Puriri Scenic Reserve	DOC	141.2 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve
Patetonga Lake Wildlife Management Reserve (Wenn Lease and part Troughton Lease)	DOC	Approx 15.46 ha	Mechanism for protection of conservation values to be determined
Kītahi Conservation Area	DOC	188.26 ha	Mechanism for protection of conservation values to be determined
Potential transfers subject to confirmation of availability and necessary approvals			
Site	Held by	Size of property	Encumbrances
A site on Aotea	TBC	TBC	TBC
Part of Matahuru Scenic Reserve or Mangapiko Valley Scenic Reserve (subject to substitution of hectares from another vesting)	DOC	10 ha <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve
Hauraki maunga of importance to Ngāti Maru not otherwise covered by a vesting	DOC	TBC	TBC

Vest and vest back		
Site	Held By	Area
The Kopuatai Wetland Area comprised of Torehape Wetland Management Reserve; Kopuatai Wetland Management Reserve; and Flax Block Wildlife Management Reserve (area retained in Crown ownership only) <i>Joint with Ngāti Hako and possibly other iwi subject to discussion with Ngāti Hako</i>	DOC	TBC
Overlay Classification		
Site	Held By	Area
The Kopuatai Wetland Area comprised of Torehape Wetland Management Reserve; Kopuatai Wetland Management Reserve; and Flax Block Wildlife Management Reserve (area retained in Crown ownership only) <i>Joint with Ngāti Hako and possibly other iwi subject to discussion with Ngāti Hako</i>	DOC	TBC
Repanga (Cuvier) Island Nature Reserve <i>Joint with Ngāti Hei, Ngāti Tamaterā and Ngāti Whanaunga</i>	DOC	171ha
Statutory Acknowledgements		
Statutory acknowledgement over Crown owned land in the Mercury Islands group		
Coastal marine statutory acknowledgement for Tikapa Moana (as part of the Marutūāhu Collective) with a specific statement of association for Ngaati Whanaunga		
Others to be determined, but to include consideration for Crown land in Mount Saint John area		

Other
1877 Rates Agreement Facilitated agreement with Thames Coromandel District Council in relation to the 1877 Rates Agreement

COMMERCIAL REDRESS	
Property	Terms
<p>Ministry of Education school sites</p> <p>One school site for sale and leaseback (land only) on a DSP basis specifically for Ngāti Maru - Danby Field being investigated</p> <p>Joint sale and leaseback (land only) on a DSP basis of Manaia School with Ngāti Pukenga and Ngāti Whanaunga</p>	<p>Subject to confirmation the land is available for sale and leaseback</p> <p>Agreement to the leaseback</p> <p>Agreement to the DSP term</p>
<p>OTS Landbank Properties</p> <p>Purchase of Hauraki landbank properties as agreed with the Hauraki Collective</p>	<p>Settlement date transfer or within 60 days via the Hauraki Collective PSGE</p>
<p>Kiwirail Land, Thames</p> <p>Ngāti Maru office site and adjoining railway corridor to the Waihou River</p>	<p>Subject to confirmation the land is available for redress, necessary approvals and protection of any third party interests as required</p>
<p>LINZ "hardstand" area, Thames</p>	<p>Subject to protection of any third party interests as required</p>
<p>NZTA land</p> <p>Land held for roading purposes below Totara Pā and in the vicinity of Kopu/Matai Whetu</p>	<p>Subject to confirmation the land is available for redress, necessary approvals and protection of any third party interests as required</p>
<p>Balance of Port Jackson Recreation Reserve</p> <p>Available to Ngāti Maru as commercial redress</p>	<p>Reserve status to be determined and protection of any third party interests</p>
<p>Pouarua peat block (Landcorp)</p> <p>Second option to purchase, if available</p> <p><i>Joint with Ngāti Tamaterā</i></p>	<p>Subject to confirmation this redress is available</p>

Crown redress offer for Ngāti Tamaterā

HISTORICAL ACCOUNT/CROWN ACKNOWLEDGEMENTS/APOLOGY			
Ngāti Tamaterā specific historical account, Crown acknowledgements, and Crown apology			
CULTURAL REDRESS			
Transfers			
Site	Held by	Size of property	Encumbrances ^{1,2,3,4}
Moehau Region			
Part of Coromandel Forest Park (Moehau maunga) outside Collective vesting area	DOC	10 ha <i>Exact location to be determined</i>	Reserve status to be determined and subject to Hauraki Collective co-governance arrangements
Part of Fantail Bay Recreation Reserve	DOC	10 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control
Part of Fletcher Bay Recreation Reserve	DOC	30 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control

¹ All vestings subject to any existing third party interests, which are still to be confirmed through disclosure

² Crown still to confirm approach to continued inclusion of sites within the Hauraki Gulf Marine Park

³ Where land adjoins a waterway, and is not remaining as a reserve, Part 4A of the Conservation Act regarding the reservation of marginal strips will apply.

⁴ Crown still to propose approach to any ongoing DOC management of transfer sites, in particular for pest control

Part of Stony Bay and/or Sandy Bay Recreation Reserves	DOC	At least 155 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control
Part of Waikawau Bay Farm Park Recreation Reserve	DOC	5 ha <i>Exact location to be determined</i>	Reserve status to be determined Iwi PSGE to be appointed as administering body for the new reserve Easements for tracks Possible provisions for ongoing DOC management activities such as pest control
Ahirau Scenic Reserve	DOC	6.68 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve
Papa Aroha Scenic Reserve	DOC	27.9 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve
Great Mercury Island Landing Reserve <i>Joint with Ngāti Hako, Ngāti Hei, Ngāti Maru, Ngāti Porou ki Hauraki, Ngāti Whanaunga</i>	DOC	0.814 ha	Mechanism for protection of conservation values to be determined
Waikawau Region			
Waikawau Boat Ramp site	DOC, LINZ, TCDC	Approx 3 ha	As per OTS letter of 11 July 2013
Te Puru Scenic Reserve	DOC	Up to 40.95 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve
Ohinemuri region			
Part of Orokawa Scenic Reserve	DOC	Approx 121 ha (northern parcel) <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve

Part of Coromandel Forest Park (Mackaytown area) Sec 76 Blk XIII Ohinemuri SD	DOC	Up to 242.81 ha <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve
Part of Kaimai Mamaku Conservation Park Sec 2 Blk VII Aroha SD	DOC	Up to 145.28 ha <i>Exact location to be determined</i>	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve
Te Puna - Katikati			
Te Kauri Point Historic Reserve <i>Joint with Ngāi Te Rangi</i>	Crown land managed by Western Bay of Plenty District Council	Approx 17 ha	Historic reserve status Co-governance with Western Bay of Plenty District Council
Part of Kaimai Mamaku Conservation Park (in relation to Ngā Tukituki a Hikawera and Tangitu) <i>Joint with Ngāti Maru and Ngāti Rahiri Tumutumu</i>	DOC	15 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Part of Kaimai Mamaku Conservation Park (in relation to Pukewhakaratarata (20ha), Takaihuehue (2ha), and Paewai (2ha)) <i>Joint with Ngāti Maru</i>	DOC	24 ha <i>Exact location to be determined</i>	Mechanism for protection of conservation values to be determined
Part of Waipapa River Scenic Reserve (in relation to Tiroa) <i>Joint with Ngāti Maru</i>	DOC	2 ha <i>Exact location to be determined</i>	Scenic Reserve status Administering body to be appointed with representatives from both iwi PSGEs
Potential transfers subject to confirmation of availability and necessary approvals			
Site	Held by	Size of property	Encumbrances
A site on Aotea	TBC	TBC	TBC
13 Port Charles Road	LINZ	TBC	TBC
Hauraki maunga of importance to Ngāti Tamaterā not otherwise covered by a vesting	DOC	TBC	TBC
Waikawau region			
Reserves administered by the Thames Coromandel District	Crown administered by Thames	TBC	TBC

Council along the Thames Coast	Coromandel District Council		
Overlay Classification			
Site	Held By	Area	
Repanga (Cuvier) Island Nature Reserve <i>Joint with Ngāti Hei, Ngāti Maru and Ngāti Tamaterā</i>	DOC	171 ha	
Statutory Acknowledgements			
Site	Area		
Ohinemuri River (subject to meeting Crown requirements)	N/A		
Waikawau Bay Farm Park Recreation Reserve (Crown-owned land)	TBC		
Statutory acknowledgement over Crown owned land in the Mercury Islands group	TBC		
A coastal marine statutory acknowledgement for Tikapa Moana (as part of the Marutūāhu Collective) with a specific statement of association for Ngāti Tamaterā that could include, for example, reference to the significance for Ngāti Tamaterā of Motukaraka, Te Papa o Tamaterā, the coastline of Te Naupata, Horohora, Ngā Kuri a Whareī, and the pouraka at Waioro, Otautu, Pohaua (Te Whau Point)	N/A		
Other areas to be determined (both Hauraki and Tāmaki Makaurau)	TBC		
Statements of Association			
Statements of association regarding: <ul style="list-style-type: none"> • the significance of Ngā Turehu o Moehau (native frogs at Moehau) to Ngāti Tamaterā; • the association of Ngāti Tamaterā with Te Aputa; • the significance of puna in Waioro, Paeroa and other places to Ngāti Tamaterā. 			
Other			
Moehau maunga Recognition of Ngāti Tamaterā's particular interests in relation to the western face (to Waioro) - mechanism to be determined			

COMMERCIAL REDRESS	
Property	Terms
Ministry of Education school site Sale and leaseback of a school site (land only) on a DSP basis - Te Puru School is being investigated	Subject to confirmation that the land is available for sale and leaseback Agreement to the leaseback Agreement to the DSP term
OTS Landbank Properties Purchase of Hauraki landbank properties as agreed with the Hauraki Collective and proposed by Crown where agreement not reached	Settlement date transfer or within 60 days via the Hauraki Collective PSGE
Whenuakite Farm 15% proportion for Ngāti Tamaterā - <i>subject to discussion with Ngāti Hei</i>	Settlement date transfer
Balance of Sandy Bay, Stony Bay and Fantail Bay Recreation Reserves Available to Ngāti Tamaterā as commercial redress	Reserve status to be determined and protection of any third party interests
Pouarua peat block (Landcorp) Second option to purchase, if available <i>Joint with Ngāti Maru</i>	Subject to confirmation this redress is available

Crown redress offer for Ngāti Tara Tokanui

HISTORICAL ACCOUNT/CROWN ACKNOWLEDGEMENTS/APOLOGY			
Ngāti Tara Tokanui specific historical account, Crown acknowledgements, and Crown apology			
CULTURAL REDRESS			
Transfers			
Site	Held by	Size of property	Encumbrances^{1,2,3,4}
Part of Orokawa Scenic Reserve	DOC	60 ha (approx)	Scenic reserve status Iwi PSGE to be appointed as administering body for the new reserve
Mackaytown Recreation Reserve	DOC	2.96 ha	Recreation reserve status Iwi PSGE to be appointed as administering body for the reserve
Part of Coromandel State Forest Park (Mimitu Pā)	DOC	180 ha	Mechanism for protection of conservation values to be determined
Karangahake Scenic Reserve	DOC	10.3 ha	Scenic reserve status Iwi PSGE to be appointed as administering body for the reserve
Dearle Street Conservation Area, Paeroa	DOC	0.234 ha	Unencumbered
Rawaka Drive, Katikati – <i>joint with Ngāi Te Rangi</i>	OTS landbank	0.2676 ha	As identified in the disclosures supplied for this property
Tanners Point, Athenree – <i>joint with Ngāi Te Rangi and Ngāti Hako</i>	OTS landbank	0.1961 ha	As identified in the disclosures supplied for this property
69 Broadway, Waihi Beach – <i>joint with Ngāi Te Rangi and Ngāti Hako</i>	OTS landbank	0.0587 ha	As identified in the disclosures supplied for this property

¹ All vestings subject to any existing third party interests, which are still to be confirmed through disclosure

² Crown still to confirm approach to continued inclusion of sites within the Hauraki Gulf Marine Park

³ Where land adjoins a waterway, and is not remaining as a reserve, Part 4A of the Conservation Act regarding the reservation of marginal strips will apply.

⁴ Crown still to propose approach to any ongoing DOC management of transfer sites, in particular for pest control

Sub Station Lane (Cnr Battery Lane), Waikino	OTS landbank	0.2023 ha	As identified in the disclosures supplied for this property
6 Albert Street, Mackaytown	OTS landbank	0.0883 ha	As identified in the disclosures supplied for this property
Potential transfers subject to confirmation of availability and necessary approvals			
Site	Held by	Size of property	Encumbrances
Ngātikoi Reserve (Motukehu) Waihi	Hauraki District Council	53.8152 ha	Recreation reserve status Administration responsibility to be determined
Overlay classifications			
Site	Area		
Karangahake Scenic Reserve (DOC)	Balance of site not transferred		
Statutory Acknowledgements			
Site	Area		
Karangahake Rail Trail Reserve	11.205 ha		
Victoria Battery Historic Reserve	10.225 ha		
Karangahake Walkway Conservation Area	16.293 ha		
Owharoa Falls Scenic Reserve	3.32 ha		
Waikino Conservation Area	31.452 ha		
Wairongomai, Kaimai Mamaku Forest Park	250 ha		
Potential statutory acknowledgements subject to confirmation of availability and necessary approvals			
Part of Orokawa Scenic Reserve			
Ohinemuri River			
Uretara Stream			
Coastal Statutory Acknowledgement			
Statements of Association			
Statement of association for Te Aroha maunga and Moehau maunga if desired			

COMMERCIAL REDRESS	
Property	Terms
<p>Ministry of Education school site</p> <p>Sale and leaseback of a school site (land only) on a DSP basis - Paeroa College being investigated</p>	<p>Subject to confirmation the land is available for sale and leaseback</p> <p>Agreement to the leaseback</p> <p>Agreement to the DSP term</p>
<p>Landbank Properties</p> <p>Purchase of Hauraki landbank properties as agreed with the Hauraki Collective and proposed by Crown where agreement not reached</p>	<p>Settlement date transfer or within 60 days via the Hauraki Collective</p>

Summary of Marutūāhu Iwi Collective Redress

Statutory Reserves
Mahurangi Scenic Reserve, Marutūāhu PSGE to be administering body
2.5 ha from Motuora Island Recreation Reserve, terms and conditions to be agreed
A vesting of 0.5ha from Tiritiri Matangi Scientific Reserve with Department of Conservation to retain full management and administration authority
2.37 ha from Motuihe Island Recreation Reserve, Marutūāhu PSGE to be administering body
Guardhouse building on Fort Takapuna Recreation Reserve
Blackett's Point: 97 Gladstone Road (site of the Fred Ambler lookout) and 110A Gladstone Road (small grassed bank)
Statutory Acknowledgements
Statutory acknowledgements to be agreed (but to include the NZTA land at Mechanics Bay and exploration for Fort Takapuna)
Coastal statutory acknowledgement
Agreement with NZTA about involvement in the Grafton Gully project
Cultural redress in respect of Tāmaki Block/Kohimarama being explored
Cultural redress in respect of Hamlins Hill (Mutukaroa) being explored
Statutory Instruments
Maramarua CFL (not including the Maungaroa Bush Covenant Area)
3 NZDF properties on Calliope Road and NZDF degaussing site (Whangaparaoa Peninsula)
Landbank properties (final list to be confirmed) - DSP where possible
4 NZDF North Shore housing blocks, subject to a short term leaseback to the NZDF
NZDF Tāmaki Leadership Centre (Whangaparaoa Peninsula), subject to long term leaseback to the NZDF
NZDF naval museum property at Torpedo Bay, jointly with Ngāi Tai ki Tāmaki, subject to long term leaseback to NZDF
DSP of Panmure Probation Centre and Boston Road Probation Centre for up to two years, subject to leaseback to the Department of Corrections
Potential DSP of specified list of Ministry of Education school sites (land only) for up to two years, subject to leaseback to the Ministry of Education
Deferred purchase of any NZTA land at Mechanics Bay that becomes surplus within 35 years of settlement date
Short-term deferred purchase of tennis court area and existing local purpose reserve at Blackett's Point (Gladstone Park), terms and conditions to be agreed, subject to agreement of Auckland Council
Shared RFR with Ngāti Whātua o Kaipara over specified properties
Exclusive RFR area in the Kaipara negotiation area
Shared RFR area in the Mahurangi negotiation area with Te Kawerau ā Maki and Te Rūnanga o Ngāti Whātua
RFR redress in respect of Aotea being explored

Tatijana Simonlarsen

From: Boys, Nashwa <Nashwa.Boys@justice.govt.nz>
Sent: Friday, 23 December 2016 12:56 p.m.
To: Spencer Webster
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: RE: Hauraki redress lists for TMIC

Kia ora Spencer,

I just wanted to tie up where we've got to after all the emails we've sent this week. I understand Leah has provided you with the Coastal Statutory Acknowledgement map. Your response will inform next steps. The Hauraki team will be in touch early in the New Year regarding an overlapping claims process for the MPI Fishing RFR. The Hauraki Deed was initialled yesterday (the Minister had seen the letter by Huhana prior to signing). You will receive a response from the Minister in mid-January when he is back on deck.

Nashwa

From: Spencer Webster [mailto:Spencer@kwlaw.co.nz]
Sent: Thursday, 22 December 2016 11:32 a.m.
To: Boys, Nashwa
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: RE: Hauraki redress lists for TMIC

Is anyone at OTS available to provide us with a response and a copy of the map of the coastal statutory acknowledgement?

Spencer Webster
Director

KONING WEBSTER LAWYERS

Level 1, 34 Gravatt Road, Papamoa 3118
PO Box 11120, Papamoa 3151, New Zealand

T 07 547 4283 ext 204
F 07 572 0220
M 021 499 215
E spencer@kwlaw.co.nz

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From: Spencer Webster
Sent: Wednesday, 21 December 2016 2:31 PM
To: 'Boys, Nashwa'
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: RE: Hauraki redress lists for TMIC

Tena koe

Can you confirm that this is the only evidence the Crown can rely on for an overlapping claims process? There is no indication given as to the extent of a coastal statutory acknowledgement in the materials that I could see unless you can direct me to that. As I noted, we were made to provide our maps to overlapping iwi before we could confirm our coastal statutory acknowledgement. I might also add that we had to reduce our area of interest as well through this process.

Spencer Webster
Director

KONING WEBSTER LAWYERS

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From: Boys, Nashwa [<mailto:Nashwa.Boys@justice.govt.nz>]
Sent: Wednesday, 21 December 2016 1:53 PM
To: Spencer Webster
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: RE: Hauraki redress lists for TMIC

Kia ora Spencer

As discussed just now, the text in the email below gives the details of the four landbank properties. There are no MoE properties.

Regarding the MPI Fisheries protocol, as we can't find evidence of an overlapping claims process being run around the RFR map, it is being removed from the Hauraki Collective deed. We will run an overlapping claims process on this in the New Year.

Regarding the coastal statutory acknowledgement, I attach evidence that the Crown consulted with Ngai Te Rangi on this in 2013. Ngai Te Rangi did not engage in this process, so there was no final decision for the Minister to make.

Please feel free to call me if there's anything else you need - 027 807 2062.

Kind regards

Nashwa

From: Spencer Webster [<mailto:Spencer@kwlaw.co.nz>]
Sent: Wednesday, 21 December 2016 12:11 p.m.
To: Boys, Nashwa
Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian
Subject: RE: Hauraki redress lists for TMIC

Tena koe Nashwa

Your email raises a number of issues and does not provide all of the information requested. While you may say the redress in the Deeds has been through an overlapping claims process, the fact that the MPI protocol had not and we brought this to your attention, we cannot rely solely on the Crown's assurances. Furthermore, the correspondence from OTS in 2013 did not disclose what was collective redress other than in isolated instances.

For instance, the Primary Industries protocol document you provided actually discloses further redress that was not in the Ngati Pukenga Deed to amend. Redress that we ought to have been made aware of and had the opportunity to comment on. I refer specifically to the following:

- An advisory committee in clauses 1.1 and 1.2;
- A fisheries RFR as set out in clauses 1.3-1.10. This applies in the Ngai Te Rangi exclusive moana territories including around Matakana Island when their commercial fisheries boundary is north of that area. A proper process by you would have revealed this.

Therefore, we need you to release the information so we can do our own checking and provide comments.

Further to that, we requested the statutory acknowledgements that will be included in the Collective Deeds. One that I can say we have never received and has not gone through a proper process is the coastal statutory acknowledgement. The letter from OTS to Ngai Te Rangi dated 18 October 2013 merely records the following:

Coastal statutory acknowledgement	To be confirmed	?
-----------------------------------	-----------------	---

Hardly, the level of disclosure that a good faith partner would provide in an overlapping claims process. By contrast, our coastal statutory acknowledgement had to be negotiated with overlapping claimants who received a map of the proposed area covered. This is the same opportunity we were afforded with our other neighbours such as Waitaha.

In respect of the RFRs, can you confirm that the only RFRs are those that resulted from the TMIC-Hauraki process.

Can you also provide us with the list of the landbank and MOE properties. Again, we need to check these against the records.

Lastly, I note that there is a relationship agreement with DOC included. What is the coverage of that redress? Are there any other similar redress items?

Spencer Webster
Director

KONING WEBSTER LAWYERS

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PO Box 11120, Papamoa 3151, New Zealand

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From: Boys, Nashwa [<mailto:Nashwa.Boys@justice.govt.nz>]

Sent: Tuesday, 20 December 2016 6:09 PM

To: Spencer Webster

Cc: Charlie Tawhiao (charlie.tawhiao@gmail.com); 'Maureen'; 'Paora Stanley'; Huhana Rolleston (huhana@ngaiterangi.iwi.nz); Nightingale, Tony; Hooper, Ron; Anderson, Lillian

Subject: FW: Hauraki redress lists for TMIC

Tēnā kōe Spencer,

Spencer, thank you for your email this morning. I attach the following:

- The list of RFR properties agreed between Hauraki and TMIC
- The letters to Ngāti Ranginui and Ngāti Te Rangī regarding Waihou Piako redress for Hauraki Collective iwi.
- I also attach the MPI protocol that was agreed with Ngāti Pukenga.
- For your information I attach the preservation of interests drafting in the Hauraki Collective.

The lists sent yesterday are of the redress being provided that has undergone an overlapping claims process in 2013/2014.

I note your concern around the MPI Fisheries Protocol. I understand that this was signed between Ngāti Pukenga and the Hauraki Collective in late 2014. Unlike all of the redress attached in the lists to you yesterday, I could not find any evidence of an overlapping claims process having been run. Thus, this redress will remain square-bracketed in the Hauraki Collective deed until we can run an overlapping claims process in the New Year.

Additionally, I understand your concern around the coastal statutory acknowledgement. This has not changed since overlapping claims were run in 2013/2014. Any changes to it would need to go through another overlapping claims process.

Please know that we still intend to initial deeds with the Hauraki and Marutūāhu collectives this Thursday and Friday respectively.

If you wish to discuss any of this or have further questions, I am available for a teleconference tomorrow - just let me know what time suits.

In regard to your request for info, please see the answers to your questions below.

1. The Hauraki Collective redress related to Tauranga Moana includes:
 - Hauraki Athenree Forest. This was the subject of agreement between the Hauraki Collective and TMIC.
 - MPI Fisheries protocol. This protocol was included in the Ngāti Pukenga Deed to Amend in 2014.
 - The Waihou Piako Coromandel natural resources co-governance arrangement. We have consulted with Ngāti Te Rangī and Ngāti Ranginui on overlapping claims.
 - Tauranga RFR properties. See point seven.
2. The drafting preserves the redress in the TMF for Hauraki iwi. In the event TMIC decide not to proceed with the TMF then the drafting preserves the opportunity for Hauraki iwi to participate in those negotiations. The Hauraki Collective has not agreed to the Crown providing drafting relating to the TMF to Ngāti Te Rangī and Ngāti Ranginui.
3. We do not have a list of the waterways included in the Waihou Piako Coromandel natural resources co-governance arrangement. We have previously provided Ngāti Te Rangī and Ngāti Ranginui with a map of the catchment.
4. The only Marutūāhu Collective statutory acknowledgement that touches the Ngāti Te Rangī and Ngāti Ranginui AOIs is the coastal statutory acknowledgement. This was subject to an overlapping claims process with Ngāti Te Rangī and Ngāti Ranginui in 2013 and 2014.
5. There are no landbank properties in the Marutūāhu Collective deed that touch the Ngāti Te Rangī and Ngāti Ranginui AOIs.
6. There are no MOE properties in the Marutūāhu Collective deed that touch the Ngāti Te Rangī and Ngāti Ranginui AOIs. There are no MOE properties in the Hauraki Collective deed.
7. Property redress in Tauranga areas of interest:

- The list of Tauranga RFR properties is attached. This list was agreed through a selection process in 2014. A photograph of the conclusion of this process is also attached.
- Landbank properties for individual iwi in the Ngāi Te Rangī and Ngāti Ranginui AOs are set out in the table below

No	Address	Iwi of Hauraki
8	400 Woodland Road, Katikati	Ngāti Maru
11	132 Park Road, Katikati	Ngāti Tamaterā
15	69 Broadway Road, Waihi Beach	Hako Ngāti Tara Tokanui
26	1679 State Highway 2, Athenree	Ngāti Tamaterā Ngāti Tara Tokanui

Nga mihi,
Nashwa



Nashwa Boys | Deputy Director, Continuous Improvement | Office of Treaty Settlements
 DDI: +64 04 471 4258 | Ext: 62958 | Cell: 027 807 2062 | www.ots.govt.nz
 Te Tari Whakatautake e pa ana ki te Tiriti o Waitangi

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- (2) do not act on this email in any other way.

Thank you.

Tatijana Simonlarsen

From: Campbell, Leah <Leah.Campbell@justice.govt.nz>
Sent: Friday, 23 December 2016 9:11 a.m.
To: charlie.tawhiao@gmail.com; charlie@moanaradio.co.nz
Cc: Spencer@kwlaw.co.nz; huhana@ngaiterangi.iwi.nz; Blair, Bryce; Pollock, Jacob; Barker, Rick; Rick Barker (rickjbarker@gmail.com); Boys, Nashwa; Hooper, Ron
Subject: Map of Marutuahu coastal statutory acknowledgement
Attachments: OTS-403-01_Nga Tai Whakarewa Kauri.jpg

Kia ora Charlie

Please find a map of the Marutūāhu Collective coastal statutory acknowledgment as requested.

Rick Barker, Lead Crown Negotiator for Hauraki, or Bryce Blair, lead analyst for the Marutūāhu Collective negotiations, are available to answer any questions.

bryce.blair@justice.govt.nz or 04 466 4186.
rickjbarker@gmail.com 027 444 2555

Nā Leah



Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements
DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532
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Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi

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- (2) do not act on this email in any other way.

Thank you.

Rāmere 10 Huitanguru 2017

POWHIRI

Kei te tū tonu tā mātou tono kia hui tahi tātou ki te whakawhiti whakaaro, kanohi ki te kanohi, mō te mana whenua, mana moana i roto o Tauranga Moana ahakoa ngā kōrero a Korohere Ngapo i runga i a Te Kaea i te 21 o ngā rā o Kohitātea. Kia kōrerohia tēnei kaupapa i runga marae. Nō reira e tono ana anō ki ō koutou iwi kia tau mai ki:

Te marae o Otāwhiwhi

A te Rāmere 3 o ngā rā o Poutūterangi

A te 11 o ngā haora i te ata



Hauata Palmer

Ngāi Te Rangi



Huikakahu Kawe

Ngāti Ranginui



Rehua Smallman

Ngāti Pukenga



PART OF THE MINISTRY OF JUSTICE

Office of Treaty Settlements
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T 04 494 9800 | F 04 494 9801
www.ots.govt.nz

13 January 2017

Charlie Tawhiao
Chair
Ngāi Te Rangī Settlement Trust
charlie@moanaradio.co.nz

Tēnā koe

Overlapping claims regarding the proposed Protocol Area map for the Taonga Tūturu and Primary Industries protocols

As you may be aware, the Hauraki Collective initialled a redress deed with the Crown on 22 December 2016. This deed is available at <https://www.govt.nz/dmsdocument/6830.pdf>.

The Hauraki Collective comprises of Hako, Ngāi Tai ki Tāmaki, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Ngāti Porou ki Hauraki, Ngāti Pūkenga, Ngāti Rāhiri Tumutumu, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngāti Whanaunga and Te Patukirikiri. These iwi are also in negotiations with the Crown for the settlement of their individual historic Treaty of Waitangi claims.

The Crown's iwi-specific redress offer to each member of the Hauraki Collective includes a Taonga Tūturu protocol and a Primary Industries protocol (the **protocols**). For the avoidance of doubt, the protocols are not Hauraki Collective redress. The purpose of this letter is to seek your comment on the proposed Protocol Area map for the protocols (refer to **Appendix one**).

The Taonga Tūturu Protocol

The Taonga Tūturu Protocol sets out how the Minister and the Chief Executive for Manatū Taonga will interact with the relevant governance entity within the protocol area. This is non-exclusive redress and includes, but is not limited to:

- a. the process by which the Chief Executive will engage with Taonga Tūturu;
- b. discuss proposed policy or operational changes;
- c. notification of ministerial appointments to Boards; and
- d. engage on proposed national monuments, war graves, historic graves and history publications.

The Primary Industries Protocol

The Primary Industries Protocols sets out how the Minister for Primary Industries and the Director-General of the Ministry of Primary Industries will establish and maintain an enduring relationship with the relevant governance entity. This is non-exclusive redress. The protocol applies to agriculture, forestry, fisheries, biosecurity and food safety within the protocol area. It does not cover the allocation of aquaculture space of Crown Forestry assets held by the Ministry of Primary Industries.

Overlapping claims process

Final agreement on any redress is subject to the resolution of overlapping claims to the Crown's satisfaction. The Crown is therefore seeking your feedback on the proposed Protocol Area map. We request your feedback in writing, whether that be confirming you support or no objection to the protocol map, specifying the outcome of any discussions you have with any of the iwi of Hauraki relating to the proposed Protocol Area map, or identifying issues for discussion. Please provide your response by **5pm on Thursday 19 January 2017**.

It is the Crown's preference that groups engage directly if there are any concerns with the proposed Protocol Area map and, where possible, resolve any issues arising themselves. I encourage you to engage directly with Hauraki iwi listed at Appendix Two to discuss any matters you may wish to raise. The Crown acknowledges such discussions can be complex and should the need arise the Crown is able to assist in these discussions if both parties agree. The Office of Treaty Settlements is also available to meet with you during this process if necessary.

We recognise that sometimes all avenues of engagement are exhausted and matters remain unresolved between groups. In this event, as the Crown is ultimately responsible for the overall overlapping claims process, the Minister for Treaty of Waitangi Negotiations may be required to make a decision. If this step becomes necessary, the Minister will take into account the feedback provided by the iwi of Hauraki and other claimant groups.

The table below sets out the next steps in the process and timeframes:

Timeframe	Next steps
13 January 2017	OTS writes to all overlapping groups advising of proposed redress and seeking a written response
13 January – 31 January	Hauraki iwi engages directly with overlapping groups. Groups provide information and views to OTS
2 February 2017	OTS reports to the Minister for Treaty of Waitangi Negotiations on overlapping claims engagement progress and to seek a preliminary decision, if required. NB: a preliminary decision from the Minister is only sought if groups raise concerns with the proposed redress, and if the concerns could not be resolved through direct engagement with Hauraki iwi.
3 February 2017	The Minister writes to groups and Hauraki iwi either to confirm that overlapping claims are closed, or to advise the outcome of his preliminary decision and seek further information
20 February 2017	Where preliminary decisions have been made, overlapping groups have the opportunity to provide further information and views to OTS
23 February 2017	If required, OTS reports to the Minister to seek a final decision on overlapping claims
24 February 2017	The Minister writes to inform groups of his final decision

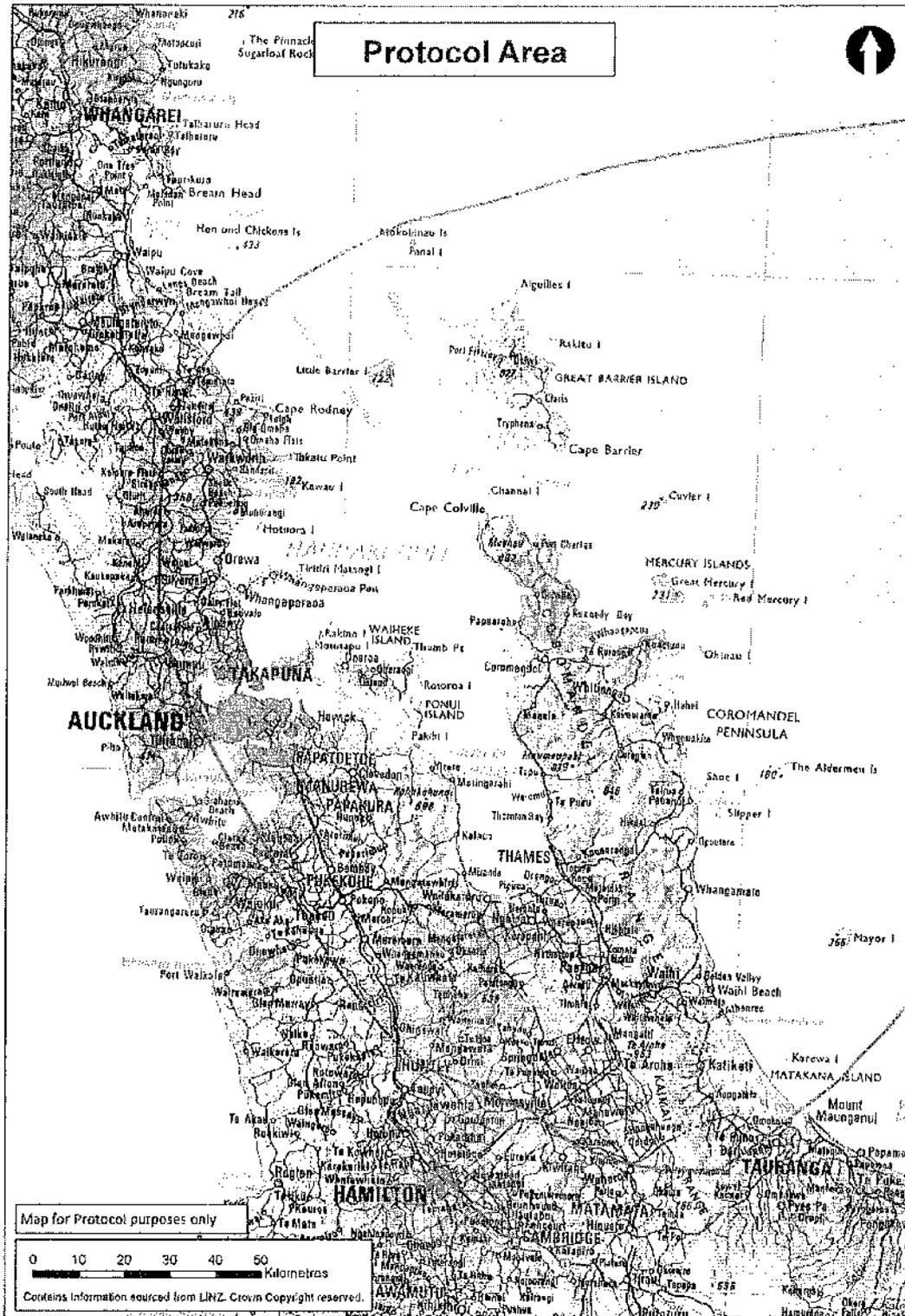
Contact details for the mandated negotiators for the Hauraki iwi are attached to this letter at Appendix 2.

If you have questions regarding the overlapping claims process for the proposed Protocol Area map, or would like further information, please contact Ryan Bogardus at ryan.bogardus@justice.govt.nz or on 04 918 8727.

Nāku noa, nā

Leah Campbell
Deputy Director, Negotiations and Settlements

Appendix One: Proposed Protocol Area map



Appendix Two: Contact details for the Hauraki iwi

Hauraki iwi	Contact person and details		
Hako	Josie Anderson Negotiator josie.anderson@rocketmail.com	John Linstead Negotiator kenlinstead@yahoo.com	-
Ngāti Hei	Joe Davis Negotiator ngatihei@xtra.co.nz	Peter Johnston Negotiator pelroy@xtra.co.nz	-
Ngāti Maru	Paul Majurey Negotiator paul.majurey@ahmlaw.nz	Wati Ngamane Negotiator ngakona@xtra.co.nz	-
Ngāti Paoa	Hauāuru Rawiri Negotiator kaihautu@ngatipaoaiwi.co.nz	Morehu Rawiri Negotiator morehuw@gmail.com	-
Ngāti Porou ki Hauraki	Pineamine Harrison Negotiator pineharrison@xtra.co.nz	John Tamihere Negotiator john.tamihere@waiwhanaui.com	Fred Thwaites Negotiator fred.npkh@gmail.com
Ngāti Rāhiri Tumutumu	Jill Taylor Negotiator jilltaylor@vodafone.co.nz	Nicki Scott Negotiator nick.scott@xtra.co.nz	-
Ngāti Tamaterā	Liane Ngamane Negotiator liane.ngamane@hotmail.com	John McEnteer Negotiator mcenteer@actrix.co.nz	-
Ngāti Tara Tokanui	Amelia Williams Negotiator amelia.w@vodafone.co.nz	Russel Karu Negotiator russellnegotiations@xtra.co.nz	-
Ngaati Whanaunga	Tipa Compain Negotiator tipa@xtra.co.nz	Nathan Kennedy Negotiator nkennedy@ihug.co.nz	-
Te Patukirikiri	William Peters Negotiator william@patukirikiri.iwi.nz	David Williams Negotiator david@patukirikiri.iwi.nz	-

18 January 2017

Charlie Tawhiao
Chair
Ngāi Te Rangī Settlement Trust
charlie@moanaradio.co.nz; charlie.tawhiao@gmail.com

Tēnā koe

Overlapping claims regarding the proposed area over which the Hauraki Collective Fisheries Quota RFR applies

As you may be aware, the Hauraki Collective initialled a redress deed with the Crown on 22 December 2016. This deed is available at <https://www.govt.nz/dmsdocument/6830.pdf>.

The Hauraki Collective comprises of Hako, Ngāi Tai ki Tāmaki, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Ngāti Porou ki Hauraki, Ngāti Pūkenga, Ngāti Rāhiri Tumutumu, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngaati Whanaunga and Te Patukirikiri. These iwi are also in negotiations with the Crown for iwi-specific Treaty of Waitangi settlement redress.

The Fisheries Quota RFR provides for the Crown to grant to the Pare Hauraki Cultural Entity a right of first refusal to purchase certain fisheries quota. This applies to salt water fisheries only, and does not apply to freshwater fisheries. A map showing the area covered by the redress arrangement is attached at **appendix one**. Final agreement on the geographical area of the redress (as opposed to the RFR itself) is subject to the resolution of overlapping claims to the Crown's satisfaction.

The Crown is therefore seeking your feedback on **the area** over which the Fisheries Quota RFR applies. We request your feedback in writing, whether that be confirming you support or having no objection to **the proposed area**. Please provide your response by **5pm on Thursday 2 February 2017**.

It is the Crown's preference that groups engage directly if there are any concerns with proposed redress and, where possible, resolve any issues arising themselves. I encourage you to engage directly with the Chair of the Hauraki Collective, Paul Majurey. The Crown acknowledges such discussions can be complex and should the need arise the Crown is able to assist in these discussions if both parties agree. The Office of Treaty Settlements is also available to meet with you during this process if necessary.

We recognise that sometimes all avenues of engagement are exhausted and matters remain unresolved between groups. In this event, as the Crown is ultimately responsible for the overall overlapping claims process, the Minister for Treaty of Waitangi Negotiations may be required to make a decision. If this step

becomes necessary, the Minister will take into account the feedback provided by the Hauraki Collective and other claimant groups.

The table below sets out the next steps in the process and timeframes:

Timeframe	Next steps
18 January 2017	OTS writes to all overlapping groups advising of proposed redress and seeking a written response
19 January – 2 February 2017	The period for any iwi engagement Groups provide any information and views to OTS
7 February 2017	OTS reports to the Minister for Treaty of Waitangi Negotiations on overlapping claims engagement progress and to seek a preliminary decision, if required. NB: a preliminary decision from the Minister is only sought if groups raise concerns with the proposed redress, and if the concerns could not be resolved through any iwi engagement
8 February 2017	The Minister writes to groups and the Hauraki Collective either to confirm that overlapping claims are closed, or to advise the outcome of his preliminary decision and seek further information
8 February – 22 February 2017	Where preliminary decisions have been made, overlapping groups have the opportunity to provide further information and views to OTS
27 February 2017	If required, OTS reports to the Minister to seek a final decision on overlapping claims
28 February 2017	The Minister writes to inform groups of his final decision

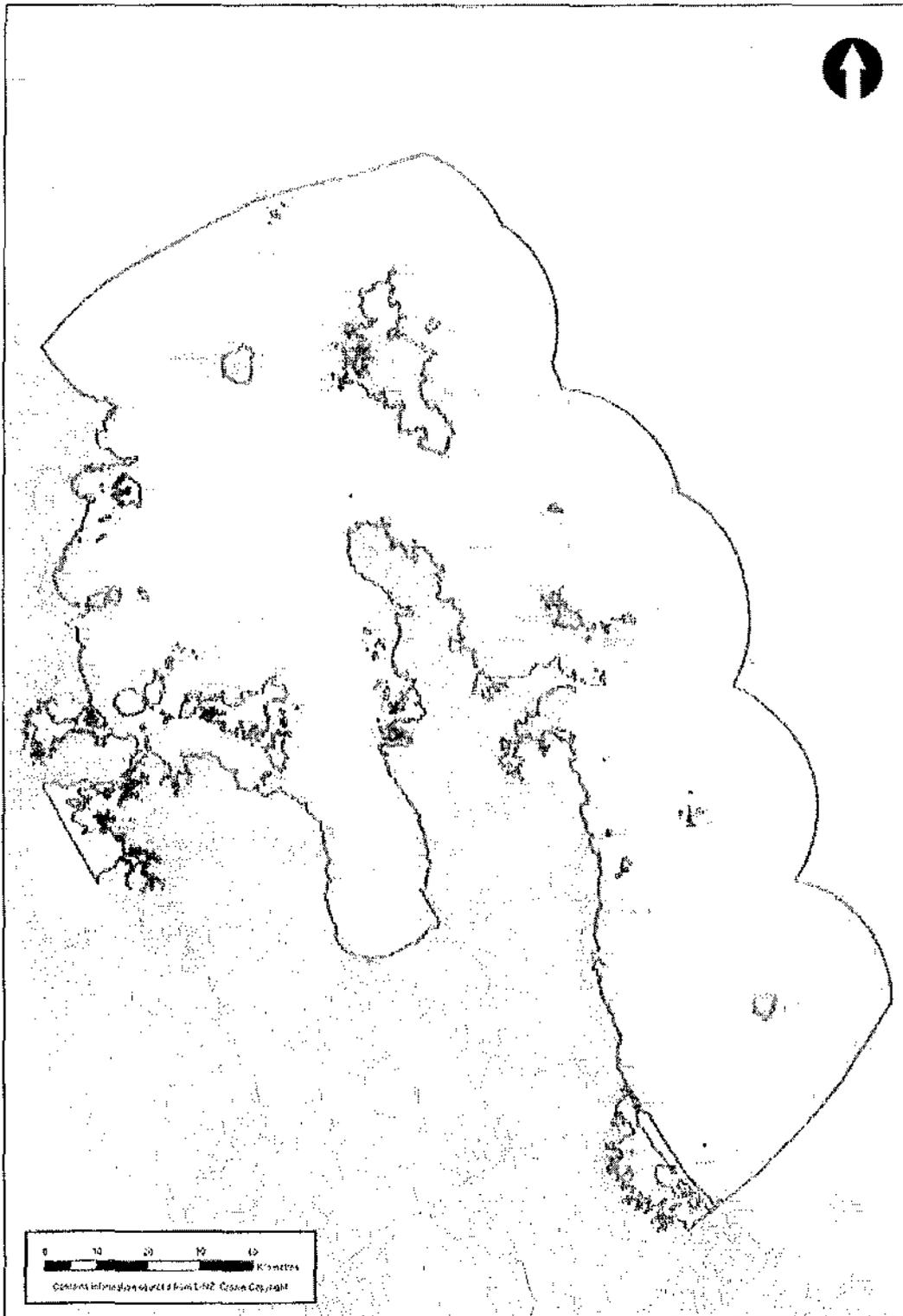
If you have questions regarding the overlapping claims process, or would like further information, please contact me at leah.campbell@justice.govt.nz or 04 913 9202.

Nāku noa, nā



Leah Campbell
Deputy Director, Negotiations and Settlements

Appendix one: Map showing the area covered by the redress arrangement



NGAI TE RANGI TREATY SETTLEMENT UPDATE

January 2017

1. This is an update on where our settlement progressed to at the end of 2016. I also set out a proposal for your endorsement to move us forward to a completion of our settlement.
2. The proposal is underpinned by the need for Ngai Te Rangi to advance its interests ahead of the interests of the collective strategy implemented through TMIC.

2016 recap

3. In summary, by the end of 2016 we had arrived at the following position:
 - 3.1 The Ngai Te Rangi Bill was reported on by the Maori Affairs Select Committee (MASC);
 - 3.2 The TMIC Bill was also reported on by the MASC;
 - 3.3 The Crown had provided some options for our Bill and for the resolution of TMF; and
 - 3.4 The Crown had agreed to insert a clause in the bills of the three Tauranga iwi preserving claims to the moana (what I call in this paper a "claim preservation clause").
4. I expand on each of these points.

Settlement Bills

5. The MASC reported back on our bill in addition to the TMIC Bill and bills for Ngati Ranginui and Ngati Pukenga. I **attach** copies of the reports for your information.
6. This then moves the bills back to the house for further consideration. Subject to the matters discussed below, the bills could now proceed to a second reading. However, the MASC has taken the view that before proceeding to a second reading, the TMF issues need to be resolved.

TMF options and claim preservation clause

7. We have maintained the view that we are seeking a second and third reading without delay. Indeed, we sought to have our Bill proceed to second reading in 2016. However, due to the TMF and TMIC, this was not possible. As noted above the MASC, and the Crown as well, had conflated the resolution of TMF with the progression of our bills.
8. This was partly because we had supported the proposal to insert a claim preservation clause in the Tauranga bills preserving claims to the moana.
9. In response, the Crown proposed the following options to TMIC as set out in a draft letter received on 24 November 2016 (**attached**):
 - 9.1 **Option 1:** We proceed with our Bills in 2016 but not have the claim preservation clause. When I made enquiries on this option at a teleconference on 25 November 2016 with the Crown, I was advised that to proceed to a second reading in 2016, the three TMIC iwi needed to confirm this option on the following Monday 28 November 2016. Furthermore, even if a second reading was achieved, a third reading would not happen in 2016 but in 2017. Therefore, this was not an option at all;

- 9.2 **Option 2:** A claim preservation clause is inserted to our Bill and we retain the TMF in its current form but work on how the fifth seat is to operate; or
- 9.3 **Option 3:** The claim preservation clause is inserted in to our individual bills and TMIC foregoes the TMF. Instead, we will have to negotiate moana redress under the natural resource policy guidelines.
10. We were mindful that our preference had been to achieve the passing of our Bill in 2016. However, this was not possible as the Crown would not agree to this unless TMIC provided clarity on the TMF options.
11. In any event, the prospect of a claim preservation clause meant we need to consider the options carefully.

Claim preservation clause

12. As noted above, a claim preservation clause means our claims in respect of the moana are not settled. In our Bill all historical claims against the Crown are settled unless preserved by the legislation.
13. This is a good development for us. It means that the moana is not settled and we can negotiate redress any time in the future. In my view, this is a significant advantage and worth delaying our Bill briefly to achieve.
14. The Crown provided a draft clause for consideration. I then proposed changes and Pukenga had further changes. The redrafted cause as revised by me is:

Proposed drafting of Moana claim preservation clauses

In clause 86, insert a new (2A) after (2):

“(2A) However, **subsection (2)** does not apply to a claim to the extent that the claim relates to—

- (a) the deterioration of the health and wellbeing of Tauranga Moana; or
- (b) the use, management, or governance of Tauranga Moana, or
- (c) the effects of that use, management, or governance, on the health and wellbeing of the people of Ngā Hapū o Ngāti Ranginui; or
- (d) any failure to recognise or provide for a right of Ngā Hapū o Ngāti Ranginui in relation to Tauranga Moana that arises from the Treaty of Waitangi or its principles; or, including rights of rangatiratanga and kaitiakitanga;
- (e) the failure to provide for the rangatiratanga and kaitiakitanga of the Nga Hapu o Ngati Ranginui and Hapu in relation to Tauranga Moana.”

In clause 86, insert a new (6) after (5):

“(6) In this section, a reference to **subsection (2)** is a reference to that subsection as modified by **subsection (2A)**.”

15. It would assist is the trustees could advise if they endorse the drafting or provide any comments for me to consider.
16. I submitted this proposed drafting to Ranginui for consideration. I have not had a response. Huhana has had some verbal contact with the Ranginui representative and was advised that they will not be agreeing to any clause until matters are resolved to their satisfaction.

Progressing the Ngai Te Rangī Bill

17. Before addressing where we go from here in 2017, some further background is necessary.
18. After the initial Crown letter was received on 24 November 2016, option 1 was discarded as neither Pukenga nor Ranginui agreed with it. Therefore, we were left to discuss options 2 and 3. In terms of the merits of each option, my view is:
 - 18.1 Option 2 preserves the TMF even with the faulty fifth seat. This means the status of Nga Tai ki Mauao can be retained. We can then attempt to preserve the redress while attempting to deal with the involvement or non-involvement of other iwi. The potential downside to this option is that it potentially endorses the fifth seat which is significant given the direction we were given by the iwi;
 - 18.2 Option 3 is something of an unknown. The policy only applies to harbours not rivers or the coastal area like the TNMF currently does. The Crown indicated that it could extend to such areas but that would be a matter of negotiation. Furthermore, the policy does not provide for the full extent of the redress contained in the TMF. The main upside to this option is that it removes Hauraki from the picture and means if they want to participate in Tauranga they have to take active steps to do so on their own. The other upside is that it provides a clean slate and means Hauraki are not involved in the moana in any formal forum we have helped create. That said, the policy guidelines provide that other iwi will need to be involved in any discussions on the new redress.
19. TMIC met to discuss these options to ascertain if there was any consensus before we put the options to our respective boards. It quickly became clear that not only is there no consensus on these options within TMIC but that Ngati Ranginui do not want to agree to any option until the TMF resolved completely before proceeding with their Bill and the TRMIC Bill.
20. With that in mind, I proposed to the Crown that we uncouple the claim preservation clause issue from the TMF. This was on the basis that if the claims to the moana were preserved, there was no urgency to make a decision on the TMF. This meant we could take our time to determine if we would opt for option 2 or 3 or propose a different option for the moana altogether. The Crown has confirmed that this is possible.
21. Regrettably, Ranginui were not, and still are not, willing to engage on this proposal or agree to it. I **attach** with this paper my final email to TMIC in 2016. The thread includes previous emails regarding the last TMIC meeting and the initial Ranginui responses. I have not had a further response from Ranginui to the last email in the thread. Ngati Pukenga have confirmed they agree to the proposal.
22. The Ranginui position leaves us in a difficult position in some respects. The Crown advises that our Bill can proceed with the TMIC Bill but not separately. If Ranginui objects to a second reading of the TMIC Bill our Bill may be delayed. That is unsatisfactory.
23. Taking the above into account, I consider that some decisive action is now required to ensure our settlement is not unduly delayed. Therefore, I am seeking your endorsement of the following proposal:
 - 23.1 We negotiate the insertion of the claim preservation into our Bill separately from TMIC;
 - 23.2 We seek that the TMIC Bill be progressed to a second reading. If the Crown or MASC does not agree to that then we seek further drafting to our Bill to confirm that our settlement is not complete until the TMIC redress is provided;

- 23.3 We advise that we are withdrawing from TMIC and we will not be participating in any discussions or meetings on the TMF.
- 24. We should also consider advising TMIC that any joint ventures that are not yet established are being reviewed including the Te Papa JV on the basis that TMIC and others are acting contrary to our interests.
- 25. In my view, we have made every effort to maintain TMIC but as we approach this important milestone, one of the partners is not acting reasonably and is hindering our progress causing cost and opportunity cost.

Summary

- 26. I have asked the trustees to:
 - 26.1 Endorse the claim preservation clause;
 - 26.2 Endorse the proposed approach to our Bill and TMIC.

13 January 2017

Charlie Tawhiao
Chair
Ngāi Te Rangī Settlement Trust
charlie@moanaradio.co.nz

Tēnā koe

Overlapping claims regarding the proposed Protocol Area map for the Taonga Tūturu and Primary Industries protocols

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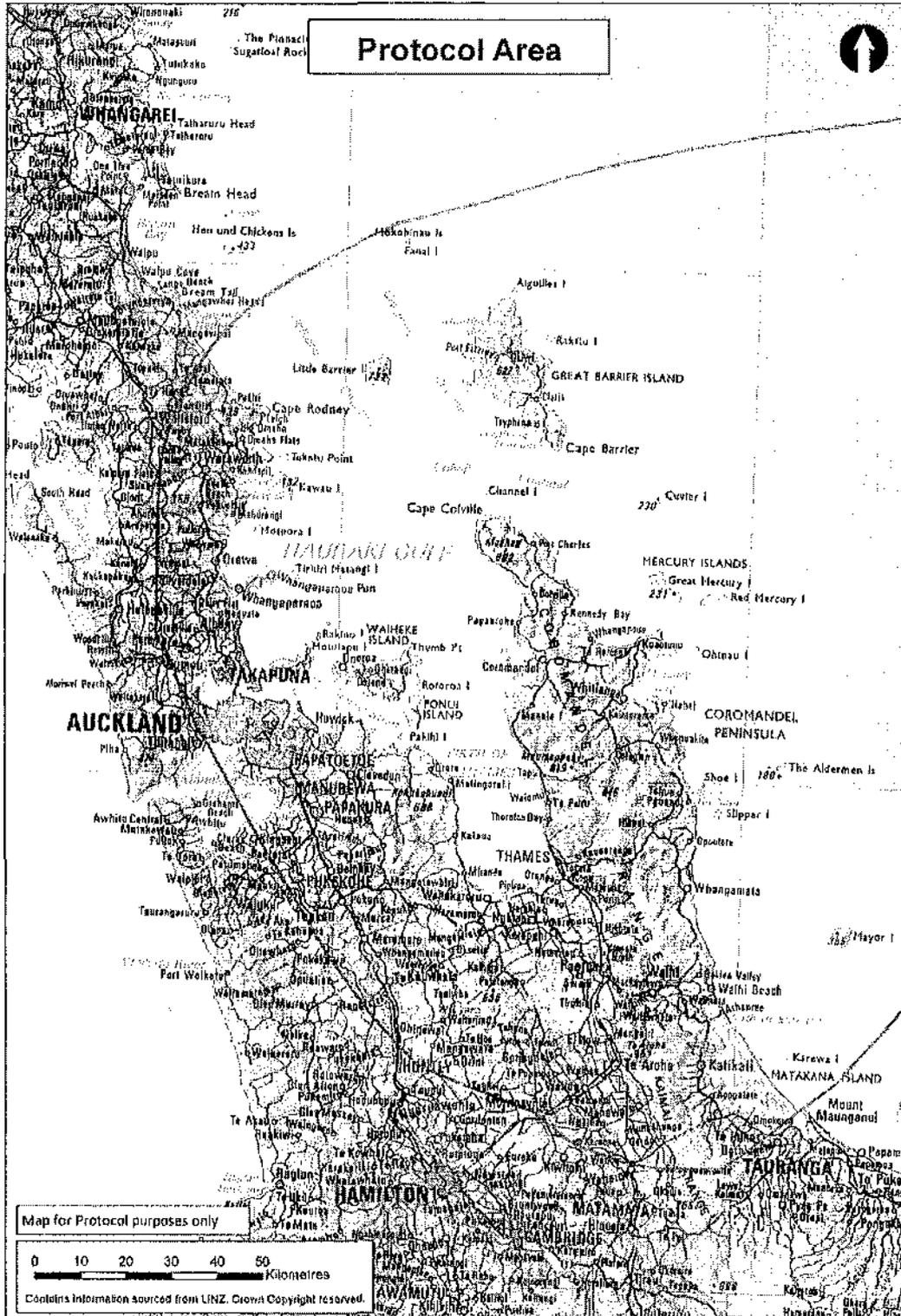
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Nāku noa, nā



Leah Campbell
Deputy Director, Negotiations and Settlements

Appendix One: Proposed Protocol Area map



Appendix Two: Contact details for the Hauraki iwi

Hauraki iwi	Contact person and details		
Hako	Josie Anderson Negotiator josie.anderson@rocketmail.com	John Linstead Negotiator kenlinstead@yahoo.com	-
Ngāti Hei	Joe Davis Negotiator ngatihei@xtra.co.nz	Peter Johnston Negotiator pelroy@xtra.co.nz	-
Ngāti Maru	Paul Majurey Negotiator paul.majurey@ahmlaw.nz	Wati Ngamane Negotiator ngakoma@xtra.co.nz	-
Ngāti Paoa	Hauāuru Rawiri Negotiator kaihautu@ngatipaoaiwi.co.nz	Morehu Rawiri Negotiator morehuw@gmail.com	-
Ngāti Porou ki Hauraki	Pineamine Harrison Negotiator pineharrison@xtra.co.nz	John Tamihere Negotiator john.tamihere@waiwhanau.com	Fred Thwaites Negotiator fred.npkh@gmail.com
Ngāti Rāhiri Tumutumu	Jill Taylor Negotiator jilltaylor@vodafone.co.nz	Nicki Scott Negotiator nick.scott@xtra.co.nz	-
Ngāti Tamaterā	Liane Ngamane Negotiator liane.ngamane@hotmail.com	John McEnteer Negotiator mcenteer@actrix.co.nz	-
Ngāti Tara Tokanui	Amelia Williams Negotiator amelia.w@vodafone.co.nz	Russel Karu Negotiator russellnegotiations@xtra.co.nz	-
Ngaati Whanaunga	Tipa Compain Negotiator tipa@xtra.co.nz	Nathan Kennedy Negotiator nkennedy@ihug.co.nz	-
Te Patukirikiri	William Peters Negotiator william@patukirikiri.iwi.nz	David Williams Negotiator david@patukirikiri.iwi.nz	-

Tatijana Simonlarsen

From: Huhana Rolleston <huhana@ngaiterangi.iwi.nz>
Sent: Wednesday, 25 January 2017 3:30 p.m.
To: 'Leah.Campbell@justice.govt.nz'
Cc: 'Rick.Barker@justice.govt.nz'; 'Boys, Nashwa'; 'Hooper, Ron'; Charlie Tawhiao; 'paora@ngaiterangi.org.nz'; 'Willie Te Aho'; 'Angeline Samuels'; 'hauatapa@kinect.co.nz'; 'ReonTuanau@ngaiterangi.org.nz'
Subject: Hauraki Collective and Marutuahu Collective Redress

Kia ora Leah,

As an interim response, this email is to advise that Ngai Te Rangi oppose all redress in the Hauraki Collective and Individual Iwi Deeds in the area south of Waiorooro. A detailed response will be provided on the 31 January.

We would like to see the interests claimed to support redress within the area from Waiorooro to Matakana Island and Mauao. This relates to the Pare Hauraki Redress Area, Taonga Tuturu Protocol, MPI Fisheries Protocol, Tauranga Moana redress, Kaimai statutory acknowledgement, Department of Conservation Framework area, the coastal statutory acknowledgement. We are yet to sight all redress in the individual iwi deeds that relate to the Ngai Te Rangi rohe, we will respond to those items once received. We received a summary list in December 2016, however, we need to sight the redress as it appears in the Deeds ie statement of associations, maps.

We have not been approached by Hauraki on the redress noted above therefore we will be making contact with them ourselves.

Nga mihi,
Huhana



NGAI TE RANGI

huhana@ngaiterangi.iwi.nz / 0210329180

Ngai Te Rangi Settlement Trust

<http://www.ngaiterangi.iwi.nz>



ngaiterangi.iwi.nz

From: Campbell, Leah [mailto:Leah.Campbell@justice.govt.nz]
Sent: Monday, 16 January 2017 1:23 p.m.
To: charlie.tawhiao@gmail.com; charlie@moanaradio.co.nz
Cc: Spencer@kwlaw.co.nz; huhana@ngaiterangi.iwi.nz; Blair, Bryce <Bryce.Blair@justice.govt.nz>; McNicholl, Leigh

<Leigh.McNicholl@justice.govt.nz>; Barker, Rick <Rick.Barker@justice.govt.nz>; Rick Barker (rickjbarker@gmail.com) <rickjbarker@gmail.com>; Boys, Nashwa <Nashwa.Boys@justice.govt.nz>; Hooper, Ron <Ron.Hooper@justice.govt.nz>

Subject: RE: Map of Marutuahu coastal statutory acknowledgement

Kia ora Charlie

Further to my email below of Friday 23 December, I encourage you to contact Rick Barker, Lead Crown Negotiator for Hauraki, by Friday 20 January with any concerns you wish to raise regarding the Marutūāhu coastal statutory acknowledgement map.

Nā Leah



Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements

DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532

www.govt.nz

Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi

From: Campbell, Leah

Sent: Friday, 23 December 2016 9:11 a.m.

To: charlie.tawhiao@gmail.com; charlie@moanaradio.co.nz

Cc: Spencer@kwlaw.co.nz; huhana@ngaiterangi.iwi.nz; Blair, Bryce; Pollock, Jacob; Barker, Rick; Rick Barker (rickjbarker@gmail.com); Boys, Nashwa; Hooper, Ron

Subject: Map of Marutuahu coastal statutory acknowledgement

Kia ora Charlie

Please find a map of the Marutūāhu Collective coastal statutory acknowledgment as requested.

Rick Barker, Lead Crown Negotiator for Hauraki, or Bryce Blair, lead analyst for the Marutūāhu Collective negotiations, are available to answer any questions.

bryce.blair@justice.govt.nz or 04 466 4186.

rickjbarker@gmail.com 027 444 2555

Nā Leah



Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements

DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532

www.govt.nz

Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi

Confidentiality notice:

This email may contain information that is confidential or legally privileged. If you have received it by

Tatijana Simonlarsen

From: Campbell, Leah <Leah.Campbell@justice.govt.nz>
Sent: Friday, 3 February 2017 2:42 p.m.
To: Huhana Rolleston
Cc: Barker, Rick; Boys, Nashwa; Hooper, Ron; Charlie Tawhiao; paora@ngaiterangi.org.nz; 'Willie Te Aho'; 'Angeline Samuels'; hauatapalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz; Bogardus, Ryan; Dyall, Trina
Subject: RE: Hauraki Collective and Marutuahu Collective Redress
Attachments: 2013 10 04 Letter OTS to N Te Rangi re proposed overlapping claims proce....pdf; 2013 10 18 Letter OTS to N Te Rangi re overlaping claims for proposed Ha....pdf; 2014 07 31 Letter MfToWN to TMIC re preliminary decision on overlappingpdf; 2014 08 11 Letter MfToWN to TMIC re final decision on overlapping claims....pdf; 2015 12 22 Letter OTS to N Te Rangi re proposed overlapping claims for N....pdf; 2016 10 21 Letter OTS to TMIC re options to strengthen TMF and define Ha....pdf; 2017 01 27 Hauraki iwi Protocol Area showing Te Puna and Katikati blocks....jpg; Pare Hauraki Conservation Framework.pdf; Pare Hauraki Kaimai-Mamaku Statement of Association.pdf

Kia ora Huhana

Thank you for your response to my letters dated 13 and 18 January 2017 to Ngāi Te Rangi regarding the overlapping claims processes for two maps showing the area covered by:

- the offer to the Hauraki Collective of a Right of First Refusal (RFR) to purchase commercial fisheries quota, but only for new species introduced into the Quota Management System; and
- the offer to individual Hauraki iwi of relationship redress (protocols) with the Ministry of Primary Industries and the Minister for Arts, Culture and Heritage.

I am advised at your meeting with Minister Finlayson on Tuesday 31 January, he offered you more time to provide responses to the above redress proposals. Please provide any further feedback by 5pm, Friday 17 February.

Turning to the information you requested, as you are aware, the Crown relies on the findings in *Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims*, in which the Waitangi Tribunal confirms Hauraki iwi (specifically the Marutūāhu iwi) "had interests in the Katikati block and the northern part of the Te Puna block." Marutūāhu also assert they have wahi tapu "located deep into the Te Puna block." The Office of Treaty Settlements and the Minister for Treaty of Waitangi Negotiations have written to Ngāi Te Rangi and the Tauranga Moana Iwi Collective on several occasions setting out the basis upon which the Crown understands Hauraki interests in the Tauranga area. I have attached a map showing the Te Puna and Katikati blocks and the protocol and Fish RFR area, discussed further below.

The Crown's offer of a Taonga Tuturu Protocol and MPI Protocol to Individual Hauraki iwi

The proposed maps for these protocols cover the area of interest of all 12 Hauraki iwi from Ngāti Pukenga in the south to Ngāti Paoa, Ngaati Whanaunga and Ngāti Tamaterā in the north. The protocols were negotiated by the Hauraki Collective for inclusion in Hauraki iwi-specific deeds of settlements.

The protocols are non-exclusive relationship redress. A protocol is a statement issued by a Minister of the Crown setting out how a particular Crown agency intends to interact with a claimant group on a continuing basis and enables that group to have input into its decision-making process. A protocol also sets out how a government

agency will exercise its functions, powers and duties in relation to specified matters within the protocol area. Where an agency has a protocol with more than one claimant group, it is that agency's responsibility to engage with those claimant groups under the guiding principles set out in the respective protocols.

The Crown's offer of a Fish RFR over quota to the Hauraki Collective

Ngāi Te Rangi has a similar redress to the Fish RFR over quota offered to the Hauraki Collective. You may be aware the RFRs do not provide a right to purchase all of the commercial catch within a specified area and as such are non-exclusive. The Crown will take into account the interests of all iwi when determining the proportion of the coastline to be used in calculating the allocation of any new quota to an iwi.

Other redress offered to the Hauraki Collective

Regarding the Tauranga Moana redress, I have attached the relevant overlapping claims correspondence along with other correspondence regarding overlapping claims with Ngāi Te Rangi regarding Hauraki Collective, Marutūāhu Collective and individual Hauraki iwi redress for your reference.

In terms of the Kaimai Statutory Acknowledgement and the Department of Conservation Framework, I have attached the relevant sections of the initialled Pare Hauraki Collective Deed for your reference, which is also available at: <https://www.govt.nz/treaty-settlement-documents/hauraki/>.

With regard to the Conservation Framework, this applies to three specific areas only - the islands in Tikapa Moana - Te Tai Tamahine, the Coromandel Peninsula; and the Kopuatai, Torehape and Pukorokoro (Miranda) wetlands.

Marutūāhu Collective

We are yet to receive a statement of association for the coastal statutory acknowledgement from the Marutūāhu Collective. We will provide this to you when we receive it.

Individual Hauraki iwi

The Crown engaged with Ngāi Te Rangi in relation to redress offered to Ngāti Maru, Ngāti Tamaterā, Hako and Ngāti Tara Tokanui in 2013 and 2014. No further redress has been offered to these iwi that touches on Ngāi Te Rangi's area of interest since this engagement. We indicated in December 2015 and subsequently that we will write to you in relation to redress the Crown proposes to provide to Ngāti Rāhiri Tumutumu once they have accepted the Crown's offer. Other than the protocol redress that I wrote to you about on 13 January 2017 Ngāti Hei, Te Patukirikiri, Ngaati Whanaunga, Ngāti Paoa, and Ngāti Porou ki Hauraki have not been offered any redress within Ngāi Te Rangi's area of interest.

If it would be helpful to meet to discuss the proposed redress please let me know and I will ensure either the Crown's Lead Negotiator, Rick Barker, or I are available to meet with you.

Nā Leah



PART OF THE MINISTRY OF JUSTICE

Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements

DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532

www.govt.nz

Te Tari Whakataau Take e pā ana ki te Tiriti o Waitangi

From: Campbell, Leah

Sent: Wednesday, 25 January 2017 4:56 p.m.

To: 'Huhana Rolleston'

Cc: Barker, Rick; Boys, Nashwa; Hooper, Ron; Charlie Tawhiao; paora@ngaiterangi.org.nz; 'Willie Te Aho'; 'Angeline Samuels'; hauatapalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz; Bogardus, Ryan; Dyall, Trina

Subject: RE: Hauraki Collective and Marutuahu Collective Redress

Kia ora Huhana

Thanks for your email. We'll pull that information together and send it through.

Nā Leah



Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements

DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532

www.govt.nz

Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi

From: Huhana Rolleston [<mailto:huhana@ngaiterangi.iwi.nz>]

Sent: Wednesday, 25 January 2017 3:30 p.m.

To: Campbell, Leah

Cc: Barker, Rick; Boys, Nashwa; Hooper, Ron; Charlie Tawhiao; paora@ngaiterangi.org.nz; 'Willie Te Aho'; 'Angeline Samuels'; hauatapalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz

Subject: Hauraki Collective and Marutuahu Collective Redress

Kia ora Leah,

As an interim response, this email is to advise that Ngai Te Rangi oppose all redress in the Hauraki Collective and Individual Iwi Deeds in the area south of Waiororo. A detailed response will be provided on the 31 January.

We would like to see the interests claimed to support redress within the area from Waiororo to Matakana Island and Mauao. This relates to the Pare Hauraki Redress Area, Taonga Tuturu Protocol, MPI Fisheries Protocol, Tauranga Moana redress, Kaimai statutory acknowledgement, Department of Conservation Framework area, the coastal statutory acknowledgement. We are yet to sight all redress in the individual iwi deeds that relate to the Ngai Te Rangi rohe, we will respond to those items once received. We received a summary list in December 2016, however, we need to sight the redress as it appears in the Deeds ie statement of associations, maps.

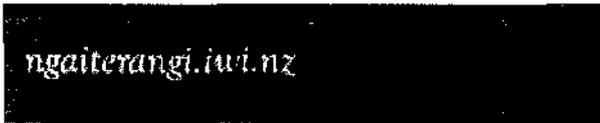
We have not been approached by Hauraki on the redress noted above therefore we will be making contact with them ourselves.

Nga mihi,
Huhana



NGAI TE RANGI

huhana@ngaiterangi.iwi.nz / 0210329180



From: Campbell, Leah [<mailto:Leah.Campbell@justice.govt.nz>]
Sent: Monday, 16 January 2017 1:23 p.m.
To: charlie.tawhiao@gmail.com; charlie@moanaradio.co.nz
Cc: Spencer@kwlaw.co.nz; huhana@ngaiterangi.iwi.nz; Blair, Bryce <Bryce.Blair@justice.govt.nz>; McNicholl, Leigh <Leigh.McNicholl@justice.govt.nz>; Barker, Rick <Rick.Barker@justice.govt.nz>; Rick Barker (rickjbarker@gmail.com) <rickjbarker@gmail.com>; Boys, Nashwa <Nashwa.Boys@justice.govt.nz>; Hooper, Ron <Ron.Hooper@justice.govt.nz>
Subject: RE: Map of Marutuahu coastal statutory acknowledgement

Kia ora Charlie

Further to my email below of Friday 23 December, I encourage you to contact Rick Barker, Lead Crown Negotiator for Hauraki, by Friday 20 January with any concerns you wish to raise regarding the Marutūāhu coastal statutory acknowledgement map.

Nā Leah



Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements
DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532
www.govt.nz
Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi

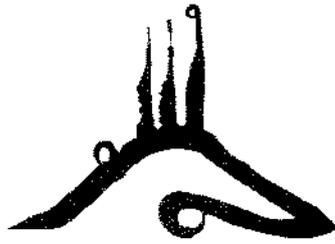
From: Campbell, Leah
Sent: Friday, 23 December 2016 9:11 a.m.
To: charlie.tawhiao@gmail.com; charlie@moanaradio.co.nz
Cc: Spencer@kwlaw.co.nz; huhana@ngaiterangi.iwi.nz; Blair, Bryce; Pollock, Jacob; Barker, Rick; Rick Barker (rickjbarker@gmail.com); Boys, Nashwa; Hooper, Ron
Subject: Map of Marutuahu coastal statutory acknowledgement

Kia ora Charlie

Please find a map of the Marutūāhu Collective coastal statutory acknowledgment as requested.

Rick Barker, Lead Crown Negotiator for Hauraki, or Bryce Blair, lead analyst for the Marutūāhu Collective negotiations, are available to answer any questions.

bryce.blair@justice.govt.nz or 04 466 4186.
rickjbarker@gmail.com 027 444 2555



Ngāi Te Rangi Iwi

3 March 2017

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations
By email: Christopher.Finlayson@parliament.govt.nz

Tēnā koe e te Minita,

Re: Hauraki Collective Deed redress

Thank you for your letter dated 28 February 2017.

This is an interim response as there are a number of matters in your letter that we have a different perspective on. We will outline those issues in due course.

The most pressing matter is the Crown's response to our submissions with respect to the overlapping interests and the offending redress and affirmative wording within that Hauraki Collective deed that impacts on the mana of Ngai Te Rangi. We seek the Crown's formal written response by no later than 5pm on 6 March 2017.

We have clearly requested that the Crown remove all offending redress and specific affirmative wording from the Hauraki Collective Deed for the detailed reasons outlined in our letter on 22 February 2017.

For clarity, we do not agree to a part of your proposal on 28 February 2017 which states that if matters cannot be resolved within a certain timeframe, the Hauraki redress will be preserved in its current form.

Time is of the essence. We need to review the revised Hauraki Collective Deed and receive the Crown's formal letter of response to our redress issues as soon as possible, and before 6 March 2017.

I look forward to your response.

Nāku noa, nā

Charlie Tawhiao
Chairman
Ngāi Te Rangi Settlement Trust and Te Rūnanga o Ngāi Te Rangi Iwi Trust

Season-Mary Downs

From: Campbell, Leah <Leah.Campbell@justice.govt.nz>
Sent: Friday, 3 March 2017 10:39 AM
To: Huhana Rolleston
Cc: Barker, Rick; Anderson, Lillian; Boys, Nashwa; Hooper, Ron; 'Charlie Tawhiao'; paora@ngaiterangi.org.nz; 'Willie Te Aho'; 'Angeline Samuels'; hauatapalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz; Bogardus, Ryan; Dyll, Trina
Subject: RE: Hauraki Collective and Marutuahu Collective Redress

Thanks Huhana

As I said yesterday we are working to revise the Tauranga Moana drafting in the Hauraki Collective deed. I am hopeful this will be agreed early next week. Once it is agreed we will provide it to Ngāi Te Rangi, Ngāti Ranginui and Ngāti Pukenga. At any rate we will respond to the matters raised in your letter to me of 22 February by 5pm, Tuesday 7 March. And then it would be good to meet to discuss shortly thereafter.

Leah

Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements
DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532 www.govt.nz Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi

-----Original Message-----

From: Huhana Rolleston [mailto:huhana@ngaiterangi.iwi.nz]
Sent: Thursday, 2 March 2017 11:12 p.m.
To: Campbell, Leah
Cc: Barker, Rick; Anderson, Lillian; Boys, Nashwa; Hooper, Ron; 'Charlie Tawhiao'; paora@ngaiterangi.org.nz; 'Willie Te Aho'; 'Angeline Samuels'; hauatapalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz; Bogardus, Ryan; Dyll, Trina
Subject: RE: Hauraki Collective and Marutuahu Collective Redress

Kia ora Leah,

Thanks for the update this evening. You noted that the Crown is taking steps to address some of the issues we have raised regarding the Hauraki Collective Deed. In particular, you are in negotiations with Paul Majurey to amend the Collective Deed. Whilst some changes are being made to the Deed, you confirmed that the Crown will not be able to address all of our redress issues, even if we meet to discuss.

On this basis, we are keen to receive the detail of the revised Deed and the Crown's written response to our redress issues as soon as possible and by close of business on Tuesday 7 March. We can then discuss meeting.

Nga mihi,
Huhana

-----Original Message-----

From: Campbell, Leah [mailto:Leah.Campbell@justice.govt.nz]
Sent: Thursday, 2 March 2017 5:35 p.m.

To: Huhana Rolleston <huhana@ngaiterangi.iwi.nz>
Cc: Barker, Rick <Rick.Barker@justice.govt.nz>; Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Boys, Nashwa <Nashwa.Boys@justice.govt.nz>; Hooper, Ron <Ron.Hooper@justice.govt.nz>; 'Charlie Tawhiao' <charlie@moanaradio.co.nz>; paora@ngaiterangi.org.nz; 'Willie Te Aho' <willie.teaho@icsolutions.co.nz>; 'Angeline Samuels' <admin@ngaiterangi.iwi.nz>; hauatpalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz; Bogardus, Ryan <Ryan.Bogardus@justice.govt.nz>; Dyall, Trina <Trina.Dyall@justice.govt.nz>
Subject: RE: Hauraki Collective and Marutuahu Collective Redress

Kia ora Huhana

Further to my phone message just now Rick Barker, Nashwa Boys and I would like to come up and meet with Ngāi Te Rangi to discuss the matters raised in your letter. We are available next Tuesday 7 March or Thursday 9 March. Could you please let me know whether either of these days is suitable. If not, would you please be able to suggest some alternative dates.

Ngā mihi

Nā Leah

Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements
DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532 www.govt.nz Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi

-----Original Message-----

From: Campbell, Leah
Sent: Wednesday, 22 February 2017 8:58 p.m.
To: Huhana Rolleston
Cc: Barker, Rick; Anderson, Lillian; Boys, Nashwa; Hooper, Ron; 'Charlie Tawhiao'; paora@ngaiterangi.org.nz; 'Willie Te Aho'; 'Angeline Samuels'; hauatpalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz; Bogardus, Ryan; Dyall, Trina
Subject: RE: Hauraki Collective and Marutuahu Collective Redress

Kia ora Humana

Just acknowledging receipt of your response.

Na Leah

Na Leah Campbell
Deputy Director Negotiations
Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi Office of Treaty Settlements www.govt.nz
DDI: +64 4 913 9202
Mobile: 027 836 0532

From: Huhana Rolleston [huhana@ngaiterangi.iwi.nz]
Sent: Wednesday, 22 February 2017 7:49 p.m.
To: Campbell, Leah
Cc: Barker, Rick; Anderson, Lillian; Boys, Nashwa; Hooper, Ron; 'Charlie Tawhiao'; paora@ngaiterangi.org.nz; 'Willie Te Aho'; 'Angeline Samuels'; hauatpalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz; Bogardus, Ryan; Dyall, Trina
Subject: RE: Hauraki Collective and Marutuahu Collective Redress

Kia ora Leah,

Please refer attached the Ngai Te Rangi response to redress in the Hauraki Collective Deed that relates to Tauranga Moana.

Nga mihi,

Huhana

[Ngai Te Rangi Settlement Trust]<<http://www.ngaiterangi.iwi.nz/>>

Huhana Rolleston / Project Manager

huhana@ngaiterangi.iwi.nz<<mailto:huhana@ngaiterangi.iwi.nz>> / 0210329180 Ngai Te Rangi Settlement Trust

Office: 07 575 765 opt.7

Te Awa o Tukorako Lane, Taiaho Place

Mount Maunganui 3116

<http://www.ngaiterangi.iwi.nz><<http://www.ngaiterangi.iwi.nz/>>

[Facebook]<<http://www.facebook.com/ngaiterangi>>[Twitter]<<http://twitter.com/ngaiterangi>>

[LinkedIn]<<http://linkedin.com/ngaiterangi>>

[htmlsig.com]<<http://www.ngaiterangi.iwi.nz/>>

From: Campbell, Leah [<mailto:Leah.Campbell@justice.govt.nz>]

Sent: Friday, 3 February 2017 2:42 p.m.

To: Huhana Rolleston <huhana@ngaiterangi.iwi.nz>

Cc: Barker, Rick <Rick.Barker@justice.govt.nz>; Boys, Nashwa <Nashwa.Boys@justice.govt.nz>; Hooper, Ron <Ron.Hooper@justice.govt.nz>; Charlie Tawhiao <charlie@moanaradio.co.nz>; paora@ngaiterangi.org.nz; 'Willie Te Aho' <willie.teaho@icsolutions.co.nz>; 'Angeline Samuels'

<admin@ngaiterangi.iwi.nz>; hauatapalmer@kinect.co.nz; ReonTuanau@ngaiterangi.org.nz; Bogardus, Ryan

<Ryan.Bogardus@justice.govt.nz>; Dyall, Trina <Trina.Dyall@justice.govt.nz>

Subject: RE: Hauraki Collective and Marutuahu Collective Redress

Kia ora Huhana

Thank you for your response to my letters dated 13 and 18 January 2017 to Ngai Te Rangi regarding the overlapping claims processes for two maps showing the area covered by:

· the offer to the Hauraki Collective of a Right of First Refusal (RFR) to purchase commercial fisheries quota, but only for new species introduced into the Quota Management System; and

· the offer to individual Hauraki iwi of relationship redress (protocols) with the Ministry of Primary Industries and the Minister for Arts, Culture and Heritage.

I am advised at your meeting with Minister Finlayson on Tuesday 31 January, he offered you more time to provide responses to the above redress proposals. Please provide any further feedback by 5pm, Friday 17 February.

Turning to the information you requested, as you are aware, the Crown relies on the findings in Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims, in which the Waitangi Tribunal confirms Hauraki iwi (specifically the Marutūāhu iwi) "had interests in the Katikati block and the northern part of the Te Puna block." Marutūāhu also assert they have wahi tapu "located deep into the Te Puna block." The Office of Treaty Settlements and the Minister for Treaty of Waitangi Negotiations have written to Ngai Te Rangi and the Tauranga Moana Iwi Collective on several occasions setting out the basis upon which the Crown understands Hauraki interests in the Tauranga area. I have attached a map showing the Te Puna and Katikati blocks and the protocol and Fish RFR area, discussed further below.

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The protocols are non-exclusive relationship redress. A protocol is a statement issued by a Minister of the Crown setting out how a particular Crown agency intends to interact with a claimant group on a continuing basis and enables that group to have input into its decision-making process. A protocol also sets out how a government agency will exercise its functions, powers and duties in relation to specified matters within the protocol area.

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In terms of the Kaimai Statutory Acknowledgement and the Department of Conservation Framework, I have attached the relevant sections of the initialled Pare Hauraki Collective Deed for your reference, which is also available at:

<https://www.govt.nz/treaty-settlement-documents/hauraki/><<https://webmail.justice.govt.nz/owa/redir.aspx?C=U2D4Cfn1h9btDAvr48nJgOResvJxlUkhEScjisbVOGnZryZVqEnUCA..&URL=https%3a%2f%2fwww.govt.nz%2ftreaty-settlement-documents%2fhauraki%2f>>.

With regard to the Conservation Framework, this applies to three specific areas only - the islands in Tikapa Moana - Te Tai Tamahine, the Coromandel Peninsula; and the Kōpūatai, Torehape and Pukorokoro (Miranda) wetlands.

Marutūāhu Collective

We are yet to receive a statement of association for the coastal statutory acknowledgement from the Marutūāhu Collective. We will provide this to you when we receive it.

Individual Hauraki iwi

The Crown engaged with Ngāi Te Rangi in relation to redress offered to Ngāti Maru, Ngāti Tamaterā, Hako and Ngāti Tara Tokanui in 2013 and 2014. No further redress has been offered to these iwi that touches on Ngāi Te Rangi's area of interest since this engagement. We indicated in December

2015 and subsequently that we will write to you in relation to redress the Crown proposes to provide to Ngāti Rāhiri Tumutumu once they have accepted the Crown's offer. Other than the protocol redress that I wrote to you about on 13 January 2017 Ngāti Hei, Te Patukirikiri, Ngaati Whanaunga, Ngāti Paoa, and Ngāti Porou ki Hauraki have not been offered any redress within Ngāi Te Rangi's area of interest.

If it would be helpful to meet to discuss the proposed redress please let me know and I will ensure either the Crown's Lead Negotiator, Rick Barker, or I are available to meet with you.

Nā Leah

[cid:image016.png@01D28D44.61F00C60]Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements
DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532 www.govt.nz<http://www.govt.nz> Te Tari Whakatau Take e pā ana
ki te Tiriti o Waitangi

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Sent: Wednesday, 25 January 2017 4:56 p.m.
To: 'Huhana Rolleston'
Cc: Barker, Rick; Boys, Nashwa; Hooper, Ron; Charlie Tawhiao;
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ReonTuanau@ngaiterangi.org.nz<mailto:ReonTuanau@ngaiterangi.org.nz>;
Bogardus, Ryan; Dyall, Trina
Subject: RE: Hauraki Collective and Marutuahu Collective Redress

Kia ora Huhana

Thanks for your email. We'll pull that information together and send it through.

Nā Leah

[cid:image016.png@01D28D44.61F00C60]Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements
DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532 www.govt.nz<http://www.govt.nz> Te Tari Whakatau Take e pā ana
ki te Tiriti o Waitangi

From: Huhana Rolleston [mailto:huhana@ngaiterangi.iwi.nz]
Sent: Wednesday, 25 January 2017 3:30 p.m.
To: Campbell, Leah
Cc: Barker, Rick; Boys, Nashwa; Hooper, Ron; Charlie Tawhiao;
paora@ngaiterangi.org.nz<mailto:paora@ngaiterangi.org.nz>; 'Willie Te Aho'; 'Angeline Samuels';
hauatapalmer@kinect.co.nz<mailto:hauatapalmer@kinect.co.nz>;
ReonTuanau@ngaiterangi.org.nz<mailto:ReonTuanau@ngaiterangi.org.nz>
Subject: Hauraki Collective and Marutuahu Collective Redress

Kia ora Leah,

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We have not been approached by Hauraki on the redress noted above therefore we will be making contact with them ourselves.

Nga mihi,
Huhana

[Ngai Te Rangi Settlement Trust]<<http://www.ngaiterangi.iwi.nz/>>
huhana@ngaiterangi.iwi.nz<<mailto:huhana@ngaiterangi.iwi.nz>> / 0210329180 Ngai Te Rangi Settlement Trust
<http://www.ngaiterangi.iwi.nz/><<http://www.ngaiterangi.iwi.nz/>>
[Facebook]<<http://www.facebook.com/ngaiterangi>> [Twitter]<<http://twitter.com/ngaiterangi>> [LinkedIn]<<http://linkedin.com/ngaiterangi>>
[htmlsig.com]<<http://www.ngaiterangi.iwi.nz/>>

From: Campbell, Leah [<mailto:Leah.Campbell@justice.govt.nz>]
Sent: Monday, 16 January 2017 1:23 p.m.
To: charlie.tawhiao@gmail.com<<mailto:charlie.tawhiao@gmail.com>>;
charlie@moanaradio.co.nz<<mailto:charlie@moanaradio.co.nz>>
Cc: Spencer@kwlaw.co.nz<<mailto:Spencer@kwlaw.co.nz>>;
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McNicholl, Leigh
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Barker, Rick
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<rickjbarker@gmail.com<<mailto:rickjbarker@gmail.com>>>; Boys, Nashwa
<Nashwa.Boys@justice.govt.nz<<mailto:Nashwa.Boys@justice.govt.nz>>>; Hooper, Ron
<Ron.Hooper@justice.govt.nz<<mailto:Ron.Hooper@justice.govt.nz>>>
Subject: RE: Map of Marutuahu coastal statutory acknowledgement

Kia ora Charlie

Further to my email below of Friday 23 December, I encourage you to contact Rick Barker, Lead Crown Negotiator for Hauraki, by Friday 20 January with any concerns you wish to raise regarding the Marutūāhu coastal statutory acknowledgement map.

Nā Leah

[cid:image016.png@01D28D44.61F00C60]Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements
DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532 www.govt.nz<<http://www.govt.nz>> Te Tari Whakatau Take e pā ana
ki te Tiriti o Waitangi

From: Campbell, Leah
Sent: Friday, 23 December 2016 9:11 a.m.
To: charlie.tawhiao@gmail.com<mailto:charlie.tawhiao@gmail.com>;
charlie@moanaradio.co.nz<mailto:charlie@moanaradio.co.nz>
Cc: Spencer@kwlaw.co.nz<mailto:Spencer@kwlaw.co.nz>;
huhana@ngaiterangi.iwi.nz<mailto:huhana@ngaiterangi.iwi.nz>; Blair, Bryce; Pollock, Jacob; Barker, Rick; Rick Barker
(rickjbarker@gmail.com<mailto:rickjbarker@gmail.com>); Boys, Nashwa; Hooper, Ron
Subject: Map of Marutuahu coastal statutory acknowledgement

Kia ora Charlie

Please find a map of the Marutūāhu Collective coastal statutory acknowledgment as requested.

Rick Barker, Lead Crown Negotiator for Hauraki, or Bryce Blair, lead analyst for the Marutūāhu Collective negotiations, are available to answer any questions.

bryce.blair@justice.govt.nz<mailto:bryce.blair@justice.govt.nz> or 04 466 4186.
rickjbarker@gmail.com<mailto:rickjbarker@gmail.com> 027 444 2555

Nā Leah

[cid:image016.png@01D28D44.61F00C60]Leah Campbell | Deputy Director Negotiations | Office of Treaty Settlements
DDI: +64 04 913 9202 | Ext: 55202 | Mob 027 836 0532 www.govt.nz<http://www.govt.nz> Te Tari Whakatau Take e pā ana
ki te Tiriti o Waitangi

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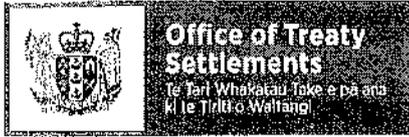
Thank you.

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Thank you.



PART OF THE MINISTRY OF JUSTICE

Office of Treaty Settlements
Justice Centre | 19 Aitken Street | DX SX10111 | Wellington
T 04 494 9800 | F 04 494 9801
www.ots.govt.nz

15 February 2017

Charlie Tawhafo
Chairperson
Ngāi Te Rangi Settlement Trust
PO Box 98
TAURANGA 3110

By email: charlie@moanaradio.co.nz

Tēnā koe

Treaty settlement negotiations with Ngāti Rāhiri Tumutumu

I am writing to update you on the Ngāti Rāhiri Tumutumu (NRTT) historical Treaty of Waitangi negotiations.

The NRTT negotiators have accepted the Crown's offer on behalf of the NRTT claimant community to settle their historical Treaty claims. The Crown and NRTT are working towards initialling the NRTT deed of settlement in early 2017. The Crown offer of redress is made subject to the resolution of overlapping claims to the satisfaction of the Crown.

A summary of the proposed redress offered to NRTT to be included in the NRTT deed of settlement is attached at **Appendix One**. I have also attached a map showing the location of the redress (**Appendix Two**). Please note the map is without prejudice and for discussion purposes only. It reflects the status of the Crown offer to NRTT prior to satisfactory resolution of overlapping claims.

If you wish to provide any comments on the redress offered prior to the initialling of the NRTT deed of settlement, I would appreciate receiving those comments by **5.00pm 1 March 2017**. Any issues raised in respect of the proposed redress for NRTT must be resolved to the satisfaction of the Crown before the NRTT deed of settlement can be initialled.

Once the NRTT deed of settlement is initialled the negotiators will seek their claimant community's views on the deed of settlement. Should the claimant community support the redress package offered by the Crown, the Crown and NRTT will sign the deed of settlement. The settlement will be implemented through settlement legislation likely to occur in 2018.

It is the Crown's preference that groups engage directly if there are any concerns with proposed redress and, where possible, resolve any issues arising themselves. I encourage you to engage directly with NRTT. The Crown acknowledges such discussions can be complex and should the need arise the Crown is able to assist in these discussions if both parties agree. The Office of Treaty Settlements (OTS) is also available to meet with you during this process if necessary.

We recognise that sometimes all avenues of engagement are exhausted and matters remain unresolved between groups. In this event, as the Crown is ultimately responsible for the overall overlapping claims process, the Minister for Treaty of Waitangi Negotiations (the **Minister**) may be required to make a decision. If this step becomes necessary, the Minister will take into account the feedback provided by NRTT and overlapping claimant groups.

The table below sets out the next steps in the process and timeframes:

Timeframe	Next steps
15 February 2017	OTS writes to all overlapping groups advising of proposed redress and seeking a written response
15 February 2017 – 1 March 2017	NRTT engages directly with overlapping groups Groups provide information and views to OTS
10 March 2017	OTS reports to the Minister on the overlapping claims engagement progress and to seek a preliminary decision, if required NB: a preliminary decision from the Minister is only sought if groups raise concerns with the proposed redress and if the concerns could not be resolved through direct engagement with NRTT
10 March 2017	The Minister writes to groups and NRTT either to confirm that overlapping claims are closed or to advise the outcome of his preliminary decision and seek further information
17 March 2017	Where preliminary decisions have been made, overlapping groups and the Hauraki Collective have the opportunity to engage directly and to provide further information and views to OTS
28 March 2017	If required, OTS reports to the Minister to seek a final decision on overlapping claims
28 March 2017	The Minister writes to inform groups of his final decision

If you have any queries please contact Nat Newton, Analyst, at nathaniel.newton@justice.govt.nz or on (04) 918 8723. Likewise, if you wish to speak with Ngāti Rahiri Tumutumu about the redress directly, please contact Jill Taylor (jilltaylor@vodafone.co.nz) or Nicki Scott (nicki.scott@xtra.co.nz).

Nāku noa, nā



Trina Dyall

Negotiations and Settlement Manager

Summary of Crown settlement redress mechanisms – definitions

Definitions:	
Right of first refusal	The right of a claimant group to have the opportunity, ahead of any other potential purchaser, to purchase specified surplus Crown land when such land is available for disposal.
Right of purchase	The right of a claimant group to have the option to purchase specific Crown-owned properties for a specified period following settlement.
Statutory Acknowledgement	A non-exclusive redress instrument which applies to sites of significance (including rivers, lakes, mountains, wetlands and coastal areas). The Crown acknowledges a statement of the claimant group's associations and enhances the claimant group's ability to participate in specified Resource Management Act 1991 processes.
Statutory Acknowledgement	A non-exclusive redress instrument which may follow from a Statutory Acknowledgement. The Minister responsible for managing the land subject to the statutory acknowledgement acknowledges a statement of the claimant group's associations and agrees to consult and have regard to the claimant group's views on specified matters.
Overlay classification	Applies to a highly significant site on land administered by the Department of Conservation. It recognises a statement of the iwi's values for the site and identifies actions to avoid harm to these. In general, overlay classifications are exclusive redress offered to one claimant group. In some situations where two groups seek an overlay classification over the same area, the Crown may offer a joint overlay classification on the basis there is one set of protection principles developed in collaboration between the two claimant groups and the Department of Conservation.
Statutory transfer	Provides a statutory transfer of ownership (title) of land to the claimant group. Rights to use and manage may vary according to type of site.
Right of purchase	The right of a claimant group to purchase specific Crown-owned properties for transfer to that group on settlement date.

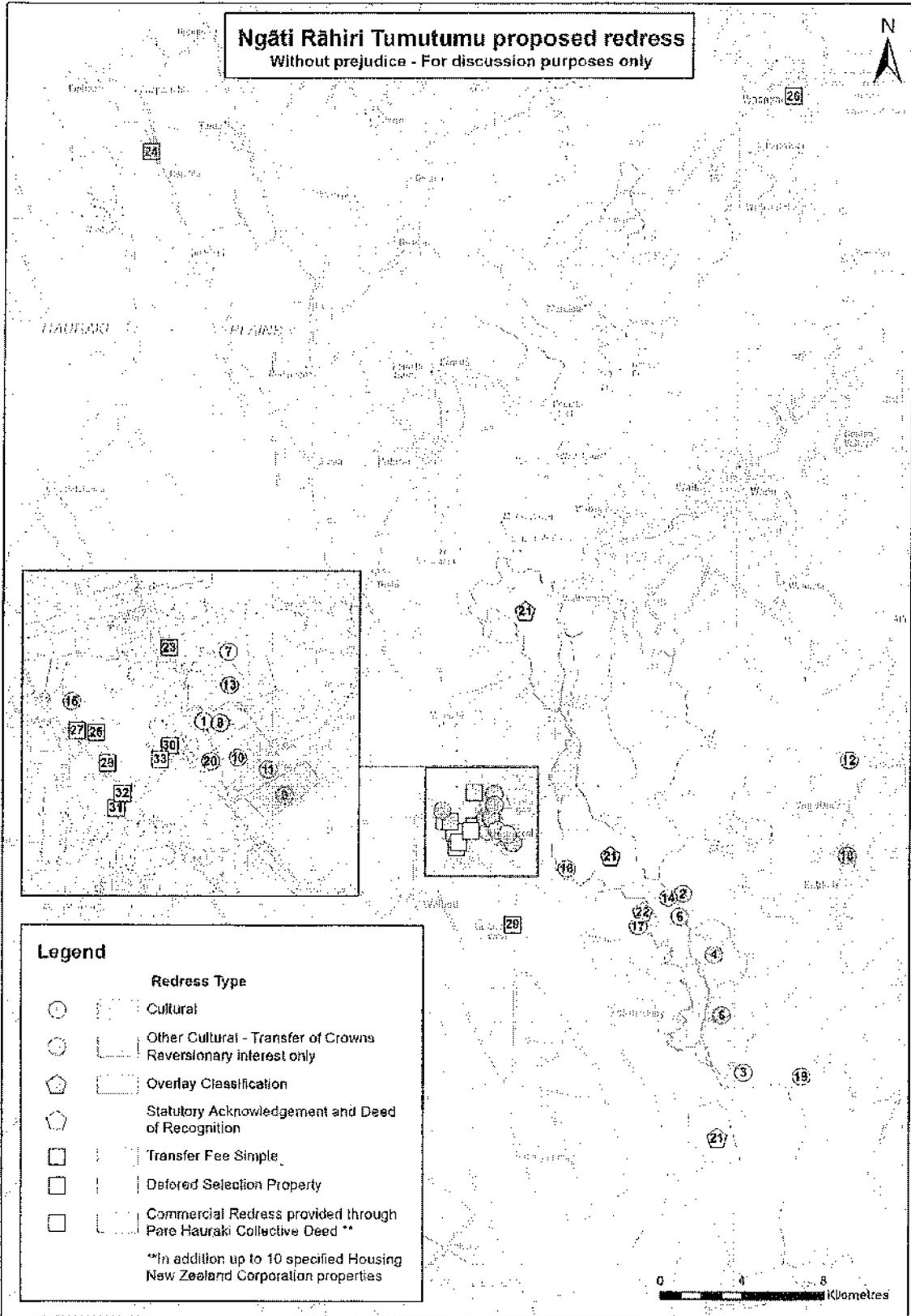
Appendix One

Ngāti Rāhiri Tumutumu Settlement Summary		
Historical redress		
Crown acknowledgements and apology		
Financial redress		
\$5,500,000.00		
Commercial Redress		
Name of site and Map ID #	Agency	Terms of transfer
21 Wyatt Avenue (23)	Landbank	To be confirmed through disclosure process
Bush Road, Ngatea (24)	Landbank	Up to 6 month deferred selection purchase right – transfer value to be determined
Te Aroha College (land only) (25)	Ministry of Education (Moe)	Up to 2 year deferred selection period Subject to a leaseback to MoE
Commercial Redress (provided through Pare Hauraki Collective Deed)		
401 Achilles Ave, Whangamata (26)	Landbank	Early release (after the Hauraki Collective deed is signed), jointly with Ngāti Hako, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga
8 Hanna Street, Te Aroha (27)	Landbank	Early release (after the Hauraki Collective deed is signed)
Cnr Stanley Ave/Ritchie St, Te Aroha (28)	Landbank	Early release (after the Hauraki Collective deed is signed)
465-475 Stanley Rd South, Te Aroha (29)	Landbank	Early release (after the Hauraki Collective deed is signed), jointly with Ngāti Maru
Lipsev/37 Burgess Street, Te Aroha (30)	Landbank	Settlement date commercial redress property
24 Gordon Ave, Te Aroha (31)	Landbank	Settlement date commercial redress property
35 Stanley Ave, Te Aroha (32)	Landbank	Settlement date commercial redress property, jointly with Ngāti Tamaterā
1 Terminus St, Te Aroha (33)	Landbank	Settlement date commercial redress property

Up to 10 specified Housing New Zealand Corporation properties	Housing New Zealand	Subject to a right of first refusal for 176 years (via the Hauraki Collective commercial PSGE)	
Cultural Redress			
<i>Cultural Vesting Sites</i>			
Name of site	Agency	Transfer size (ha)	Encumbrances for transfer site
Waihou River Conservation Area (15)	Department of Conservation (DOC)	0.7133	Unencumbered
Te Aroha Mountain Scenic Reserve (11)	Crown derived reserve, MPDC in trust, vested	TBC	<ul style="list-style-type: none"> • Subject to scenic reserve status • Matamata-Piako District Council (MPDC) to be administering body for the reserve
Te Aroha Hot Springs Recreation Reserve (10)	Crown derived reserve, MPDC in trust, vested	TBC	<ul style="list-style-type: none"> • Subject to recreation reserve status • MPDC to be administering body for the reserve
Tui Park Domain Recreation Reserve (13)	Crown derived reserve, MPDC in trust, vested	TBC	<ul style="list-style-type: none"> • Subject to recreation reserve status • MPDC to be administering body for the reserve
Unnamed Local Purpose Reserves (8)	Crown derived reserve, MPDC in trust, vested	TBC	<ul style="list-style-type: none"> • Subject to local purpose reserve status • MPDC to be administering body • Subject to an easement in favour of MPDC
Unnamed Local Purpose Reserve (Te Aroha A) (7)	Land Information New Zealand (LINZ) - Waikato Regional Council managed	24.7	<ul style="list-style-type: none"> • Subject to local purpose reserve status • Continuation of Waikato Regional Council management role under Soil Conservation and Rivers Control Act 1941 – mechanism to be determined
Unnamed Local Purpose Reserve (Te Aroha G) (9)	LINZ – Waikato Regional Council managed	55.6	<ul style="list-style-type: none"> • Subject to local purpose reserve status • Continuation of Waikato Regional Council management role under Soil Conservation and Rivers Control Act 1941 – mechanism to be determined
Te Aroha Domain (20)	MPDC	TBC	<ul style="list-style-type: none"> • Transfer of Crown's reversionary interest only
Waterford Road, Katikati (18)	LINZ	0.0700 [0.0478ha of NZTA land to be included]	Unencumbered
Windridge Land Site (19)	DOC	12	Unencumbered

Tuapiro Creek Marginal Strip (12)	DOC	0.9	Subject to scenic reserve status
Paewai (3)	DOC	2	Subject to a conservation covenant
Takaihuehue (5)	DOC	2	Subject to a conservation covenant
Pukewhakaratarata (4)	DOC	19	Subject to a conservation covenant
Wahine Rock (14)	DOC	7.7	Subject to a conservation covenant
Waiorongomai (16)	DOC	3	Unencumbered
Miro Street Local Purpose Reserve (1)	DOC	0.15	Unencumbered
Tangitu (6)	DOC	7.5	<ul style="list-style-type: none"> • Joint vesting with Ngāti Maru and Ngāti Tamaterā • Subject to a conservation covenant
Ngā Tukituki a Hikawera (2)	DOC	8.7	<ul style="list-style-type: none"> • Joint vesting with Ngāti Maru and Ngāti Tamaterā • Subject to a conservation covenant
Wairakau Scenic Reserve property (17)	DOC	2.85	<ul style="list-style-type: none"> • Subject to scenic reserve status • Subject to existing grazing licence
<i>Overlay Classification – Te Aroha</i>			
Part Kaimai Mamaku Conservation Area – boundaries to be determined. Excludes the Hauraki Collective 1000 hectare vesting on Te Aroha maunga and any other vested redress proposed for other iwi (21)			
<i>Statutory Acknowledgement and Deed of Recognition</i>			
Balance Wairakau Scenic Reserve property – approximately 125 hectares (22)			
<i>Relationship redress</i>			
Conservation Relationship Agreement			
Taonga Tūturu protocol issued by the Minister for Arts, Culture and Heritage			
<i>Cultural revitalisation funding</i>			
\$300,000			

Appendix Two





Office of Hon Christopher Finlayson

16 FEB 2017

Charlie Tawhiao
Iwi Chairs Forum

By email: charlie@moanaradio.co.nz

Tēnā koe

Overlapping claims policy in Treaty Settlements

Thank you for your presentation on overlapping claims at the Iwi Chairs Forum at Waitangi on 3 February 2017 and offering for "Iwi and the Crown to co-construct a robust policy and process for resolving Cross Claim issues that incorporate Tikanga Māori". As I stated at the Forum I welcome your proposal. Overlapping claims are one of the most difficult aspects of Treaty settlement negotiations. As you will appreciate time is of the essence. The sooner we can work on refining the overlapping claims policy, the sooner settlement negotiations can benefit from it, should we be able to improve it.

I would like the Iwi Chairs Forum to work on developing a proposed overlapping claims policy and process. I suggest you meet with the Director of the Office of Treaty Settlements to discuss the draft once you have completed it. I would then like to discuss this with you when I next attend the Iwi Chairs Forum in early May if that timing works.

The intention of the overlapping claims policy is to allow space for discussions to take place, between groups, on the basis of tikanga. Ideally groups work issues out between themselves by talking things through. Even under a revised and improved overlapping claims process, if resolution cannot be achieved, sometimes I may have to make a decision on whether to proceed with a settlement. I would ask that any revised policy and process provide for consultation between settling groups and potential overlapping groups early in the settlement process. This can ensure that exclusive redress is not offered in areas of shared interest, sufficient redress items are retained to enable the Crown to settle any claims of groups yet to settle, and the Crown leaves no stone unturned in identifying and engaging with overlapping interest groups.

In the meantime if you require any information or other input from my officials, please contact Doris Johnston, Deputy Director, Policy and Special Projects, Office of Treaty Settlements (doris.johnston@justice.govt.nz).

Nāku noa, nā

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

CC: Hon Te Ururoa Flavell; Minister for Māori Development

22 February 2017

Ngāi Te Rangī and the Crown – Resolving Redress Relating to Tauranga Moana

1. This letter provides a Ngāi Te Rangī response to redress contained in or proposed for inclusion in the Hauraki Collective Deed of Settlement that relates to Tauranga Moana.
2. It also provides our solution to resolving the redress in issue.

Ngāi Te Rangī Objectives

1. Ngāi Te Rangī including Ngāti Ranginui and Ngāti Pūkenga are intertwined with Tauranga Moana to such an extent that collectively we are known and referred to as Tauranga Moana, the only tribal groups in Aotearoa to be identified in such a manner.
2. Tauranga Moana iwi are the iwi who have mana and exercise kaitiakinga over the lands and waters within Tauranga Moana extending from Ngā Kurī a Whārei in the north, inland to the Kaimai Ranges, south to the pae maunga of Puwhenua, Otanewainuku to Wairakei in the south. For the purposes of the settlement process we have focussed on a northern boundary of Waiororo, which is south of Ngā Kurī a Whārei. Ngā Kurī a Whārei is the true northern boundary of Ngāi Te Rangī, and the iwi of Mataatua waka. The rohe of Mataatua waka is recited through the whakataukī "mai i ngā Kurī ā Whārei ki Tihirau".
3. Through our individual and collective treaty settlements, Ngāi Te Rangī seek recognition and protection of their mana and their ability to exercise rangatiratanga and kaitiakitanga over Tauranga Moana.

Ngāi Te Rangī view of Hauraki Collective redress

3. Ngāi Te Rangī have articulated to the Crown that based on tribal knowledge and day to day involvement in Tauranga, a 5th seat on the Tauranga Moana Governance Group for Hauraki is unwarranted.
4. The Tauranga Moana Framework provides, among other things, for iwi to meaningfully participate in decision making and the framing of policy for Tauranga Moana. This kind of decision making is a contemporary expression of rangatiratanga.
5. Ngāi Te Rangī assert that the Crown is incorrect to afford Hauraki decision making authority over Tauranga Moana by way of legislation. Ngāi Te Rangī tribal knowledge and day to day participation in Tauranga (complimented by tribal knowledge of many other neighbouring tribes), confirms that Hauraki iwi have never settled or exercised rangatiratanga in Tauranga Moana.
6. There are tikanga or rules and principles in the Māori world that determine social order and relationships to land and water. Ngāi Te Rangī urge the Crown to understand these rules and principles and to then reconsider the nature and extent of the Hauraki interest. Ngāi Te Rangī assert that there is no kōrero to support that the nature and extent of the Hauraki interest in Tauranga was akin to rangatiratanga or decision making authority.
7. The Waitangi Tribunal in Te Raupatu o Tauranga Moana Report 2004 accepts that Hauraki had an 'interest' in Te Puna Katikati areas. The Tribunal acknowledges that

Hauraki assert mana whenua. However, the findings do not go so far as to accept that Hauraki had mana whenua or mana moana or interests that are commensurate to rangatiratanga. Therefore, if the Waitangi Tribunal finding does not conclude as such, it is appropriate for the Crown to engage with Ngāi Te Rangi to undertake an assessment of the nature and extent of the Hauraki interest.

8. Whilst there is much focus on findings in relation to Hauraki interests, there are clear findings that Tauranga Māori ought to have had the full protection of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga harbour recognised at all times. Ngāi Te Rangi are concerned that the Crown through the Hauraki Collective Deed of Settlement is failing to provide for the rangatiratanga of Ngāi Te Rangi over the Tauranga harbour.
9. Ngāi Te Rangi object to all redress, affirmations, rights or statements in the Hauraki iwi Deeds that encompass the area extending south of Te Aroha and Waiooro. Whilst the Crown has recently referred to these matters as “not redress” in our meeting in Wellington on 31 January 2017, implying it is of no effect, we would like the Crown to understand that the redress has a significant effect on Ngāi Te Rangi.
10. The redress at issue elevates the status of Hauraki iwi and affords them direct engagement and decision making on matters that relate to Tauranga Moana, thus eroding the rangatiratanga of Ngāi Te Rangi.
11. The offending redress, affirmations, statements or rights in or proposed for the Hauraki Collective Deed of Settlement (accessed via OTS website) includes:
 - a. Cultural Redress, Tauranga Moana (clauses 20.1 – 20.10), particularly:
 - i. Clause 20.6:

The Crown acknowledges and affirms the iwi of Hauraki will be able to participate in any governance and management arrangements for Tauranga Moana to be negotiated between the Crown and relevant iwi (including the iwi of Hauraki) and included in standalone legislation.
 - ii. Clause 20.7.1:

In the event there is continued development of the Tauranga Moana Framework, the Crown:

affirms the right of the iwi of Hauraki, on the basis of its recognised interests in Tauranga Moana, to participate through the seat described in clause 3.11.4(e) of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed will be preserved.
 - iii. Clause 20.8.3:

In the event the Tauranga Moana Framework is not developed, the Crown:

confirms any future governance and management arrangements over Tauranga Moana will be subject to agreement between the Crown and all relevant iwi (including the iwi of Hauraki), having regard to the rights of participation set out in clause 20.7.
 - iv. Clause 20.9;

The Crown agrees to negotiate redress in relation to Tauranga Moana with the Iwi of Hauraki as soon as practicable in accordance with Te Tiriti o Waitangi / the Treaty of Waitangi, and on a basis which gives all iwi with recognised interests in Tauranga Moana the opportunity to be involved.

- v. Opposition: A 5th seat on the Tauranga Moana Governance Group for Hauraki is unwarranted. Ngāi Te Rangi tribal knowledge and day to day participation in Tauranga (complimented by tribal knowledge of many other neighbouring tribes), confirms that Hauraki iwi have never settled or exercised rangatiratanga in Tauranga Moana. The Tauranga Moana Framework provides, among other things, for Hauraki to participate in decision making and the framing of policy for Tauranga Moana. This kind of decision making is a contemporary expression of rangatiratanga. Hauraki have never exercised rangatiratanga over Tauranga Moana, and the Crown is incorrect to afford Hauraki this authority by legislation. The affirmations included in this Deed ignores the objections of Ngāi Te Rangi and fails to protect the rangatiratanga of Ngāi Te Rangi over Tauranga Moana.
- b. Cultural Redress, Pare Hauraki Conservation Framework:(clauses 7.7.3 – 7.7.8). Extracts are provided below to show how the Framework concerns the Ngāi Te Rangi rohe:
- i. Decision making framework, clause 7.60 and 7.61:
This section of the Pare Hauraki conservation framework applies to conservation decisions in the **Pare Hauraki Area**.
- To avoid doubt, the decision-making framework will apply to any concession applications under Part 3B of the Conservation Act 1987 that are initiated by the Iwi of Hauraki.
- ii. Customary materials, clause 7.68:
The Pare Hauraki collective cultural entity and the Director-General will jointly prepare and agree a plan covering:
- the customary take of flora material within conservation protected areas within the **Pare Hauraki redress area**; and
- the possession of dead protected fauna that is found **within that area**.
- iii. Marine Mammals, clause 7.78.5:
- if the proposed national review has not commenced within the two years after settlement date, the Crown must engage with the Pare Hauraki collective cultural entity to discuss and agree how the Crown will provide for the right sought by the Iwi of Hauraki in clause 7.78.2.
- [7.78.2 Consistent with that significance, the Iwi of Hauraki are seeking the right to gather, use and possess materials for customary purposes, from dead marine mammals stranded **in their rohe**, without having to seek a permit or other authorisation under the Marine Mammals Protection Act 1978 or the Marine Mammals Protection Regulations 1992]
- iv. Wāhi tapu framework, clause 7.84:

The Iwi of Hauraki may provide to the Director-General a description of the wāhi tapu on conservation land in the **Pare Hauraki redress area**, which may include, but is not limited to, a description of...

v. Conservation Boards, clause 7.94:

The Minister of Conservation must, on the nomination of the Pare Hauraki collective cultural entity, appoint one member to a Conservation Board covering all or a significant proportion of the **Pare Hauraki Area**.

vi. Capability Building, clause 7.100

The Director-General recognises the important role that the Iwi of Hauraki have in protecting the natural, historic, and cultural heritage in the **Pare Hauraki redress area**.

- vii. Opposition: This redress provides Hauraki iwi with direct engagement and decision making on matters that relate to Tauranga Moana, thus eroding the rangatiratanga of Ngāi Te Rangi. There is also redress in here that not even Tauranga Moana iwi were provided in their settlements. It is wrong for an iwi with no mana to have more rights in the rohe of an iwi who has mana.

c. Cultural Redress, Ministry of Primary Industries Fisheries and Recognition Redress, Advisory Committee and Quota RFR (clauses 10.2 – 10.3)

i. Clause 10.2:

"the advisory committee may propose written advice to the Minister for Primary Industries covering any matter relating to the sustainable utilisation of fisheries resources managed under the Fisheries Act 1996, in a place where an Iwi of Hauraki has an interest within the area shown on the map attached as schedule 1 to part 4 of the documents schedule."

- ii. Opposition: This redress provides the ability for Hauraki iwi to advise the Minister on fisheries matters in Tauranga Moana encompassing Katikati huanga kore, Te Awaroa and Te Awanui, out to Te Moana a Toi. The effect of this redress is that Hauraki iwi are provided the ability to influence fisheries matters in Tauranga Moana, interfering/impinging on the mana moana of Ngāi Te Rangi. In accordance with tikanga Māori, control and influence over the sea and its resources rests with the iwi who hold mana moana, in relation to Tauranga Moana that is Ngāi Te Rangi, Ngāti Ranginui and Ngāti Pūkenga.

iii. Clause 10.3:

The Crown agrees to grant to the Pare Hauraki collective cultural entity a right of first refusal to purchase certain quota as set out in the Fisheries RFR deed over quota."

Opposition: In accordance with tikanga Māori, access to resources is enabled through relationships between the user and the iwi who hold mana whenua/moana. In this case, Hauraki is seeking rights to acquire fish in Tauranga Moana by legislation. The Crown and Hauraki iwi are failing to recognise and provide for the rangatiratanga of Ngāi Te Rangi in Tauranga Moana by offering this redress without consent of Ngāi Te Rangi who has mana

in this area. The tika process would be for Hauraki iwi to meet with Ngāi Te Rangi to seek approval.

d. Attachments, Pare Hauraki Redress Area map.

- i. Opposition: we object to the map extending south of Te Aroha and Waiororo without an acknowledgement that Hauraki has never held mana or exercised rangatiratanga in the areas extending south of Te Aroha and Waiororo. We recognise that this is a statement of interest by Hauraki that the Crown finds it difficult to put restrictions on. However, Hauraki is an extraordinary case of an iwi who are making unfounded claims to other iwi rohe (not isolated to Tauranga Moana) and using the settlement process to give legal effect to their claims. The Crown should not enable this behaviour.

e. Cultural Redress, clause 4.1, Statement of Pare Hauraki Worldview “mai Matakana ki Matakana”.

Opposition: this phrase has no historical underpinning. It is a contemporary statement that Hauraki have promoted within the past 20 years. We strongly object to Hauraki using Matakana Island as an identity marker. Hauraki have no interests on Matakana Island. We made a request to the Hauraki Collective to stop using this statement in June 2016 in Thames. A Hauraki Collective representative apologised for their use of the phrase and confirmed that they would not use it anymore.

f. Cultural Redress, Kaimai Statement of Association.

Opposition: There is no evidence to support claims of mana whenua, practice of kaitiakitanga, or use ‘at will’ of tracks within the Kaimai ranges as referenced in the supporting statement of association. The statement overall implies that Hauraki have enjoyed mana whakahaere of Kaimai and its surrounds in the past and present. There is no evidence to support Hauraki having this level of authority in this area. In addition all language that refers to Hauraki as having enjoyed authority in Tauranga Moana should be removed. Such statements are an attack on the rohe and mana of Ngāi Te Rangi and the Crown is endorsing this behaviour by the initialling of the Hauraki Deed of Settlement

12. Ngāi Te Rangi are currently reconsidering all previous agreements with Hauraki in our rohe. Ngāi Te Rangi only engaged in this process due to the pressures to achieve a timely treaty settlement and with the expectation that there would be no further claims to our rohe. The agreements were not a reflection or acknowledgment of a Hauraki interest in these areas. Ngāi Te Rangi have never and do not accept that Hauraki have any rights to these items. The previous agreements under consideration relate to:

- a. Athenree Forest
- b. Kauri Point reserve
- c. Kaimai Statutory Acknowledgement
- d. RFRs and Properties.

8	400 Woodland Road, Katikati	Ngāti Maru
11	132 Park Road, Katikati	Ngāti Tamaterā

15	69 Broadway Road, Waihi Beach	i. Hako ii. Ngāti Tara Tokanui
26	1679 State Highway 2, Athenree	i. Ngāti Tamatera ii. Ngāti Tara Tokanui

1.	4533574	Katikati	0.2582 hectares, more or less, being Part Lot 2 DP 14325. Part <i>Gazette</i> notice S291001	New Zealand Transport Agency
2.	4516502, 4349595, 4427202, 4422262, 4348988 and 4270921	Katikati	0.3194 hectares, more or less, being Parts Lot 1 DPS 18155, Parts Allotment 115 Tahawai Parish and Part Allotment 52 Tahawai Parish. All <i>Gazette</i> notice B298084.	New Zealand Transport Agency
3.	4391965, 4511608 and 4433549	Katikati	0.3587 hectares, more or less, being Section 2 SO 23764/1. Part <i>Gazette</i> notice B616919.1.	New Zealand Transport Agency
4.	4283818	Whakamarama	0.2428 hectares, more or less, being Lot 1 DPS 15263. All computer freehold register SA13B/1106.	New Zealand Transport Agency
5.	4516197	Whakamarama	0.1100 hectares, more or less, being Lot 1 DPS 24491. All computer freehold register SA23A/834.	New Zealand Transport Agency
6.	4342172	Whakamarama	0.7815 hectares, more or less, being Lot 1 DPS 12986. All computer freehold register SA26B/182.	New Zealand Transport Agency
7.	Katikati Primary School	28 Beach Road, Katikati	0.6130 hectares, more or less, being Lot 4 DPS 71113. All computer freehold register SA57A/764.	
8.	Teacher's Residence	33 Park Road, Katikati	0.0999 hectares, more or less, being Lot 4 DP 31304. All computer freehold register 675555.	LINZ Treaty Settlements Landbank

9.	4285628	Tahawai	0.0961 hectares, more or less, being Closed Road Survey Office Plan 45505. Part <i>Gazette</i> notice S578671	New Zealand Transport Agency
10.	4368950	Omokoroa	0.5937 hectares, more or less, being Lot 1 DPS 21267. All computer freehold register SA21B/116.	New Zealand Transport Agency
11.	4451720	Athenree	0.1871 hectares, more or less, being Part Allotment 94 Katikati Parish. All <i>Gazette</i> notice S339966.	New Zealand Transport Agency
12.	4415007*	Aongatete	0.1518 hectares, approximately, being Crown Land Survey Office Plan 18925.	[LINZ]
13.	4559922	Whakamarama	0.1012 hectares, more or less, being Crown Land shown on SO 30872. Part Proclamation 10431.	Department of Conservation
14.	Teacher's Residence**	134 Park Road, Katikati	0.0948 hectares, more or less, being Lot 2 DP 447399. All computer freehold register 564613.	[Ministry of Education]
15.	Teacher's Residence – Katikati College**	23 Fairview Road, Katikati	0.1024 hectares, more or less, being Lot 25 DP 36389. All <i>Gazette</i> notice S331281.	[Ministry of Education]

Ngāi Te Rangī and Crown Engagement

13. Ngāi Te Rangī are concerned that the Crown has failed to maintain good faith engagement on all Tauranga Moana redress and expect that all future engagements will conform to the principles of mutual respect and co-operation and at a minimum the Crown's actions will be consistent with commitments made in the Tauranga Moana Iwi Collective Deed:

- a. To engage as early as is practicable:
- b. To encourage and facilitate engagement directly between the Tauranga Moana Iwi and the relevant claimant group:
- c. That Tauranga Moana iwi will be kept informed and will be provided with appropriate relevant information to allow informed views to be developed:
- d. That prior to any redress over Tauranga Moana being agreed with another claimant group, the Tauranga Moana Iwi will have the opportunity to express a view on the proposed redress:

14. Ngāi Te Rangi have not had the opportunity to review the Deeds of Settlement of the individual Hauraki groups at this time. We need to review the detail in Deeds for ourselves in order determine if there are any issues of concern, rather than rely on the Crown's assurances that there are no matters of concern to us. We have not been able to rely on the Crown's assurances to date.
15. The OTS correspondence with redress summary lists that have previously been provided over the course of the negotiations process is not sufficient to allow us to properly assess the nature and extent of the redress and its effect on Ngāi Te Rangi. We need to see the Deeds to undertake this exercise.
16. We will respond to the redress after reviewing the Hauraki iwi Deeds of Settlement.

Crown Response to Ngāi Te Rangi concerns

17. The Crown has consistently noted that based on the Waitangi Tribunal findings in Te Raupatu o Tauranga Moana Report 2004 the Crown is obliged to recognise that Hauraki has an interest in Tauranga Moana, particularly in the Katikati and Te Puna areas.
18. The Crown considers that a 5th seat on the Tauranga Moana Governance Group is appropriate to recognise the Hauraki interest identified by the Waitangi Tribunal. This is due to the following 3 key factors:
 - a. The 2004 Te Raupatu o Tauranga Moana Tribunal finding of an Hauraki interest in Te Puna and Katikati blocks;
 - b. The Crown's 2012 commitment to Hauraki iwi to offer "no less favourable co-governance arrangements to Hauraki iwi in their areas of customary interest"
 - c. To provide an inclusive and workable management framework and from the Crown's perspective a 5th seat is the only way that can be achieved.
19. We assume that the additional redress provided in the Hauraki Collective Deed that relates to Tauranga Moana is based on the Waitangi Tribunal finding. We have not seen any other evidence to support a Hauraki interest.
20. The Crown has also confirmed in a recent meeting with the Minister on 31 January 2017 that whilst Ngāi Te Rangi are offended by statements and affirmations in the Hauraki iwi Collective Deed, the Crown is unable to amend an iwi statement of their interests in a Deed of Settlement.

Solution

21. The Crown withdraw and remove from the Hauraki Collective Deed of Settlement the Crown's redress, affirmations and/or references to Hauraki in Tauranga Moana, which creates expectations that Hauraki have interests in the rohe of Tauranga Moana equal to that of the Tauranga Moana iwi.
22. Tauranga Moana iwi and Hauraki to resolve matters directly in our own timeframes, and no redress is provided by the Crown to Hauraki in relation to Tauranga Moana until issues are resolved with Tauranga Moana iwi.

27 February 2017

Charlie Tawhiao
Chair
Ngāi Te Rangī Settlement Trust
charlie@moanaradio.co.nz; charlie.tawhiao@gmail.com

Tēnā koe

Overlapping claims for the Taonga Tūturu and Primary Industries protocols area

On 13 January 2017 I wrote to you and other overlapping groups to seek your feedback on the Taonga Tūturu and Primary Industries protocols area (the **protocol area**) for the individual settlements with the iwi of Hauraki.

The Crown has considered the feedback it has received through overlapping claims and proposes to amend the protocol area from a collective area to be specific for each individual Hauraki iwi. The amendments take into account the feedback and reflect the protocols are with individual Hauraki iwi.

The proposed protocol areas reflect the areas of interest submitted to the Crown by the iwi of Hauraki. The protocol areas which overlap with your area of interest are attached at **Appendix One**. We are yet to receive protocol areas for Ngāti Rāhiri Tumutumu, Hako and Ngāti Porou ki Hauraki. We will seek your comment on the protocol areas for these iwi at a later date should they overlap with your area.

The Taonga Tūturu and Primary Industries protocols are standard, non-exclusive relationship redress between an iwi and a government agency. It is a statement issued by a Minister of the Crown setting out how a Crown agency intends to interact with a claimant group on a continuing basis and sets out how a government agency will exercise its functions, powers and duties in relation to specified matters within the protocol area.

The Crown seeks your view on the proposed protocol areas for the individual iwi of Hauraki which overlap with your area of interest attached at **Appendix One**. We request your feedback in writing, whether that be confirming you support, no objection, specifying the outcome of any discussions you have with the iwi of Hauraki or identifying issues for discussion. Please provide your response by **14 March 2017**.

It is the Crown's preference groups engage directly if there are concerns with proposed redress and, where possible, resolve any issues arising themselves. I encourage you to engage directly with the negotiators for the iwi of Hauraki whose proposed protocols overlap with your area of interest. The relevant Hauraki iwi negotiators' contact details are attached at **Appendix Two**. The Crown acknowledges such discussions can be complex and should the need arise the Crown is able to assist in these discussions if the parties agree. The Office of Treaty Settlements is also available to meet with you during this process if necessary.

We recognise that sometimes all avenues of engagement are exhausted and matters remain unresolved between groups. In this event, as the Crown is ultimately responsible for the overlapping claims process,

the Minister for Treaty of Waitangi Negotiations may be required to make a decision. If this step becomes necessary, the Minister will take into account the feedback provided by the iwi of Hauraki and other claimant groups.

The table below sets out the steps in the process and timeframes:

Timeframe	Next steps
13 January 2017	The Office of Treaty Settlements (OTS) wrote to all overlapping groups advising of proposed redress and seeking a written response.
13 January - 31 January 2017	Hauraki iwi engages directly with overlapping groups. Groups provide information and views to OTS.
27 February 2017	The Office of Treaty Settlements (OTS) writes to all overlapping groups advising of proposed changes to the redress and seeking a written response.
27 February - 14 March 2017	Groups provide information and views to OTS. Hauraki iwi engage directly with overlapping groups.
17 March 2017	OTS reports to the Minister for Treaty of Waitangi Negotiations on overlapping claims engagement progress and seeks a preliminary decision, if required.
20 March 2017	The Minister writes to groups and Hauraki iwi either to confirm overlapping claims are closed, or to advise the outcome of his preliminary decision and to seek further information.
21 March - 4 April 2017	Where preliminary decisions have been made, overlapping groups and the iwi of Hauraki have the opportunity to engage directly and to provide further information and views to OTS.
7 April 2017	If required, OTS reports to the Minister to seek a final decision on overlapping claims.
10 April 2017	The Minister writes to inform groups of his final decision.

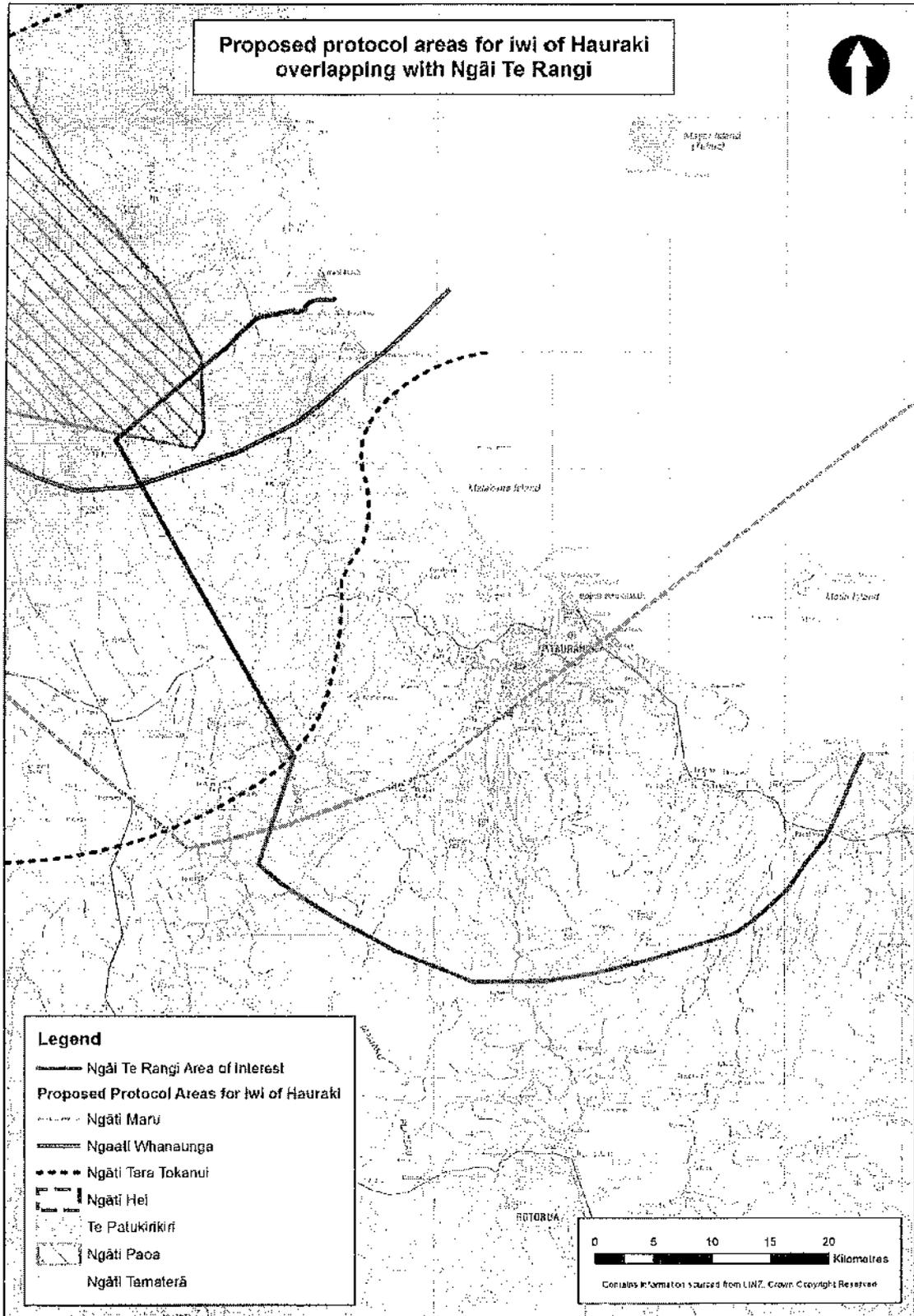
If you have questions regarding the overlapping claims process, or would like further information, please contact Ryan Bogardus at ryan.bogardus@justice.govt.nz or on 04 918 8727.

Nāku noa, nā



Leah Campbell
Deputy Director, Negotiations and Settlements

Appendix One



Appendix Two: Relevant Hauraki iwi negotiators' contact details

Hauraki iwi	Contact person and details	
Ngāti Hei	Joe Davis Negotiator ngatihei@xtra.co.nz	Peter Johnston Negotiator pelroy@xtra.co.nz
Ngāti Maru	Paul Majurey Negotiator paul.majurey@ahmlaw.nz	Wati Ngamane Negotiator ngakoma@xtra.co.nz
Ngāti Paoa	Hauāuru Rawiri Negotiator kaihautu@ngatipaoaiwi.co.nz	Morehu Rawiri Negotiator morehuw@gmail.com
Ngāti Tamaterā	Liane Ngamane Negotiator liane.ngamane@hotmail.com	John McEnteer Negotiator mcenteer@actrix.co.nz
Ngāti Tara Tokanui	Amelia Williams Negotiator amelia.w@vodafone.co.nz	Russel Karu Negotiator russellnegotiations@xtra.co.nz
Ngaati Whanaunga	Tipa Compain Negotiator tipa@xtra.co.nz	Nathan Kennedy Negotiator nkennedy@ihug.co.nz
Te Patukirikiri	William Peters Negotiator william@patukirikiri.iwi.nz	David Williams Negotiator david@patukirikiri.iwi.nz



Office of Hon Christopher Finlayson

28 FEB 2017

Charlie Tawhiao
C/- Tauranga Moana Iwi Collective

By email: charlie.tawhiao@gmail.com

Tena koe Charlie

Thank you for your email dated 23 February 2017 and for meeting with me in January. Unfortunately, I am not in a position to meet with the Tauranga iwi and do not consider it necessary.

I understand Lil Anderson, Director of the Office of Treaty Settlements responded on 17 February 2017 to the draft letter you attached to your email. My response is no different to that email or the very direct messages I provided to Tauranga Iwi on 31 January 2017.

For absolute clarity I will not include text in a letter to Tauranga Moana Iwi which promises or contemplates the removal of the fifth seat provided for overlapping interests in respect of the Tauranga Moana Framework (TMF). This is because I have already made this offer to Hauraki iwi on the basis of their interests and recognition of those interests by the Waitangi Tribunal. This text would need to be removed from your draft letter.

I also did not agree to link the responses of Tauranga Moana iwi on the TMF to wider Hauraki overlapping claims timeframes nor did I agree to defer initialling and signing Hauraki collective and individual deeds. This text would need to be removed from your draft letter.

What I did agree to at the meeting was that I would work with Hauraki iwi to agree text which allows for a discussion with Tauranga Moana over the next two to four years (or a shorter period) which might result in new arrangements being agreed which are different to the TMF or which might result in changes to the TMF.

We discussed that during this time the TMF will be parked, with neither Tauranga nor Hauraki claims relating to Tauranga Moana being settled. If discussions fail between Hauraki iwi and Tauranga Moana iwi then either the TMF will proceed in its' current form or negotiations for both groups would revert to the Harbours guidelines developed by the Crown in 2016.

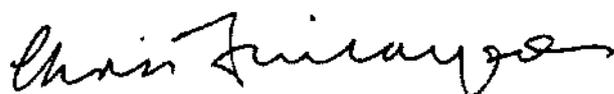
As I agreed I would, I am working with the Hauraki collective to ensure that the text in their Deed of Settlement does not prevent an open discussion with Tauranga Moana iwi about options to move forward. These discussions are progressing well. However, I will not hold up the Hauraki Deed of Settlement if Tauranga Moana iwi consider that this exercise is fruitless.

I took heart from our discussions, particularly your desire to work with Hauraki iwi on an even footing, notwithstanding how long that might take, to agree a suitable form of relationship and redress that all parties are happy with.

I am hopeful that you remain willing to do this and to move forward with your individual bills once we have completed the letter of comfort (without the text noted earlier in this letter) and I have provided you with the Hauraki collective Deed of Settlement text, if we are able to agree this with them.

I wish you all the best for your deliberations.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Hon Christopher Finlayson', written in a cursive style.

Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations



PART OF THE MINISTRY OF JUSTICE

Office of Treaty Settlements
Justice Centre | 19 Aitken Street | DX SX10111 | Wellington
T 04 494 9800 | F 04 494 9801
www.ots.govt.nz

7 March 2017

Charlie Tawhiao
Chair
Ngāi Te Rangi Settlement Trust
charlie@moanaradio.co.nz; charlie.tawhiao@gmail.com

Tēnā koe

Re: Overlapping claims

1. Thank you for your letter dated 22 February 2017. I note the concerns you raise regarding the collective redress offered to Hauraki iwi in relation to Tauranga Moana. I also note you propose a process to resolve overlapping matters directly with Hauraki iwi in your own time.
2. The Crown has negotiated in good faith with both Ngāi Te Rangi and Hauraki iwi to develop offers of redress to achieve fair, durable and final settlements that occur in a timely manner. The Crown's provision of redress is not based on determining who has mana whenua, but on assessing historical interests of the settling groups, groups yet to settle, groups with overlapping interests and all other relevant factors including the fiscal and political parameters for achieving Treaty settlements. Through this process the Crown has signed a deed of settlement with Ngāi Te Rangi and initialled a collective redress deed with Hauraki iwi. I acknowledge these negotiations have not been without issue or compromise.

The nature and extent of Hauraki interests in Tauranga Moana

3. You question the Crown's reliance on the Waitangi Tribunal's statement in its 2004 report *Te Raupatū o Tauranga Moana* that iwi of Hauraki held "substantial interests" in the coastal Te Puna-Katikati blocks. The Tribunal is an independent commission of inquiry and is charged with investigating claims brought by Māori relating to Crown actions or omissions. The Crown considers it reasonable and appropriate to have taken into consideration the Tribunal's confirmation in the Tauranga report that iwi of Hauraki have substantial interests in the Te Puna-Katikati blocks when it offered relevant redress to iwi of Hauraki.

Crown's approach to overlapping claims

4. The resolution of overlapping claims does not require the complete removal of any dispute or overlapping claims. The Crown must be satisfied that the overlapping issues have been resolved to a point that the redress may proceed.
5. The Minister for Treaty of Waitangi Negotiations' preference always is that iwi reach agreement between themselves. This is not always possible, especially when the parties hold strong opposing

views. This means in some situations the Minister must make final determinations, on behalf of the Crown, as to the redress the Crown will offer iwi.

6. That said, as discussed with you and the other Tauranga Moana iwi at the meeting on 31 January 2017, the Minister is willing to allow the Tauranga Moana Iwi and the Hauraki Collective a period of two to four years before cultural redress for Tauranga Moana is finalised to discuss how Tauranga Moana is protected and enhanced through governance and management arrangements. In the event no agreement can be reached after this period the Minister proposes the Tauranga Moana Framework as set out in the Legislative Matters Schedule to the Tauranga Moana Iwi Collective Deed (dated 21 January 2015) will proceed or negotiations for both groups will revert to the Harbours guidelines developed by the Crown in 2016.

Governance and management arrangements for Tauranga Moana

7. I note your objection at paragraph 11(a) to specific clauses in the Pare Hauraki Collective Redress Deed initialled on 22 December 2016.
8. The Crown has been working with the Hauraki Collective on revised Tauranga Moana text for inclusion in the Pare Hauraki Collective Redress Deed.
9. The text will provide for the process outlined above whereby the Tauranga Moana Iwi and the Hauraki Collective will be given two to four years to resolve the matters between them relating to the governance and management of Tauranga Moana. Once this text is agreed a copy will be provided to Ngāi Te Rangi, Ngāti Ranginui and Ngāti Pūkenga.
10. The Minister has been clear the Crown will not contemplate the removal of the fifth seat offered to Hauraki iwi on the basis of their interests and recognition of those interests by the Waitangi Tribunal.

Pare Hauraki Conservation Framework

11. I note the concerns you raise at paragraphs 11(b) of your letter in relation to the area over which the Pare Hauraki Conservation Framework applies. The Conservation Framework includes co-governance and co-management provisions over specific areas and includes the development of a conservation management plan and strategy, a decision-making framework and a Department of Conservation Relationship Agreement over the Pare Hauraki Redress Area. With the exception of co-governance and co-management provisions which apply to areas defined in the deed, the remaining redress is primarily non-exclusive relationship redress.
12. The area over which it applies relates to the areas where the Hauraki Collective is receiving redress and is not intended in any way to depict the tribal boundary of Hauraki.

Ministry of Primary Industries Fisheries and Recognition Redress, Advisory Committee and Quota RFR

13. I note the concerns you raise at paragraph 11(c) regarding relationship redress with the Ministry of Primary Industries and the Fisheries Right of First Refusal (RFR) deed over quota. You will recall I wrote to you on 13 and 18 January 2017 regarding the proposed protocol areas for the Taonga Tūturu and Primary Industries protocols offered to individual iwi of Hauraki and the overlapping claims process for the proposed area over which the Hauraki Collective Fisheries Quota Right of First Refusal applies.

14. I also wrote to you again on 27 February 2017 advising the Crown had considered the feedback it has received through the overlapping claims process and proposes to amend the protocol area from a Hauraki collective area to be specific for each individual Hauraki iwi. We await your response to the Hauraki iwi-specific protocol areas by 14 March 2017.
15. In relation to the area covered by the Hauraki Collective RFR Deed Over Quota we are considering the feedback received as part of the overlapping claims process. We will advise you of the next steps in the overlapping claims process and any changes to the redress shortly.
16. As part of this redress Hauraki Collective has been offered an advisory committee role, allowing the Hauraki Collective to provide advice to the Minister for Primary Industries on fisheries matters. Section 21 of the Ministry of Agriculture and Fisheries (Restructuring) Act provides for the appointment of an iwi's governance entity as an advisory committee to the Minister for Primary Industries. This is non-exclusive relationship redress that allows input from iwi into the sustainable utilisation of fisheries resources.

Pare Hauraki Redress Area Map

17. The Pare Hauraki Redress Area map depicts the area in which the Hauraki Collective is receiving cultural and commercial redress. I have already set out in paragraph 3 the basis on which the redress in Tauranga Moana is being provided. As noted above, the Pare Hauraki Redress Area Map does not depict the tribal boundary of Hauraki.

Kaimai Range Statement of Association

18. I note your objections to the Hauraki Collective Kaimai Statement of Association and the previous agreements you have reached with the Hauraki Collective regarding the Kaimai Statutory Acknowledgement, which you note at paragraph 12(c).
19. Statutory Acknowledgements include statements of the claimant group's associations (the Statement of Association) and enhance a claimant group's ability to participate in specified Resource Management Act 1991 processes. This is a non-exclusive redress instrument which can be provided to more than one claimant group in the same area as this redress recognises overlapping interests in the area.

Previous agreements between Ngāi Te Rangī and Hauraki iwi

20. I note you are currently reconsidering all previous agreements with the Hauraki Collective. I strongly encourage you not to revisit these agreements as, in addition to providing redress to the Hauraki Collective, they have also enabled the progression of the Ngāi Te Rangī Deed of Settlement.
21. I also wish to bring to your attention the properties listed in the table below paragraph 12(d). The right of first refusal properties listed in rows 1, 2, 3, and 11 were included in the Ngāi Te Rangī Deed to Amend dated 6 October 2014 while the properties at rows 4, 5, 6 and 9 were included in the Ngāti Ranginui Deed to Amend dated 26 September 2014.
22. You will recall following overlapping claims discussions between Tauranga iwi and the Hauraki iwi regarding RFR properties in the Te Puna-Katikati blocks agreement was reached in 2014 for each Collective to select 17 RFR properties from this area.

23. By error, 10 of the 17 agreed Hauraki RFR properties in the Katikati and Te Puna blocks are in either Ngāi Te Rangī or Ngāti Ranginui deeds to amend, which were signed in 2014. This error seems to have occurred when the RFRs were taken out of the Tauranga Moana Iwi Collective Deed and inserted into the Tauranga Iwi deeds to amend. This has resulted in Tauranga Moana Iwi receiving 27 RFR properties instead of the 17 agreed.
24. We recognise this is an error on the Crown's part and we are considering next steps for the Hauraki Collective. We will inform you on the Crown's approach to remedy this error within the coming weeks.

Engagement with Ngāi Te Rangī on Iwi-specific overlapping claims

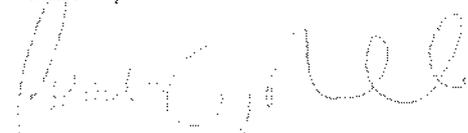
25. I note your request to review the deeds of settlement for the individual Iwi of Hauraki. I am unable to provide to you the proposed text of Iwi specific deeds of settlements for Hauraki Iwi as these are confidential to the negotiations.

Ngāi Te Rangī's proposed solution

26. I note your request for the Crown to withdraw and remove from the Pare Hauraki Collective Redress Deed all redress in relation to Tauranga Moana to allow Tauranga Iwi and Hauraki Iwi to resolve overlapping matters in your own time.
27. As noted above, the Minister for Treaty of Waitangi Negotiations advised you on 28 February 2017 he will allow two to four years for the Tauranga Moana Iwi and the Hauraki Collective to discuss how the Tauranga Moana Framework will be enhanced through governance and management arrangements. However, he advised you he did not agree to link these timeframes to the wider Hauraki overlapping claims timeframes. Nor did he agree to defer initialling and signing the Hauraki collective and individual deeds.
28. Thus the Crown considers the redress offer in the Pare Hauraki Collective Redress Deed is finalised, with the exception of:
 - the revised text in the Pare Hauraki Collective Redress Deed in relation to the Governance and management arrangements for Tauranga Moana;
 - the proposed area over which the Hauraki Collective Fisheries Quota Right of First Refusal applies, which is subject to the resolution of overlapping claims;
 - the provision of RFR properties to the Hauraki Collective in the Te Puna-Katikati blocks; and
 - other technical and drafting matters.

I would like to meet with you to discuss these matters further if that would be helpful. Please contact me on 04 913 9202 or at leah.campbell@justice.govt.nz.

Nāku noa, nā



Leah Campbell

Deputy Director, Negotiations and Settlements

APPENDIX I

Relevant articles regarding overlapping claims in Hauraki and TMIC settlements

Ngai Te Rangi tackles carpet baggers

http://www.waateanews.com/waateanews/x_story_id/MTU0Nzc=/Ngai%20Te%20Rangi%20tackles%20carpet%20baggers

18 January 2017

Carpetbaggers trying to exploit the treaty settlement process for financial gain.

That's how the chief executive of Tauranga Moana iwi Ngai Te Rangi is describing Hauraki's attempt to secure acknowledgement that it has interests in Tauranga Harbour.

Hauraki's settlement deed initialled just before Christmas includes an acknowledgement the iwi has historic and cultural interests in Tauranga Moana, but any cultural redress will need to be negotiated later.

Paora Stanley says Hauraki is exploiting the Government's desire to settle all historical claims by the end of this year.

In the process, the Office of Treaty Settlements is ignoring culture and tikanga.

He told Radio Waatea they've tried it in Tamaki Makaurau and got away with it, but Ngai Te Rangi is fighting back.

"They say they have desires within our area - that they have married in to our whanau and therefore have interests there, but they have no marae and they cannot prove any urupa belong to them.

"It's a messy situation created by policy and exploited by a group who think they have something to win off us," Mr Stanley says.

Ngai Te Rangi met last week with Ngati Whatua Orakei and Waikato Tainui to discuss the issue.

Meanwhile on Friday a group of Te Arawa kaumatua are travelling from Rotorua to Whitianga to discuss how the Hauraki settlement needs to acknowledge their iwi's interest in Moeahau Mountain on the Coromandel Peninsula, because leading Te Arawa ancestors are buried there.

Tauranga iwi will continue to fight for harbour

http://www.nzherald.co.nz/bay-of-plenty-times/news/article.cfm?c_id=1503343&objectid=11781279

13 January 2017

A Bay of Plenty iwi is ready to fight for the Tauranga Harbour, after meeting with iwi from Waikato and Auckland to discuss overlapping Treaty settlement claims from a Hauraki iwi collective.

Ngai Te Rangi iwi chief executive Paora Stanley met representatives from Ngati Whatua Orakei and Ngati Ranginui, after a Deed of Settlement was signed which opened future claims which could allow the Hauraki iwi rights to Tauranga Harbour.

"We all came out of there pretty happy in terms of the conversation and how the unification of thinking and how we're going to deal with a lot of these issues around local government policy and Hauraki as well," Mr Stanley said.

Campbell Communications chief executive and director Scott Campbell said the issues in Tauranga were "very similar" to what was happening to Auckland-based Ngati Whatua Orakei.

"The iwi say the Crown should not be able to offer land to an iwi if it is within the area of primary interests of another iwi, without first getting the agreement of the mana whenua [authority over land or territory]," Mr Campbell said.

"Ngati Whatua Orakei and other iwi agree that the Government's approach to overlapping claims is flawed. This is mainly due to the Government proposing to transfer land from the heartland of one iwi to another iwi."

The meeting came after Ngai Te Rangi said other iwi would meet "to defeat this insulting behaviour".

"It's kind of like, driving down the road and picking up a hitchhiker," Mr Stanley said. "Then the next day the hitchhiker says they own your car. It kind of feels like that. And the Government saying, yeah, the hitchhiker now owns half your car."

He said if Hauraki were to receive co-governance and integrated management of the Tauranga Harbour, it could "open doors you can't close".

"Once you have ownership and claim to the area then you're entitled to distribution of monies, the distribution of seats and power within the community.

"We would find it a little more constrained to make decisions, to have representations on boards, to determine economic development of the region, or the environmental management of the region without their approval."

The Pare Hauraki Collective Redress Deed states that it acknowledges and agrees it does not "provide for cultural redress in relation to Tauranga Moana as that is to be confirmed or developed in separate negotiations".

It also does not "prevent the development of cultural redress in relation to Tauranga Moana".

Minister of Treaty Settlements Chris Finlayson could not be contacted for comment yesterday but previously told the *Bay of Plenty Times* the Deed of Settlement would be the subject of ongoing negotiations between all iwi over the next 12 months.

"There has been ongoing discussions between the Tauranga iwi and the Hauraki iwi about the nature of the extent of Hauraki's historical interests in Tauranga Moana. They took us to the tribunal over it, so there is nothing finalised in so far as the Moana is concerned.

"The nature of the extent of Hauraki representation on any Tauranga Moana body is an issue yet to be determined," he said at the time.

The Hauraki Iwi Collective could not be contacted for comment.

Ngati Whatua piles on Hauraki row

http://www.waateanews.com/waateanews/x_story_id/MTU0NTc=/Ngati%20Whatua%20piles%20on%20Hauraki%20row

11 January 2017

A hui in Tauranga today has brought together Ngai Te Rangi, Auckland's Ngati Whatua Orakei and Waikato Tainui discuss the Government's approach to settling overlapping claims.

Ngai Te Rangi has objected to the crown acknowledging Hauraki may have an interest in Tauranga Harbour.

Ngati Whatua spokesperson Ngarimu Blair says that's similar to issues in Tamaki Makaurau where Orakei is challenging land transfers in central Auckland to Ngati Paoa and the Hauraki-based Matutuahu collective.

"We fully support Ngai Te Rangi and will work with them to ensure their mana is upheld. It's deeply concerning that the Government is taking the same flawed approach in Tauranga as it is in Tamaki Makaurau.

"The way Treaty claims are currently being settled is pitting iwi against iwi and at times, hapu against their own iwi, and that is clearly wrong.

"Unfortunately, we are also seeing some iwi taking advantage of the Crown's approach and overreaching into areas where their interests are not strong," Mr Blair says.

The Pare Hauraki Collective Redress Deed initialled on December 22 says the crown recognises the iwi of Hauraki have interests in Tauranga Moana which are of great spiritual, cultural, customary, ancestral and historical significance to them.

It says any cultural redress in relation to that particular claim is to be confirmed or developed in separate negotiations.

Hauraki wants some say in the co-governance and integrated management of the catchment, harbour and coastal marine areas of Tauranga Moana.

The deed says the crown acknowledges Hauraki will have a seat at the table when any arrangements for Tauranga Moana are negotiated.

Tauranga iwi fighting Hauraki incursion

http://www.waateanews.com/waateanews/x_story_id/MTU0Mjg=/Tauranga-iwi-fighting-Hauraki-incursion

29 December 2016

Tauranga iwi fighting Hauraki incursion

Tauranga Moana iwi are gearing up to fight any settlement that gives iwi from Hauraki rights to their harbour.

Ngai Te Rangi kaumatua, Hauata Palmer says a deed with a Hauraki collective was initialed in secret this week, breaking with the usual process where settlements are announced publicly.

He accused treaty Negotiations Minister Christopher Finlayson of pushing through the arrangement based on invented histories.

Hauraki claim its rohe starts at the tip of Matakana island, and it wants the crown to recognise the historical connections some of its iwi have with the northern part of the harbour.

The wrangle has slowed down the settlement of the wider Hauraki claims.

Mr Palmer says the current approach to overlapping claims is a fundamental breach of tikanga.

Ngai Te Rangi chief executive Paora Stanley says the Crown has made it clear it considers the trampling of the iwi's tikanga to be acceptable.

"That is an aggressive stance by the Minister and we will meet it with aggression, perseverance, and collective action. The next two years will be remembered as a time when the landscape of Treaty settlements changed. A lot of what Minister Finlayson has put in place will be rolled back," Mr Stanley says.

Overlapping claims unsettles Tauranga Moana iwi

<http://www.maoritelevision.com/news/regional/overlapping-claims-unsettles-tauranga-moana-iwi>

28 December 2016

The Bay of Plenty tribe of Ngāi Te Rangi says the Government's approach to overlapping claims is a breach of Māori customary rights.

The allegation follows the initialling of a deed of settlement agreement giving 12 Hauraki tribes rights to Tauranga Harbour which Ngāi Te Rangi wasn't consulted about.

Ngāi Te Rangi kaumātua Hauata Palmer says the three tribes of Tauranga Moana have stated that the management of the harbour sits with them and the Govt.

"We object to Hauraki having any part of this," he said. "The Govt has reached a settlement with Hauraki but hasn't sought any agreement from us."

Mr Palmer claims the agreement falls under the Govt's current approach to overlapping claims which disregards Māori customary rights.

But the Treaty Negotiations Minister says nothing is finalised in so far as the moana is concerned and it will be the subject of ongoing negotiations between all iwi over the next 12 months.

Meanwhile, Ngāi Te Rangi is supporting Ngāti Whātua ki Ōrakei and its High Court action against the Crown that tikanga is part of common law and must be considered by the Govt during settlement negotiations.

Ngai Te Rangi iwi to fight settlement plan for Tauranga Harbour

http://www.nzherald.co.nz/bay-of-plenty-times/news/article.cfm?c_id=1503343&objectid=11773555

27 December 2016

Ngai Te Rangi plans to fight a Deed of Settlement agreement which it says will allow Hauraki iwi rights to Tauranga Harbour.

In a statement issued yesterday the iwi described the Government initialling a Deed of Settlement with a Hauraki iwi collective this week as "a secret deal" and a "step too far" for Tauranga iwi and hapu, who would be disadvantaged by it.

However, Minister of Treaty Settlements Chris Finlayson last night responded that there was no secret deal.

"We've just initialled the Deed Settlement with the Hauraki Collective. There has been ongoing discussions between the Tauranga Iwi and the Hauraki Iwi about the nature of the extent of Hauraki's historical interests in Tauranga Moana. They took us to the tribunal over it, so there is nothing finalised in so far as the Moana is concerned.

"It will be the subject of ongoing negotiations between all iwi over the next 12 months.

"I can't understand the need for Ngai Te Rangi and the others to respond in this sort of volcanic way, there is plenty of time for discussion."

The nature of the extent of Hauraki representation on any Tauranga Moana body was an issue yet to be determined, he said.

Ngai Te Rangi iwi kaumatua, Hauata Palmer, said the deal had enraged and galvanised opposition making the coming year about co-ordinating resources to fight the Government. Ngai Te Rangi had received immediate contact and support from other iwi who find themselves in a similar position of having to fight to roll back this deal and ensure their tikanga is protected.

"We are putting Bill English on notice. This is no way for the Crown to be engaging with iwi.

Auckland, Waikato, through the Bay of Plenty and beyond, iwi and hapu were meeting, organising and preparing to "defeat this insulting behaviour," Mr Palmer said, adding the current approach to overlapping claims is a fundamental breach of tikanga.

Ngai Te Rangi iwi chief executive Paora Stanley said the Crown has made it abundantly clear that it considers the trampling of Ngai Te Rangi tikanga to be acceptable.

"That is an aggressive stance by the Minister and we will meet it with aggression, perseverance, and collective action. The next two years will be remembered as a time when the landscape of Treaty settlements changed."

Ngai Te Rangi is also supporting Ngati Whatua Orakei and its High Court action against the Crown, where the Auckland-based hapu is arguing tikanga is part of common law and must be considered during Settlement negotiations.

APPENDIX J

References to 'Hauraki' in *Te Raupatu o Tauranga Moana* (Wai 215, August 2004)

Page/s	Passage
16-17	Details of the Hauraki claims (Wai 100, Wai 454, Wai 650, Wai 812, Wai 365, Wai 714, wai 778) are provided.
28	The first waka to visit was Tainui, whose inhabitants did not settle there but made their final landfall at Kawhia. However, Tainui people were later to settle in neighbouring districts and were to play an important role in Tauranga history. These neighbouring Tainui people were tribes of the Marutuahu confederation in Hauraki to the north, and Ngati Haua and Ngati Raukawa west of the Kaimai Range
31	By the late 1820s, Ngati Maru of Hauraki were armed with muskets, and in 1828 they launched an attack on Tauranga and destroyed Otamataha Pa at Te Papa. Almost the entire population of the pa was either killed or enslaved, and missionaries who visited shortly after the battle encountered an appalling scene of devastation.
31	The two sides clashed at Taumatawiwi in 1830, and although losses were great on both sides, Ngati Maru accepted a peace offer from Te Waharoa which required them to return to Hauraki .
40	As we noted in chapter1, the confederation is made up of four Hauraki iwi. They have claimed as a group, so we are not required to distinguish between the interests of its constituent tribes. The confederation's claims concern the Te Puna–Katikati purchase – it asserts that it has exclusive 'mana whenua' in the Katikati block and shared interests to Ongare and Uretara in the northern part of the Te Puna block, and that it has wahi tapu 'located deep into the Te Puna Block'. We accept that the confederation had interests in the Katikati block and the northern part of the Te Puna block, but we do not believe that its interests excluded other hapu from also having customary rights within any part of those blocks. We consider that the area was a contested zone, an area where the rights of the confederation overlapped with those of Ngai Te Rangi .
59	While Shortland and Clarke were in the Tauranga Moana district, they proposed that the Crown should purchase the disputed area at Katikati in order to create a buffer zone between Ngati Tamatera and Ngai Te Rangi . Although this proposal gained the support of both Taraia and some of the Christian chiefs at Tauranga, other leading Tauranga chiefs, including Hori Tupaea, at first refused to sell any land. In the meantime, the Tauranga chiefs agreed to leave the disputed area between Hauraki and Tauranga unoccupied.
59	Indeed, the immediate outcome was a fragile – although lasting – peace between Hauraki and Tauranga Maori
138	According to this account, the Maori present said that they wanted to be

	settled in the vicinity of the troops, at Te Papa and Otumoetai, as protection against Taraia's Hauraki people, though Matakana Island was also mentioned as a possible site.
151	We discuss the details of the Katikati purchase in chapter 7 but note here that the Crown's attempt to purchase Katikati and the adjoining Te Puna block from 'Ngaiterangi' was disputed, particularly by the Hauraki tribes.
151-152	Clarke and Mackay conducted an arbitration between the two sides in December 1864, and as a result the Hauraki tribes (and others) received compensatory payments for their claims.
177-178	A number of factors contributed to the delay. First, the Government had to deal with the claims of several non Ngai Te Rangi groups, including the powerful Marutuahu federation of Hauraki, which had a long-standing claim to the western part of Te Puna–Katikati, and several Ngati Ranginui hapu, such as Pirirakau.
178	The Daily Southern Cross reported that Tauranga Maori aboard the Sandfly were pleased to hear that a military settlement would be made at Te Puna because this would provide protection for them from their old enemies – Taraia and other Hauraki Maori.
183	Eighteen months later, when Mackay and Clarke met with Hauraki and Tauranga Maori to settle claims to the Te Puna–Katikati blocks, Te Moananui's claim had still not been surveyed.
189-190	<p>7.5.2 Hauraki payments</p> <p>After the Tauranga meeting, Mackay returned to Auckland, whereupon Whitaker instructed him to proceed to Thames and pay Hauraki Maori for their claims to Te Puna–Katikati, according to the arrangements agreed at Tauranga. This, he did, paying the Hauraki claimants a total of £2160 over the next two months as follows:</p> <ul style="list-style-type: none"> - A payment of £100 was made to the Ngati Hura hapu of Ngati Paoa on 10 August for their claims over Katikati and Te Aroha. A deed of conveyance was signed by five members of Ngati Hura, surrendering their rights to both Katikati and Te Puna. - A payment of £500 was made to the Ngati Pukenga of Manaia on 14 August for claims between Katikati and Waimapu and inland to the mountains. Of this, £150 was paid for their interests in the Te Puna–Katikati blocks and £350 for interests in the confiscated block. In the deed signed by 18 members of Tawera, two 50-acre sections and two town allotments at Te Papa were 'reconveyed' to Ngati Pukenga chiefs Paroto Tawhiorangi, Ruka Huritaupoki, and Te Riritahi. The fate of these sections is discussed in chapters 10 and 11. The deed conveyed Ngati Pukenga's claims to 'the Katikati, Puna, Wairoa and Waimapu blocks' to the Crown. - A payment of £1145 was made to Ngati Tamatera and Ngati Maru on 3 September for claims over Katikati, Aroha-atua, and land 'between the Katikati piece and Te Puna'. Five 'burial ground reserves', totalling 75

	<p>acres, were also recorded as being set aside for them in the deed of conveyance, which was signed by Te Moananui, Taraia, and 24 others.</p> <ul style="list-style-type: none"> - A payment of £25 was made to two claimants from Ngati Whanaunga. This was later increased to £35, and the two claimants signed the same deed as Ngati Tamatera and Ngati Maru had. The nature of the claim was not recorded by Mackay in his report, and the date of the payment is also unknown. - A separate payment of £380 was made to Te Moananui for some unspecified 'other claims'. As we noted above, this had been paid by Whitaker before Mackay and Clarke's meeting to settle claims.
193	In the joint submission, counsel added that it was 'inconceivable' that the Government officials did not know of such claims, in particular the claims of the Hauraki people to the Katikati block. It was in response to these claims that Fox wrote his much quoted memorandum to Grey.
194	A submission from counsel for the Hauraki and Marutuahu claimants briefly discussed Hauraki claims to the western part of the district before listing alleged breaches by the Crown of the principles of the Treaty. These alleged breaches centred on the Crown's failure to inquire adequately into or to recognise Marutuahu interests in Te Puna–Katikati.
196	The notion that Ngai Te Rangi feared an attack from Hauraki Maori, especially Taraia, and that this was a factor in the agreement to sell Te Puna–Katikati was alluded to in Battersby's evidence but not argued by Crown counsel in closing submissions. As noted above, this alleged fear was reported by newspaper correspondents in the aftermath of the pacification hui but did not seem to be a factor in the subsequent negotiations for the Crown's purchase of Te Puna–Katikati. In our view, any fear of attack from Taraia or any Hauraki Maori was unlikely to have had a significant effect on the negotiations over Te Puna–Katikati, which were carried out with loyalist Ngai Te Rangi, who had little reason to fear other Maori. Although there may have been a fear latent among Ngai Te Rangi that their ancient feud with Hauraki might be revived, we need to remember that Taraia had been in the vicinity of Te Ranga, apparently to help in its defence, though he had failed to join the battle.
196	In our view, any fear of attack from Taraia or any Hauraki Maori was unlikely to have had a significant effect on the negotiations over Te Puna–Katikati, which were carried out with loyalist Ngai Te Rangi , who had little reason to fear other Maori. Although there may have been a fear latent among Ngai Te Rangi that their ancient feud with Hauraki might be revived, we need to remember that Taraia had been in the vicinity of Te Ranga, apparently to help in its defence, though he had failed to join the battle.
199-200	Accordingly, we think that the £2160 that the Hauraki tribes received for their interests was fair in proportion to the £7700 that Ngai Te Rangi received for their much more extensive interests. But, when we consider the reserves awarded alongside the monetary payments, it becomes evident that Ngai Te Rangi, who received virtually all of the 8000 acres of reserves in Te Puna–Katikati, were more generously treated than Hauraki. The only promised

	awards of reserves to the Hauraki iwi were 75 acres of wahi tapu, which the claimants allege were never actually set aside by the Government. ⁷¹ This disparity between the relatively large reserves awarded to the Ngai Te Rangi chiefs and the virtually non-existent reserves awarded to Marutuahu and the Ngati Ranginui hapu is clear evidence of a failure to treat Maori equally according to their customary rights in Te Puna–Katikati.
234	James Mackay, the civil commissioner for Hauraki , also believed that much of the opposition to surveying in this period was due to the activities of speculators, who had told Maori that the Government was not paying them enough for their land.
255	The situation was inflamed, however, by ‘the intervention of outsiders, namely a section of Ngati Porou from the Hauraki district, who altered the position of protest into one of open threats against the lives and property of the surveyor.
275	The actual awarding of the land was carried out mainly in 1866 under the direction of James Mackay, the civil commissioner for Hauraki , whose district included the Te Puna–Katikati blocks.
276	However, she was not able to locate the other places or find any record that the reserves promised in the deed were either surveyed or granted to Hauraki Maori.
280	Finally, we note the submission of counsel for the Hauraki and Marutuahu claimants. While acknowledging that a total of £2160 was received for his clients’ interests in the Te Puna–Katikati blocks, in addition to ‘several town sections’ and one urupa, counsel pointed out that the promise of 75 acres of wahi tapu and other reserves did not appear to have been fulfilled. He further noted that claimant researcher Tony Walzl had been unable to find any documentary record of the grant of the wahi tapu. Then, in submissions in reply to the Crown, counsel took the Crown to task for its argument that the Tribunal could not make a finding on the wahi tapu reserves promised in the Hauraki deed because of a lack of evidence on their fate.
281	Counsel submitted that by 1873 the Government had issued grants for the majority of the reserves, and they further submitted that, because no evidence existed that the 75 acres of wahi tapu reserves promised to Hauraki iwi were not set aside, the Tribunal could not come to any conclusion regarding Crown wrongdoing in the matter.
281	As we noted above, the Crown’s closing submissions in relation to the allocation of reserves in the confiscated and Te Puna–Katikati blocks were largely confined to the question of whether the Government fulfilled its obligations, as recorded in the various deeds, to set aside reserves within the two areas. We agree with the Crown that it did, with the exception of the Hauraki wahi tapu reserves, which we discuss at section 10.8.
281	Mackay and Clarke never planned the reservation of a set amount of land for the use of Tauranga and Hauraki hapu. However, they did demonstrate considerable knowledge of the tribal landscape, both in Te Puna–Katikati and in the confiscated block.

290	With Ngai Tukairangi, they had formerly occupied Otamataha on the Te Papa Peninsula, but after the Hauraki attack in 1828 they evacuated that site and established a new kainga at Matapihi.
298	10.8.1 Hauraki wahi tapu reserves The purchase deed signed by Ngati Maru and Ngati Tamatera for their interests in the Te Puna–Katikati blocks provided for several wahi tapu reserves, and these were the subject of argument between their counsel and the Crown (see sec 10.4).
355	By the 1870s, gum digging was widespread across the western Bay of Plenty, and in the 1880s a large proportion of Tauranga’s Maori population worked the Hauraki gum fields.
391	For instance, the Marutuahu (Hauraki) tribes were excluded on the ground that their claims were extinguished by the Crown’s 1866 payments for rights in the Te Puna–Katikati blocks.
407	We therefore recommend that the claims of Marutuahu iwi within the Tauranga inquiry district which have been upheld in this report (see chs 7,10) be included in negotiations that may arise from the Tribunal’s Hauraki inquiry.
408	Ngati Pukenga’s claims are also being considered in the Hauraki and Tauranga inquiries, though they are quite separate. It is possible that the Tauranga claims of Ngati Pukenga will not need to be remedied separately. Given their historical ties to Ngai Te Rangi , it may be appropriate for Ngati Pukenga to be grouped with that iwi in negotiations to settle their Tauranga claims.
409	What evidence we have heard suggests that Tauranga and Hauraki Maori shared customary interests in the area to roughly the same extent (see ch 2) and that the Treaty breaches arising from the Crown acquisition of the area affected the two groups in a similar measure (see ch 7).

References to ‘Hauraki’ in *Tauranga Moana 1886-2006* Tribunal report (Wai 215, August 2010)

Page/s	Passage
15	Finally, claims from Hauraki iwi, in the west of the inquiry district, were also heard at each stage
17	In hearing week 3, between 9 and 13 October at the Armitage Hotel, Tauranga, we heard from those groups that have interests within the Tauranga Moana inquiry district but who also have substantial interests in areas bordering the inquiry district. These groups were Waitaha, Ngāti Mahana and Ngāti Motai, Ngāti Hinerangi, Ngāti Ruahine, Marutūahu, and

	Hauraki.
27	The five main tribal groupings from the stage 1 inquiry (Ngāti Ranginui, Ngāi Te Rangi, Ngāti Pūkenga, Waitaha, and Hauraki iwi) also participated in the stage 2 inquiry, along with three additional claimant groups: Ngāti Mahana and Ngāti Motai, of Ngāti Raukawa, and Ngāti Hinerangi.
131-132	Further, as the Hauraki Report has pointed out, since Māori can pursue succession through the lines of both parents, any given individual might have land interests in a number of widely scattered locations and, for any given block, 'non-resident heirs soon came to outnumber resident heirs'. ⁴⁴⁹ Also as noted by the Hauraki Report, however, the problem would seem to lie not in the rules of succession per se but rather in the permanent and individualised nature of the title. Customary tenure had been much more flexible, with bundles of rights generally being allocated to particular groups or individuals on a needs basis, sometimes involving the same area of land, and then being redistributed as the situation demanded.
135-136	In the Hauraki inquiry, the Crown conceded that the: rapid Crown purchasing of Hauraki Maori land in the latter part of the 19th century ... contributed to the overall landlessness of Hauraki Maori and this failure to ensure retention of sufficient land holding by Hauraki Maori constituted a breach of the principles of the Treaty of Waitangi . . .
137	However, our general view is in line with those of other Tribunal inquiries on the same matter, including the Hauraki report, and with Tribunal Rangahaua Whānui reports by Hutton, Bennion, and Ward, cited in the Hauraki report: we believe that the provisions of the legislation were operated in Tauranga in a perfunctory manner.
138	This submission from the Crown was at variance with the acceptance by the Crown in the Hauraki inquiry that: from 1909 the issue of ensuring sufficient land for the maintenance of current and future Maori needs was known to the Crown. There appears to be a serious case for the Crown to answer with respect to claims made under this head.
144	Both the Hauraki and central North Island Tribunals have found that, rather than imposing its own solutions, the Crown should have been guided by the Treaty principle of partnership. We concur. The relationship between the Crown and Tauranga Māori cannot be said to be one of partnership when one partner was frequently deciding for the other what it should do with its own land.
149	Instead, as the Hauraki Tribunal has observed, the Crown's land laws 'constantly tended towards the alienation of Maori land ... rather than to the retention and development of land by the owners.
223	The Hauraki Tribunal considered whether similar State intervention in that region might be 'so maladroit that it amounts to a failure of the duty of active

	protection' but did not, in the end, make any finding of Treaty breach.
282	<p>As the Hauraki Report stated:</p> <p>The Crown at times in the past had adopted a cavalier attitude to the taking of Maori land, and took advantage of the inherent problems associated with the administration of multiply owned Maori land, a system devised over time by the Crown itself.</p> <p>We agree with the Hauraki Report that the onus was on the Crown to overcome the difficulties of the system; the 'weight and resources of the Crown, as compared to the limited capacities of private citizens must be taken into account'. The Crown's failure in the past to make 'every reasonable effort made to redress the imbalance' and ensure that Māori received 'fair and equal treatment with their fellow non-Maori citizens' was therefore a breach of the article 3 rights of Māori and the Treaty principle of equity.</p>
391	It is not clear to what extent the Tauranga situation is typical of the rest of New Zealand, although we assume that similar conditions prevailed in the Hauraki inquiry district, at least, since that Tribunal found that the Crown's rating regime should have 'taken into account the considerable, often uncompensated, contribution of land for public works and national and local infrastructure made by Maori, both willingly and compulsorily'.
395	In the Hauraki inquiry, the Tribunal found that in addition to forced sales, 'much Maori land was sold for rates anyway, because there was no development option for the owners to cover the rates otherwise'.
418	Since the local government reforms, they are covered by the Hauraki District Council and the Matamata-Piako District Council. The evidence presented to us did not refer to either of these councils, and nor were they represented at hearing.
443	The Hauraki Māori Trust Board and the Federation of Māori Authorities both addressed the latter theme. The federation's view was that '[a] Central Government overarching Treaty framework should be developed and implemented by Local Government to encompass the Treaty relationship, taking into consideration the Māori view of land as more than a commodity'.
615	The Hauraki , Mohaka ki Ahuriri, and Te Tau Ihu o te Waka a Maui reports considered a different and broader question: whether the Crown had recognised and acted on evidence of the need for environmental controls early enough.
615	The Hauraki Tribunal emphasised that the Crown had breached the Treaty by not paying attention to 'Maori concerns, expressed consistently in petitions and at parliamentary inquiries over the many instances of damage to their lands and resources'.
630	<p>As the Hauraki Māori Trust Board submitted, taonga tuturu:</p> <p>hold a special meaning, have a history, whakapapa or connectedness, not only to those past but also to the people of the present. Today we</p>

	impart them with meaning, significance, and importance, hoping those qualities will endure into the future.
630	As the Hauraki Report found, Māori also retained rights to rangatiratanga over their taonga under article 3 of the Treaty, since '[a] basic tenet of citizenship is the right to protect property and chattels, including items of great personal or cultural significance.'
649	Archaeologist Louise Furey, speaking on behalf of the Hauraki Māori Trust Board, told us about the archaeological importance of both the pā site and artefacts recovered from the swamp. Taonga recovered during site investigations in the 1960s, and now in the custody of the Waikato Museum, include an 'unparalleled' collection of wooden items such as combs, figures, utensils, and musical instruments.
672	As the Hauraki Report put it: We are asked to consider how the intertwining worlds of people and their cultural and spiritual environment can be effectively translated into legislation, and how, if ownership of the land has been lost, links with the past and future can be preserved and acknowledged.
673	The Hauraki Report, for example, found that Crown legislative protection was 'not adequate for much of the nineteenth and twentieth centuries'. The Hauraki Report also found that Māori should have always retained Treaty rights to have their relationship with significant sites treated with respect, regardless of the ownership of land, and that the Crown's obligations to secure this right are strengthened where extensive land loss has occurred.
673	We therefore concur with the findings of the Hauraki Tribunal. The Crown's legislative framework did not adequately allow Tauranga Māori to exercise authority and control over the taonga of their cultural heritage.
684	Like the Hauraki Tribunal, we are satisfied that in the first instance Crown ownership of taonga is suitable, provided mechanisms for identifying the true owners, and transferring ownership and possession to them are effective and efficient.
684	The 2006 Hauraki Report accepted that, together, the Resource Management and Historic Places Act now provide 'avenues for full protection of sites, as long as the processes set out by legislation are well publicised and adequately funded'.
685	In the words of the Hauraki Tribunal, 'legislative protections require the participation of Maori to be truly effective, and we think this is appropriate in a Treaty relationship where both sides have duties and privileges'. The Hauraki Tribunal stressed that it is critical that 'Maori determine which specific sites they wish to be identified as wahi tapu, and which require full protection, and then make full use of available legislative provisions.' They noted that the nature of ownership of the land determined how specific Māori would need to be in identifying sites of significance.
798	The Hauraki Tribunal, for example, declared: 'We reject the suggestion that there is no connection between the wholesale acquisition of Maori land and

	the economic marginalisation of Hauraki Maori’.
831-832	We have little information on the 15 respondents who did reply to the February letter, in terms of any who may have had interests in the Tauranga area. We know that the Hauraki Māori Trust Board responded, indicating its opposition to any proposal to take lands out of the landbank, but Ms Baggott was unable to say whether there was anyone else.

APPENDIX K

References to 'rangatiratanga' and 'kaitiakitanga' in Tauranga Moana reports

Tauranga Moana 1886-2006, 2010

Page/s	Passage
Letter of transmittal	Where their environment and cultural heritage are concerned, Tauranga Māori have had to fight hard to maintain even a faint shadow of the tino rangatiratanga and kaitiakitanga they exercised at the time of the signing of the Treaty.
18	Like other Tribunals before us, we see kawanatanga as meaning the right to exercise governance and to make laws for the whole of New Zealand, and we see tino rangatiratanga as equating with mana motuhake or aboriginal autonomy. Tino rangatiratanga and kawanatanga, and their interplay, are at the heart of the relationship between the Crown and Māori. The Ōrākei Tribunal's view, widely endorsed by other panels, was that the sovereignty ceded to the Crown in article 1 of the Treaty must be qualified by the recognition of tino rangatiratanga in article 2. The <i>Taranaki Report</i> expands on the duties and responsibilities of each party and aptly describes the relationship as 'symbiotic'. Each party depends on, and must accommodate, the other. In that spirit, we echo the call of the Taranaki and central North Island Tribunals for the Crown to recognise that 'conciliation requires empowerment, not suppression'. Our examination of issues in stage 2 is underpinned by a belief that the Crown, in exercising its sovereign authority, has a duty to respect te tino rangatiratanga of Tauranga Māori and to foster their empowerment and autonomy. In our view, strong, confident iwi and hapū are in a better position to contribute to the wellbeing of the nation as a whole.
19	Reciprocity is implicit in the Treaty. The Crown's sovereignty was recognised by Māori in exchange for the Crown's recognition of their tino rangatiratanga as stated in article 2.
22	In the <i>Ngawha Geothermal Report</i> (1993), the Tribunal went into some detail on the implications for the Crown of its duty of active protection of Māori resource-use. It identified several important elements of the duty, including: <ul style="list-style-type: none"> - That Māori are not unnecessarily inhibited by legislative or administrative constraint from using their resources according to their cultural preferences. - That Māori are protected from the actions of others which impinge upon their rangatiratanga by adversely affecting the continued use or enjoyment of their resources whether in spiritual or physical terms. - That the degree of protection to be given to Māori resources will depend upon the nature and value of the resource. In the case of a very highly valued rare and irreplaceable taonga of great physical and spiritual importance to Māori, the Crown is under an obligation to ensure its protection (save in very exceptional circumstances), for so long as Māori wish it to be protected. - That the Crown cannot avoid its Treaty duty of active protection by delegation to local authorities or other bodies (whether under legislative provisions or otherwise) of responsibility for the control of natural

	<p>resources in terms which do not require such authorities or bodies to afford the same degree of protection as is required by the Treaty to be afforded by the Crown. If the Crown chooses to so delegate it must do so in terms which ensure that its Treaty duty of protection is fulfilled.</p> <p>We agree with these views on the nature and extent of the Crown's duty of active protection. We consider that duty to be especially important in Tauranga Moana in the period after 1886, given the reduced land and resource base of tangata whenua following the Crown's confiscation and limited 'return' of lands.</p>
22-23	<p>As previous Tribunals have found, the Crown has a particular duty to respect and actively protect Māori autonomy, which they are entitled to as the natural expression of their tino rangatiratanga. We follow the Tūranga Tribunal's understanding of Māori autonomy as 'the ability of tribal communities to govern themselves as they had for centuries, to determine their own internal political, economic, and social rights and objectives, and to act collectively in accordance with those objectives'. In our view, the essence of autonomy is the capacity of Māori hapū and iwi to exercise authority over their own affairs. A natural outcome of the overarching principles of reciprocity and partnership that characterise the Treaty exchange is for the Crown to recognise and protect Māori autonomy and authority over their own affairs, within the minimum parameters necessary for the proper operation of the State.</p>
26	<p>Chapter 7 addresses environmental and resource management issues such as pollution; access to mahinga kai; and provision for rangatiratanga and kaitiakitanga.</p>
145	<p>From 1886 to the end of the nineteenth century, in particular, when the bulk of the alienation took place, the Crown breached the principle of active protection in that, with one or two exceptions, it was expressly driven by opening up land for settlement, rather than protecting the interests of Māori and enabling them to exercise tino rangatiratanga over their lands and resources.</p>
146	<p>Then, in 1913, the Native Land Amendment Act replaced Māori representation on the Māori land boards by a Native Land Court judge and registrar. It is difficult to see how this Crown policy provided for rangatiratanga or gave effect to the principle of partnership.</p>
147	<p>In the Tauranga Moana stage 2 inquiry, the Crown has argued that its approach has been to not unfairly constrain individual Māori who wished to deal in their lands as they saw fit. Implicit in this laissez-faire argument is that if Māori were free to do what they wanted with their lands, this could be seen as an assertion of tino rangatiratanga. We reject this argument.</p>
148	<p>As a result of the Crown's actions in individualising tenure, Tauranga iwi and hapū were no longer able to exercise collective tino rangatiratanga over their remaining land, and we find this to be in breach of article 2 of the Treaty.</p>
492	<p>Two points to highlight from these observations are, first, the definition of taonga as something of value that also carries a spiritual dimension, and, secondly, that rangatiratanga over taonga carries the accompanying responsibility of guardianship or kaitiakitanga.</p>

504-505	The significance of any one taonga, considered as a component of the ancestral landscape, can only be understood within the context of the whole which gives it its meaning. The rights of rangatiratanga, and the responsibilities of kaitiakitanga, were directed towards maintaining the integrity of the ancestral landscape, and with it the tribal identity of the people.
505	A strong spiritual link undoubtedly existed between each hapū and the lands and seas over which they held the rights of rangatiratanga and the responsibilities of kaitiakitanga. The exercise of their kaitiakitanga, and communal participation in gathering resources from these taonga, was key to maintaining the tribal identity of the people. It reinforced the bonds between the people, and between them and their tūpuna.
506	There is an inevitable tension between the two versions of article 2, since each expresses concepts deeply embedded in different cultures. In particular, the implications of the term 'te tino rangatiratanga' have been much debated. On the basis of the claimants' evidence, and building on previous Tribunal findings, we consider that the term means that Māori were guaranteed full authority and control over their property and taonga. In particular, we follow the <i>Muriwhenua Fishing Report</i> and the <i>Ngai Tahu Sea Fisheries Report</i> , each of which referred to three main elements of the Treaty guarantee of tino rangatiratanga over taonga: authority or control that is exercised in recognition of the spiritual source of the taonga, and extends over both property, and over the people within the kinship group.
506	Tino rangatiratanga must not be confused with modern ownership. Thus, individual Māori may now own (in the modern sense) lands over which their hapū retains rangatiratanga. However, as Tribunal historian Ben White has noted, one of the key issues of the colonial encounter in New Zealand is '[the] way Maori were forced to reconceptualise their rights and customary law in order that they be cognisable under English common law'. As we found in chapter 2 (see sec 2.11.4), the English word 'ownership', unlike 'rangatiratanga', does not convey the interlinked responsibilities of chiefs and their communities in regard to allocating use rights over land and resources.
507	The exercise of tino rangatiratanga over taonga within modern New Zealand's legal framework now requires either ownership or, where this is not possible, significant management rights recognised and provided for in statute. Such management rights provide another means by which to recognise tino rangatiratanga, and allow the expression of kaitiakitanga.
509	On the basis of such evidence, we have no difficulty in accepting that Tauranga Māori possessed areas of the foreshore and seabed of their moana at 1840 in precisely the same sense in which they possessed the surrounding land – that is, as a complex system of overlapping and interlocking rights and obligations.
517	The rangatiratanga over rivers lay with the hapū, just as it did with land. It was hapū who exercised collective authority over their river, who as kaitiaki guarded the river's mauri, husbanded its resources, and were in turn nurtured by the river. Different whānau and individuals had use rights to resources, such as a particular fishery, only by virtue of their membership of the hapū. The essence of past findings, then, is that Māori hapū collectively held customary title over waterways just as they did over land.
520	The Crown has conceded, albeit obliquely, that Māori interests were not explicitly provided for in general planning legislation until recently, and that

	Māori had no input into decisions regarding the taonga of the natural environment other than as ordinary members of the public. This is not the partnership envisaged by the Treaty, and it in no way provided for Māori rangatiratanga or kaitiakitanga in environmental management.
574	We have seen how Tauranga Māori have been dispossessed of their harbour, waterways, foreshores, and much of their lands. As this has happened, their ability to exercise tino rangatiratanga and kaitiakitanga in their ancestral landscapes has been limited to inclusion in the development of planning and resource management regimes.
588	For several reasons, the Act's provisions that enable Māori to exercise rangatiratanga and act as kaitiaki in environmental management have not yet been properly realised in practice. Councils have been slow to come to terms with the Act's requirements to engage with Māori in their planning processes. At present, the most potentially potent provisions in the Act for the exercise of Māori rangatiratanga are those relating to the transfer, delegation, or sharing of powers; however, councils in the region have made only very small and tentative steps towards sharing powers. Iwi management plans can also now be a powerful tool, but neither central nor local government has properly resourced such plans, and (at least initially), they had very little statutory weight.
599	As the Tribunal and the courts have repeatedly stressed, neither the Crown's right to govern, nor the guarantee of tino rangatiratanga , is absolute under the Treaty; rather the rights of each Treaty partner necessarily qualify those of the other. On this basis there was to be room for two peoples in Aotearoa New Zealand, sharing its natural resources. This relationship, as the courts have emphasised, requires each Treaty party to act reasonably, in good faith, and in the spirit of partnership. Each party is obliged to negotiate with respect, and be willing to compromise.
599	Counsel for Ngāi Te Rangi cited the findings of the <i>Report on the Muriwhenua Fishing Claim</i> regarding the meaning of tino rangatiratanga : There are three main elements embodied in the guarantee of rangatiratanga . The first is that authority or control is crucial because without it the tribal base is threatened socially, culturally, economically, and spiritually. The second is that the exercise of authority must recognise the spiritual source of taonga (and indeed of the authority itself) and the reason for stewardship as being the maintenance of the tribal base for succeeding generations. Thirdly, the exercise of authority was not only over property, but of persons within the kinship group and their access to tribal resources.
600	According to the claimants, the taonga of Tauranga Moana include natural resources such as waterways, forests, and fisheries. The mauri of these entities is also a taonga to be protected. Rangatiratanga itself, as a value that permeates Māori society and culture, is likewise a taonga.
603-604	Where Tauranga Māori have lost ownership over their property and taonga against their will, and in breach of the principles of the Treaty, they may retain Treaty rights to exercise rangatiratanga and kaitiakitanga over those resources. As with the central North Island Tribunal, we find that they should ideally be able to exercise rangatiratanga , and act as kaitiaki, 'through their own forms of local or regional self-government or through jointmanagement regimes at a local or regional level'.

604	In sum, the Crown is obliged to protect Māori by providing a legislative system that allows for the expression of Māori rangatiratanga over their taonga, and enables them to fulfil their obligations as kaitiaki. As the central North Island Tribunal has previously stated, rangatiratanga 'extends to matters both tangible and intangible that they value.
605	The crux of the matter, as the central North Island panel has pointed out, is that the Crown should 'provide for a system of resource management that allows Maori to exercise their rangatiratanga over their taonga (whether owned or not)'. The Crown's obligation to provide a system of resource management that provides for rangatiratanga necessarily restricts how and when it may balance its obligations to its Treaty partner against the needs of other parts of the community. The Crown cannot take as a matter of course its right to circumscribe Māori rangatiratanga for reasons of balancing competing interests. The partnership created by the Treaty requires that each party recognise the interests of the other in natural resources, especially those of such undoubted significance to Māori that they must be regarded as their taonga.
608	Tauranga Māori ought to have had the full protection of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga Harbour recognised at all times, unless alienated by freely negotiated agreement, or when strictly necessary in the national interest. In consistently refusing to acknowledge Māori rangatiratanga over Tauranga Harbour, we find that the Crown has therefore acted contrary to both the plain meaning of article 2, and the principles of partnership and the duty of active protection.
608	We find that in usurping ownership over Tauranga Moana and presuming to delegate ownership to other entities, the Crown has committed a number of Treaty breaches. The historical assertion of Crown ownership over the foreshore and seabed of Tauranga Moana has usurped Māori rangatiratanga and kaitiakitanga, in breach of the principle of partnership, and the principle of active protection of lands and taonga, including rangatiratanga.
610	Rangatiratanga over waterways was lost. In all these circumstances, it is clear that Tauranga Māori had not agreed to part with anything, let alone rangatiratanga over their rivers.
614-615	We find that, given its adherence to the Treaty, the Crown was not entitled to rely on the common law or on statute to strip Māori of their rangatiratanga, and to usurp possession of environments such as Tauranga Moana and waterways. We find that the Crown did not historically provide for Māori to have adequate powers of management over their taonga. We accept that, in some exceptional cases, the Crown has been justified in asserting control over resources – for example, over endangered species. But in all other circumstances, we find that the Crown has been in continuous breach of the plain meaning of article 2 of the Treaty, by failing at any stage to make adequate provision for Māori rangatiratanga and kaitiakitanga over their property and taonga. The Crown has thereby breached the Treaty principle of active protection.
621	As <i>He Maunga Rongo</i> found, the partnership principle, which rests on the accommodation between kawanatanga and rangatiratanga, therefore cannot be weighed in the balance. That report also noted that kaitiakitanga 'can exist only where there is rangatiratanga, because they are inextricably linked'.

623	Tauranga Māori will never truly uphold their rangatiratanga if they can only react to the plans that others have for environments and resources.
623	The Crown's resource management legislation is still not being implemented in a manner consistent with the principles of the Treaty. It has not, in practice, as yet provided for a true partnership with Tauranga Māori. It has not adequately provided for Māori to exercise rangatiratanga and kaitiakitanga. The understandable result has been that some Tauranga Māori have become so frustrated that they themselves are no longer engaging with local authorities in the necessary spirit of good faith, and willingness to compromise, that must characterise the Treaty partnership.
624	The principle of partnership and the duty of active protection oblige the Crown to ensure that under its legislation Māori can – and do – exercise rangatiratanga over their taonga. The Crown must actively work with tangata whenua and local authorities to identify which natural resources and environments in Tauranga Moana will most help to restore tribal rangatiratanga over their taonga, and are suitable for a shift in the management regime.
625	Only once Māori have the capacity to assume the responsibility of acting as kaitiaki over their taonga will the Crown have provided a system of resource management that allows Māori to exercise their rangatiratanga. Only then will the Crown discharge its duties, and avoid further breaches of the principles of the Treaty.
625-626	<p>Our main conclusions and findings in this chapter are that:</p> <ul style="list-style-type: none"> - The Treaty guaranteed to Tauranga Māori their rangatiratanga over their lands, forests, fisheries and other taonga. Holding rangatiratanga imposes an obligation upon Tauranga Māori to guard and care for taonga as kaitiaki. Where Tauranga Māori have lost ownership over taonga against their will, and in breach of the principles of the Treaty, they may retain Treaty rights to exercise rangatiratanga and kaitiakitanga over those taonga. - The taonga of Tauranga Māori include the harbour, Tauranga Moana, significant waterways, and the forests of the Kaimai Range. - Prior to 1991 the Crown consistently failed to recognise and provide for Tauranga Māori rangatiratanga and kaitiakitanga over Tauranga Moana, its waterways, its forests, and its fisheries, in breach of the plain meaning of article 2, and of the principle of partnership and the duty of active protection. - The Crown permitted the pollution of waterways, and the destruction of forests and fisheries, to an extent that left Tauranga Māori unable to sustain their traditional way of life, and unable to utilise their taonga as a base for economic development. In leaving Tauranga Māori in this position, the Crown breached the principle of options, and has failed to provide adequate redress. - Since 1991 the Crown has provided mechanisms through which Tauranga Māori can potentially exercise rangatiratanga and kaitiakitanga over customary fisheries, waterways, and forests. However, in practice local bodies have been reluctant to use these mechanisms. Much more active Crown oversight is required to avoid further breaches of the principle of partnership and its duty of active protection. - Where the wider public also have a strong interest in taonga, as is the case with Tauranga Moana, significant waterways, and the forests of

	the Kaimai Range, it is now most appropriate for the Crown to explore possibilities for joint management between local government and Māori.
854	The Treaty guaranteed to Tauranga Māori their rangatiratanga over their lands, forests, fisheries, and other taonga. They thus have an obligation to guard and care for those taonga as kaitiaki. Where Tauranga Māori have lost ownership of taonga against their will, and in breach of the principles of the Treaty, they may retain Treaty rights to exercise rangatiratanga and kaitiakitanga over those taonga. As we were told, the taonga of Tauranga Māori include the harbour, Tauranga Moana, significant waterways, and the native forests of the Kaimai Range.
854	Prior to 1991, the Crown consistently failed to recognise and provide for rangatiratanga and kaitiakitanga of Tauranga Māori over their moana, waterways, forests, and fisheries, in breach of the plain meaning of article 2, and of the principle of partnership and the duty of active protection. Furthermore, the Crown permitted the pollution of waterways, and the destruction of forests and fisheries, to an extent that left Tauranga Māori unable to sustain their traditional way of life, and unable to utilise their taonga as a base for economic development. In leaving the claimants in this position, the Crown breached the principle of options, and its duty of active protection, and has failed to provide adequate redress.
854	Since 1991, the Crown has provided mechanisms through which the claimants can potentially exercise rangatiratanga and kaitiakitanga over customary fisheries, waterways, and forests, but they are not always working well in practice. Some councils have been slow, for example, in coming to terms with requirements to engage with Māori in their planning processes. Likewise, provisions exist for local bodies to transfer, delegate, or share authority with Māori in the management of resources, but little has so far happened.

Te Raupatu o Tauranga Moana, 2004

Page/s	Passage
20-21	Subsequent Tribunals have reiterated that view. For instance, in its <i>Ngai Tahu Report 1991</i> , the Tribunal said that tino rangatiratanga 'necessarily qualifies or limits the authority of the Crown to govern. In exercising its sovereignty it must respect, indeed guarantee, Maori rangatiratanga – mana Maori – in terms of article 2.' We follow that approach in this report and say that the Crown, in exercising its sovereign authority while dealing with Tauranga Maori, had to respect their tino rangatiratanga, or unqualified exercise of chieftainship.
22	It is a fundamental principle of the Treaty of Waitangi that Maori ceded sovereignty or kawanatanga to the Crown in article 1 in exchange for the protection by the Crown of Maori tino rangatiratanga, as stated in article 2. As we have noted, the Orakei and other Tribunals stressed the need for the Crown's exercise of sovereignty to be qualified by respect for tino rangatiratanga.
26	We have to consider the extent to which the Crown was tempering its exercise of kawanatanga by respect for tino rangatiratanga; and how the Treaty partners were observing their respective responsibilities in the difficult circumstances of the war.

26	In this report, the various allegations by the claimants of Crown Treaty breach are evaluated in the light of the overarching Treaty principle of reciprocity – namely, that the Crown is required to temper its sovereign authority or kawanatanga with respect for Maori autonomy or rangatiratanga. Several other Treaty principles, including those of partnership, active protection, redress, and equal treatment, are also of relevance to the task of this Tribunal in reaching findings on the Tauranga raupatu claims.
40	Finally, we discuss several neighbouring groups whose predominant areas of interest lie outside our inquiry boundaries: the Marutuahu confederation; Ngati Haua; Ngati Hinerangi and Ngati Tokotoko; Ngati Raukawa; and Ngati Rangiwewehi. Of these groups, only the Marutuahu confederation is a claimant in this inquiry. As we noted in chapter 1, the confederation is made up of four Hauraki iwi. They have claimed as a group, so we are not required to distinguish between the interests of its constituent tribes. The confederation’s claims concern the Te Puna–Katikati purchase – it asserts that it has exclusive ‘mana whenua’ in the Katikati block and shared interests to Ongare and Uretara in the northern part of the Te Puna block, and that it has wahi tapu ‘located deep into the Te Puna Block’. We accept that the confederation had interests in the Katikati block and the northern part of the Te Puna block, but we do not believe that its interests excluded other hapu from also having customary rights within any part of those blocks. We consider that the area was a contested zone, an area where the rights of the confederation overlapped with those of Ngai Te Rangi. The extent of each side’s rights was in dispute at 1840, and was still disputed in 1864 when the purchase of the Te Puna–Katikati blocks commenced.
40	We also endorse the Rekohu Tribunal’s concerns about the use of the term ‘mana whenua’, particularly when it is used to assert that one group has exclusive authority within a particular area. Maori custom was characterised by complex overlapping and intersecting interests, so that, in different circumstances, the interests of one group or another might be more significant. The concept of ‘mana whenua’ appears to be a nineteenth-century innovation, which confuses the personal or spiritual quality of mana with the distinct issue of rights to land.
67	There was nothing in the law at the time to prevent Maori chiefs from putting their land under the mana, or rangatiratanga of one of their number they called a king, thus giving him a veto over the alienation of that land to the Crown. On the contrary, the Treaty confirmed the chiefs’ rangatiratanga over their land, allowed them to continue to apply customary law, and gave them a right to withhold land from alienation.
116	Having concluded that it is unclear whether Tauranga Maori were legally in rebellion, we now proceed to determine whether the Crown’s military undertakings at Tauranga in 1864 were in breach of Treaty principles. We do this by considering the Crown’s actions in light of the overarching Treaty principle of reciprocity, discussed in chapter 1. This principle holds that the Crown’s exercise of kawanatanga, conceded by Maori in article 1 of the Treaty, must be balanced by respect for the chiefs’ tino rangatiratanga, which is guaranteed in article 2. Though the Crown clearly had a kawanatanga right and responsibility to maintain peace and good order, it could not itself create potential for civil unrest or war by invading the territory

	of Maori without just cause.
119	The result of our analysis to this point is that the Tribunal finds that the Crown acted inconsistently with the principles of the Treaty of Waitangi, especially the principles of reciprocity, partnership, and active protection by: <ul style="list-style-type: none"> - failing to protect the rangatiratanga of Tauranga Maori by attacking them at Pukehinahina and Te Ranga without just cause; and - failing to provide good governance by attacking Tauranga Maori and thereby creating a state of war in the district.
173	In terms of the Treaty principle of reciprocity and the Crown's corresponding kawanatanga duties, the Government was obliged to ensure that its actions conformed with the provisions of the New Zealand Settlements Act and to provide Maori with access to the judicial process the Act established. By the manner in which the Crown applied the Act to Tauranga, it failed in its obligations. We conclude that the Crown was in breach of its Treaty obligations to provide good governance and actively to protect Maori rangatiratanga over their lands.
175	The Crown was in breach of the principles of the Treaty both by taking land at Tauranga without Maori consent and by denying Maori the due process of the law in regard to this taking. The Crown's first breach was clearly its failure to protect the rangatiratanga of Tauranga Maori, while its second breach was its failure to fulfil its obligation to provide good governance. The Crown further breached the Treaty by extending the confiscation district in 1868 and taking more land from Maori without their free and willing consent.
201	Because of the coercive nature of the Crown's purchase tactics, most Tauranga Maori were not free and willing sellers of Te Puna-Katikati. The Crown was therefore in breach of the principles of the Treaty that required it to respect the rangatiratanga of the Tauranga hapu and to acquire from Maori only the land that they were willing to sell.
261	In light of these conclusions, we find that the Crown failed to respect the rangatiratanga of those Maori (predominantly of Ngati Ranginui) who actively opposed confiscation and that it failed to act reasonably towards them, with resulting prejudice in the form of loss of life, property, and land. Once again, the Crown's use of its kawanatanga authority was not constrained by respect for Maori tino rangatiratanga.
305	First, the individualisation of tenure took place without the consent of those it affected. The Crown could not alter something as fundamental to what it means to be Maori as the relationship of hapu to their land without consent if it wanted to remain consistent with its Treaty obligation to acknowledge and protect the rangatiratanga of Maori over their land. The unilateral nature of the imposition of individual title, through the confiscation and return of land, was at odds with the Maori text of article 2 of the Treaty, which required the Crown to allow for the continued exercise by Maori of rangatiratanga over their land.
306	Secondly, the failure to permit Tauranga hapu to exercise rangatiratanga in their customary ways undermined their very foundations. Even land supposedly returned in trust for hapu was placed in the hands of individuals. None of the land taken was returned collectively to any Tauranga hapu. By deliberately taking the control of the land out of the hands of hapu, as

	collective entities, the Crown took away the ability of those hapu to manage their own economic and social endowment.
306	As a result, tino rangatiratanga was undermined and the chiefs' relationships with their hapu were fundamentally modified. The Crown undertook in both the preamble and in article 2 of the Treaty to protect the 'rangatiratanga' of Maori over their land and other resources. This required, by definition, the protection of hapu rights, because no other entity existed with comparable authority over land in Maori society. However, instead of protecting the hapu of Tauranga, the Crown actively sought to diminish their authority.
351	The process of title individualisation and subsequent sales of land undermined the rangatiratanga of Tauranga chiefs and the autonomy of their hapu. The collective notion of autonomy that is implicit in the Treaty needs to be examined in conjunction with the Crown's fiduciary obligation actively to protect Maori people in the use of their lands. We acknowledge that the Treaty promised Maori much in this regard.
404	Only individual members of hapu had title to land at Tauranga returned to them, even if it was occasionally intended to be returned in trust for their hapu. This amounted to a radical reordering of society that gravely diminished tino rangatiratanga or chiefly authority, which was guaranteed to Maori by article 2 of the Maori text of the Treaty.

NGĀI TE RANGI

and

NGĀ PŌTIKI

and

NGĀI TE RANGI SETTLEMENT TRUST

and

NGĀ PŌTIKI A TAMAPAHORE TRUST

and

THE CROWN

**DEED OF SETTLEMENT OF
HISTORICAL CLAIMS**

14 December 2013

MAIMAI AROHA

E papaki tū ana ngā tai ki Mauao
I whakanukunukuhia i whakanekenekehia
I whiua reretia e Hoturoa
a Wahinerua ki te wai
Ki tai wīwī ki tai wāwā
Ki tai papaki onepū
Ki te whaiāo ki te ao mārama
Tihē mauri ora!

'I hikohiko te uira ki Kopukairoa
Papaa te whaitiri ki runga o Maungamana
Papaki tu ana nga tai ki Karikari
Te tere o te Waitao
Whakapapa pounamu te Tahuna o Rangataua
I whakanekehia I whakanukunukuhia
Ki tai wiwi ki tai wawa
Ki te tai onepu
Ki te whai Ao
Ki te whai Ao marama'

Tēnei te mihi ki a tātou o te moana o Tauranga me ngā pari karangarangatanga mai i Ngā Kuri a Whareī ki Ngā Pāpaka o Rangataua puta atu ki Te Tumu. Tēnā koutou i roto i ngā āhuetanga kua pā ki runga ki tēnā, ki tēnā o tātou me ngā mate huhua hoki e hinga nei i runga i ō tātou marae maha. Anei rā te tangi mō rātou kua rūpeke atu ki tua o paerau ki te huihuinga o te kahurangi e oti atu ai rātou.

Kei konei hoki te whakamaumahara mō rātou i tīmata i tēnei kaupapa e pā ana ki ngā take Tiriti i ngā tau ki muri. Na rātou i whakatakoto i ngā kōrero ki mua i te karauna e puta ake ai te poari kaitiaki tuatahi o Tauranga Moana tae ake ai ki ēnei whakatakotoranga kōrero i ngā tau tata kua pahemo ake nei.

Ka tangi ki a rātou, ka tangi hoki ki a tātou e kawe nei i tēnei kaupapa tuarua kua tata ki tōnā whakamanatanga, ki tōnā whakaotinga a ngā marama e tū mai nei i mua i a tātou. Ehara tēnei mahi i te mahi māmā, ehara tēnei i te mahi i oti ai e te tangata kotahi noa iho engari nā te hoe ngātahi a te takitini i taea te ū ki uta.

Nō reira ka mihi atu, tuatahi, ki Te Rūnanga o Ngāi Te Rangi me Nga Potiki a Tamapahore Trust nā rātou te whakaaro tuatahi ki te whai i tēnei huarahi, huri atu ai ki ngā kaitono i whakatakoto i ngā kōrero nunui ki mua i te aroaro o Te Roopu Whakamana i Te Tiriti o Waitangi, tae ake ai ki ngā kaiarataki i kawe nei i ō tātou take ki te Kāwanatanga. Kia kua hoki e warewaretia te mahi nui a Te Hononga e tutuki ai, e ngātahi ai te tautanga o tēnei kaupapa.

Kāti ake rā ēnei mihi.
Ngāi Te Rangi kia ū
Ngāi Te Rangi kia mau
Ngāi Te Rangi kia ita

Nga Papaka o Rangataua
He paruparu te kai
He Taniwha nga Tangata

PURPOSE OF THIS DEED

This deed:

- sets out an account of the acts and omissions of the Crown before 21 September 1992 that affected Ngāi Te Rangi and Ngā Pōtiki and breached the Treaty of Waitangi and its principles; and
- provides an acknowledgment by the Crown of the Treaty breaches and an apology; and
- settles the historical claims of Ngāi Te Rangi and Ngā Pōtiki; and
- specifies the cultural redress, and the financial and commercial redress, to be provided in settlement to the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity that has been approved by Ngāi Te Rangi and Ngā Pōtiki to receive the redress; and
- includes definitions of:
 - the historical claims; and
 - Ngāi Te Rangi and Ngā Pōtiki; and
- provides for other relevant matters; and
- is conditional upon settlement legislation coming into force.

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DEED OF SETTLEMENT

THIS DEED is made between

NGĀI TE RANGI

and

NGĀ PŌTIKI

and

Ngāi Te Rangi Settlement Trust

and

Ngā Pōtiki a Tamapahore Trust

and

THE CROWN

1 BACKGROUND

NEGOTIATIONS

- 1.1 In 2008, Te Rūnanga o Ngāi Te Rangi Iwi Trust sought and obtained a mandate to represent the Ngāi Te Rangi hapū and claimants. Te Rūnanga o Ngāi Te Rangi Iwi Trust did not obtain a mandate from Ngā Pōtiki.
- 1.2 In October 2008, the Crown confirmed the mandate of Te Rūnanga o Ngāi Te Rangi Iwi Trust to negotiate a settlement of all the historical Treaty of Waitangi claims of Ngāi Te Rangi. This was on the condition that Ngā Pōtiki be given the opportunity to participate in negotiations.
- 1.3 In February 2009, Te Rūnanga o Ngāi Te Rangi Iwi Trust and the mandating hapū established Te Hononga o Ngā Hapū o Ngāi Te Rangi Iwi ("**Te Hononga**") to provide the Ngāi Te Rangi hapū with direct input into the negotiation of their historical claims. Te Hononga comprised representatives appointed by the following hapū: Ngāti He, Ngāi Tukairangi, Ngāti Kuku, Ngāti Tapu, Ngāi Tuwhiwhia, Ngāti Tauaiti, Ngāi Tamawhariua, Te Whanau a Tauwhao and Te Ngare. Membership of Te Hononga was made available to Ngā Pōtiki.
- 1.4 In July 2010, Te Rūnanga o Ngāi Te Rangi Iwi Trust and the Crown entered into terms of negotiation which set out the scope, objectives and general procedures for negotiations.
- 1.5 In 2010, the Ngā Pōtiki a Tamapahore Trust obtained a mandate from Ngā Pōtiki to negotiate a settlement of their historical claims.
- 1.6 On 15 December 2010, the Crown provided Te Rūnanga o Ngāi Te Rangi Iwi Trust with a letter setting out the Crown's negotiating parameters and making a quantum offer.
- 1.7 On 23 December 2010, Te Rūnanga o Ngāi Te Rangi Iwi Trust responded to the scope and general content of the letter received from the Crown on 15 December 2010 including the initial quantum offer. Te Rūnanga o Ngāi Te Rangi Iwi Trust considered that the initial quantum offer was not a fair reflection of the nature and extent of their grievances and therefore sought to continue negotiations on the quantum offer.
- 1.8 In April 2011, Te Rūnanga o Ngāi Te Rangi Iwi Trust and the Ngā Pōtiki a Tamapahore Trust, with the endorsement of Te Hononga, agreed a negotiations and settlement framework enabling both parties to move forward in negotiations with the Crown.
- 1.9 Through the negotiations and settlement framework, Te Rūnanga o Ngāi Te Rangi Iwi Trust and the Ngā Pōtiki a Tamapahore Trust agreed:
 - 1.9.1 there will be one Ngāi Te Rangi settlement which will include Ngā Pōtiki;
 - 1.9.2 there will be a single negotiations table for both Ngāi Te Rangi and Ngā Pōtiki;
 - 1.9.3 Ngā Pōtiki shall appoint a negotiator and alternate to represent Ngā Pōtiki;
 - 1.9.4 Te Rūnanga o Ngāi Te Rangi Iwi Trust's negotiators will negotiate generic matters and the specific and exclusive matters for the hapū that had mandated Te Rūnanga o Ngāi Te Rangi Iwi Trust;

1: BACKGROUND

- 1.9.5 the Ngā Pōtiki negotiator will negotiate Ngā Pōtiki specific and exclusive matters;
- 1.9.6 important decisions will be made by a consensus between the mandated representatives of Ngāi Te Rangi and Ngā Pōtiki (for example, confirmed offer, draft deed of settlement);
- 1.9.7 Te Rūnanga o Ngāi Te Rangi Iwi Trust will support Ngā Pōtiki funding applications to the Office of Treaty Settlements and Crown Forestry Rental Trust;
- 1.9.8 Te Rūnanga o Ngāi Te Rangi Iwi Trust support the Crown recognition of the Ngā Pōtiki mandate; and
- 1.9.9 Ngā Pōtiki will confirm that the condition attached to the mandate of Te Rūnanga o Ngāi Te Rangi Iwi Trust is satisfied.
- 1.10 In May 2011, the Crown confirmed the mandate of the Ngā Pōtiki a Tamapahore Trust to represent the Ngā Pōtiki claimant community in negotiations for the settlement of their historical Treaty of Waitangi claims as part of the negotiations framework agreed with Te Rūnanga o Ngāi Te Rangi Iwi Trust.
- 1.11 In April 2012, the Ngā Pōtiki a Tamapahore Trust (as mandated entity) and the Crown entered into Terms of Negotiation which set out the scope, objectives and general procedures for negotiations.
- 1.12 The Te Rūnanga o Ngāi Te Rangi Iwi Trust, the Ngā Pōtiki a Tamapahore Trust, as mandated entities, and the Crown:
- 1.12.1 by agreement dated 28 June 2013, agreed, in principle, that Ngāi Te Rangi, Ngā Pōtiki and the Crown were willing to enter into a deed of settlement on the basis set out in the agreement; and
- 1.12.2 since the agreement in principle, have:
- (a) had extensive negotiations conducted in good faith; and
- (b) negotiated and initialled a deed of settlement.
- 1.13 Ngāi Te Rangi has established the Ngāi Te Rangi Settlement Trust to be its post settlement governance entity.
- 1.14 Ngā Pōtiki has established the Ngā Pōtiki a Tamapahore Trust to be its post settlement governance entity.

RATIFICATION AND APPROVALS

- 1.15 Since the initialling of the deed of settlement:
- 1.15.1 93% of Ngāi Te Rangi ratified this deed and approved its signing on their behalf by the Ngāi Te Rangi governance entity;
- 1.15.2 93% of Ngā Pōtiki ratified this deed and approved its signing on their behalf by the Ngā Pōtiki governance entity;

1: BACKGROUND

- 1.15.3 92% of Ngāi Te Rangi approved the Ngāi Te Rangi governance entity receiving the redress; and
- 1.15.4 94% of Ngā Pōtiki approved the Ngā Pōtiki governance entity receiving the redress.
- 1.16 Each majority referred to in clause 1.15 is of valid votes cast in a ballot by eligible members of Ngāi Te Rangi and eligible members of Ngā Pōtiki.
- 1.17 The Ngāi Te Rangi governance entity approved entering into, and complying with, this deed by resolution of trustees on 12 December 2013.
- 1.18 The Ngā Pōtiki governance entity approved entering into, and complying with, this deed by resolution of trustees on 12 December 2013.
- 1.19 The Crown is satisfied:
 - 1.19.1 with the ratification and approvals of Ngāi Te Rangi and Ngā Pōtiki referred to in clause 1.15; and
 - 1.19.2 with the approval of the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity, referred to in clauses 1.17 and 1.18; and
 - 1.19.3 the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity are appropriate to receive the redress.

AGREEMENT

- 1.20 Therefore, the parties:
 - 1.20.1 in a spirit of co-operation and compromise wish to enter, in good faith, into this deed settling the historical claims; and
 - 1.20.2 agree and acknowledge as provided in this deed.

2 HISTORICAL ACCOUNT

- 2.1. The Crown's acknowledgement and apology to Ngāi Te Rangi and Ngā Pōtiki in part 3 are based on this historical account.

NGĀI TE RANGI HISTORICAL ACCOUNT

Church Missionary Society acquisition of Te Papa

- 2.2. In 1835 the Church Missionary Society ("**CMS**") established a mission station at Otamataha on the Te Papa Peninsula. This was a significant wāhi tapu area for Ngāi Te Rangi. It had been a large settlement in the 1820s, most closely associated with the Te Materawaho hapū, whose descendants are Ngāti Tapu and Ngāi Tukairangi hapū of Ngāi Te Rangi. In 1828 the pā was attacked and almost all the inhabitants killed, after which it became extremely tapu, and was not permanently inhabited by Ngāi Te Rangi although they did maintain their connection with the lands.
- 2.3. In 1838 and 1839 the CMS acquired the Te Papa Peninsula from local rangatira. For the Ngāi Te Rangi hapū, the tapu nature of the site may have been a factor in allowing the Church to use the land. Though the purchase of 1,000 acres was more than what was required for the mission station, the CMS sought to ensure the land was not subject to undesirable colonisation. The CMS's two purchase deeds included 47 Māori signatures or tohu. Of those who can be identified today the majority were members of Te Materawaho. Soon after the purchase there were complaints from other individuals and hapū that they had not received a share of the purchase money, including from Ngāti He of Ngāi Te Rangi, who planted potatoes on their land at Taiparirua and threatened to shoot mission cows. The CMS made further payments to satisfy some of these claims.

Ngāi Te Rangi and the Crown before 1864

- 2.4. On 30 January 1840, Lieutenant Governor Hobson issued a proclamation forbidding future land sales except to the Crown. At Waitangi, Hobson said that all lands unjustly held would be returned to Māori and that all claims to lands after the date of the proclamation would not be held to be lawful. Subsequently, land commissioners were appointed to investigate the validity of land transactions made before 15 January 1840.
- 2.5. In April 1840, twenty Ngāi Te Rangi chiefs from Tauranga, including Nuka Taipari and Te Whanake, signed Te Tiriti o Waitangi. However, prominent Ngāi Te Rangi leader Hori Tupaea and others refused to sign. Prior to the 1860s the Crown had a limited presence in the Tauranga district, and Ngāi Te Rangi continued to operate under their traditional tikanga and authority.
- 2.6. In July 1844, the Old Land Claims Commission investigated the Church Missionary Society claim to the Te Papa block. The Commission rejected opposition from those Māori who argued they had not received payment, and recommended that Crown grants be issued to the CMS for the entire area included in the two deeds. The Crown accepted this recommendation and issued Crown grants to the CMS. In 1851 the land granted was surveyed and found to contain 1,333 acres. Ngāi Te Rangi consider that the CMS acquisitions of the Te Papa lands were customary land transactions rather than full and final sales and therefore the Crown was wrong to grant the land. The CMS considered that it held this land in trust for the benefit of Ngāi Te Rangi and other Tauranga Māori, for use as an industrial school and for training Māori in agriculture.

2: HISTORICAL ACCOUNT

- 2.7. During the 1840s and 1850s Ngāi Te Rangi took advantage of new trade and agricultural opportunities. By the late 1850s, they owned 'numerous coasting vessels' and supplied Auckland with wheat, potatoes, corn and onions among other produce.

The war in Tauranga Moana

- 2.8. In 1858 the King movement or Kīngitanga was founded to create a Māori political authority that could engage with the Crown and respond to the growing tension caused by land sales. The Kīngitanga required a chief with considerable mana to be King, and the position was offered to Ngāi Te Rangi chief Hori Tupaea who declined it. The Ngāi Te Rangi spokesman in the movement was Hori Taiaho Ngatai. Ngāi Te Rangi allegiance to the Kīngitanga was partly due to the support they had received from Waikato during earlier inter-iwi conflict in Tauranga, and was also the result of a growing awareness of the impact of land sales on tribal autonomy. Many Ngāi Te Rangi hapū and individuals supported the Kīngitanga, while some hapū and individuals took a neutral stance.
- 2.9. In 1863, during the early stages of the Waikato war, Ngāi Te Rangi support for the Kīngitanga involved supplying food, weapons, ammunition and men to their Waikato allies. In August 1863, Ngatai led a group of Ngāi Te Rangi and others to fight for the Kīngitanga in the Hunua and Wairoa Ranges. Members of Ngāi Te Rangi were also involved in the defence of Meremere later in the year. At the beginning of 1864 it was reported that out of those Tauranga Māori who had gone to the Waikato to join the fighting, approximately 105 men were from Ngāi Te Rangi settlements.
- 2.10. In January 1864 the Crown decided to send troops to Tauranga to disrupt the movement of Māori and supplies to the Waikato, among other reasons. On 21 January six hundred British troops landed at Te Papa, and more followed over the subsequent months. When Ngāi Te Rangi warriors in the Waikato heard of this development, they quickly returned to protect their territory and whānau. Ngāi Te Rangi chief Rawiri Puhirake of the Ngāi Tukairangi hapū had refused to become involved in the Waikato conflicts to avoid bloodshed in Tauranga, but reconsidered his position when Te Papa was occupied. He became the leader of Māori forces in Tauranga opposed to the Crown.
- 2.11. Fearing an imminent attack, Puhirake and Ngāi Te Rangi issued a series of challenges to the Crown to provoke it into fighting at specific locations. Henare Taratoa of Ngāi Te Rangi and others drew up rules of engagement which were sent to Colonel Henry Greer. The rules stated that captured soldiers who surrendered their weapons would not be killed, and that unarmed Pākehā, women and children would not be harmed.
- 2.12. In April 1864 Puhirake oversaw the construction of a pā at Pukehinahina also known as Gate Pā. The Crown wanted to achieve a decisive victory and increased its forces in Tauranga to 1,700 troops. On 29 April the Crown attacked Pukehinahina after a heavy bombardment. However, the fortifications, trenches, and rifle pits at Pukehinahina were designed to withstand a bombardment, and protected approximately 200 Māori who were hidden within. Crown troops did not expect serious opposition when they stormed the pā, but were caught in heavy crossfire from the Māori defenders and defeated. It is estimated that 31 Crown soldiers were killed while 25 Māori defenders died, including Ngāi Te Rangi chaplain Ihaka and tohunga Te Wano. The battle was widely seen as a serious defeat for the Crown.
- 2.13. The rules of engagement set down by Tauranga Māori prior to the battle appear to have been followed. Hori Ngatai recalled that the Māori victors neither harmed the

2: HISTORICAL ACCOUNT

wounded nor interfered with the dead. Heni Te Kirikaramu gave water to wounded troops.

- 2.14. Rawiri Puhirake and his forces then withdrew from Pukehinahina and began building a fortified pā at Te Ranga. Although the Crown had already taken steps to secure peace in Tauranga, on 21 June 1864 Crown troops came across Te Ranga before its defences had been completed. There were approximately 500 Māori at Te Ranga made up of members of various iwi from the Tauranga district and elsewhere. The fortifications were not complete, but Puhirake chose to stay and fight after Crown forces opened fire, thinking that further Māori were to arrive for support. Six hundred Crown troops successfully charged and the Māori force was overcome. Rawiri Puhirake and Henare Taratoa were among those killed during the battle. Estimates of the number of Māori killed at Te Ranga vary from 68 to 120, and nine Crown soldiers were killed.
- 2.15. After the battles at Pukehinahina and Te Ranga both sides made efforts to restore peace to Tauranga Moana. Governor Grey promised that any Tauranga Māori who surrendered would receive 'generous treatment', and continued with attempts to negotiate a peace agreement through his officials in Tauranga. Some Ngāi Te Rangi surrendered in mid July 1864. On 24 and 25 July, 157 Māori, including 98 members of Ngāi Te Rangi hapū, handed over weapons to Crown officials at Te Papa. They also signed an oath of allegiance to the Crown which said in the English translation that the disposal of land would be left to the Governor. The absence of a Te Reo Māori version of the oath means the exact nature of what Hori Ngatai and other Ngāi Te Rangi agreed to cannot be confirmed.

The confiscation of the Tauranga District

- 2.16. The New Zealand Settlements Act 1863 provided the legal framework for the confiscation of Māori land at Tauranga. This Act sought to take punitive action against any Māori who had taken up arms or supported those involved in armed resistance against the Crown. The Governor in Council was able to proclaim confiscation districts and the land in these districts could be used for settlements for colonisation. The Act allowed for the return of land to Māori considered not to have been in rebellion. The Crown's confiscation policy, as implemented in Tauranga Moana and elsewhere, was also driven by a determination to make those the Crown considered rebels pay for the war by taking their lands and selling them to military and other settlers. Military settlers were in turn expected to help maintain security.
- 2.17. Governor Grey formalised arrangements for confiscation at the 'Pacification Hui' on 5 and 6 August 1864. There is no record of the Māori korero at the hui. According to the official account of proceedings, Ngāi Te Rangi chiefs Te Harawira and Enoke said that they gave up the mana of the land to the Governor. In reply, Grey said that because of their 'absolute and unconditional submission' Tauranga Māori would be 'generously dealt with'. The Governor told the assembled Māori that:
- 2.17.1. settlements would be allocated to them at once, and Crown grants provided for the land concerned;
 - 2.17.2. no more than one-quarter of 'the whole lands' would be taken;
 - 2.17.3. assistance would be given to help them establish themselves in their new settlements; and

2: HISTORICAL ACCOUNT

- 2.17.4. the rights of Māori who had not taken up arms against the Crown would be 'scrupulously respected' in any arrangements which affected their lands.
- 2.18. There was confusion as to whether Governor Grey intended that the one-quarter of land to be taken was land belonging to all Ngāi Te Rangi, or only land belonging to those who had taken up arms against the Crown. In addition, neither the Governor nor the Crown officials present specified where the one-quarter of land to be taken was to be located. Those Māori present at the pacification hui left it to the Governor to decide. For Ngāi Te Rangi, the pacification hui represented an agreement with the Governor whereby peace was established and he was entrusted to make decisions about the land consistent with his undertakings to them.
- 2.19. The confiscation arrangements made by Governor Grey were put into effect on 18 May 1865 by an Order in Council declaring 214,000 acres of land at Tauranga subject to the New Zealand Settlements Act 1863. The Order also specified that three-quarters of the land would be returned to 'Ngaiterangi'. Doubts were later raised by the Chief Judge of the Native Land Court over whether the Order had, as intended, extinguished Māori customary title in the entire district. The Tauranga District Lands Act 1867 retrospectively validated the Order in Council and declared that the whole district was 'set apart reserved and taken under the New Zealand Settlements Act 1863'. The Tauranga District Lands Act 1868 corrected errors in the boundaries and in doing so extended the confiscation district inland, increasing the total area from 214,000 to 290,000 acres.
- 2.20. In February 1866, Enoka Te Whanake of Ngāi Te Rangi objected to the Crown proposing to take up to a quarter of Ngāi Te Rangi lands, and not just a quarter of the lands of those who fought against the Crown:
- The Governor replied: Give me the land; by and by I will give you every third acre, and keep the fourth acre. The fourth acre was taken for the sin (hara) I had committed, my land only was taken because I had sinned: it was not taken from the men who did not fight. The Governor said, let there be one piece (i.e. of land). I objected, and said it would not be just that another should suffer for me: let me pay with my property at Katikati and Wairake. Also, those who own the forest land, let them do likewise.*
- 2.21. Enoka and others repeated these protests at a hui in March 1866. In response Governor Grey threatened military action to enforce the Crown's wishes if they did not agree. Enoka and others then consented to the Governor's proposal. The Crown confiscated a 50,000 acre block it selected between the Waimapu and Wairoa rivers, which extended it west of the Wairoa River. The block taken by the Crown included key Ngāi Te Rangi settlements on the Te Papa and Otumoetai peninsulas, and extended into the ranges where Ngāi Te Rangi hapū had settlements and resource-gathering sites.
- 2.22. After the war, many Tauranga Māori were dispirited and, disillusioned with missionary religion, converted to the Pai Mārire faith. Pai Mārire was founded by Te Ua Haumene in 1862. Based on the Christian Bible, it promised the achievement of Māori autonomy. The Ngāi Te Rangi chief Hori Tupaea became associated with Pai Mārire activities in the Bay of Plenty district. In 1865 reports emerged that Tupaea and other Pai Mārire were attempting to establish an aukati in the district. Tupaea was apprehended and taken to Auckland, where he was detained without being charged with any offence. Tupaea was then required to declare his allegiance to the Crown, and was released on parole, on condition he would assist the Governor to restore peace, abide by the peace agreements made, and live at a place of the Governor's choosing. He was never prosecuted for any crime and lived out most of the rest of his life on Rangiwaea Island.

2: HISTORICAL ACCOUNT

Crown acquisition of Te Puna-Katikati and Te Papa

"a forced acquisition of Native lands under the colour of a voluntary sale"
Native Minister William Fox to Governor Grey, September 1864

- 2.23. During August 1864, the Crown arranged to purchase over 90,000 acres of land in what became the confiscation district in 1865. This area, north of the Te Puna River, represented a large proportion of the land which was to be returned to Tauranga Māori after 50,000 acres were taken by the Crown, and has become known as the Te Puna-Katikati block. The purchase included land occupied by Ngāi Te Rangi hapū including Te Whānau a Tauwhao, Ngāi Tukairangi, Ngāi Tamawhariua, Te Ngare, Ngāti Tauaiti and Ngāi Tuwhiwhia.
- 2.24. The Crown paid a £1,000 deposit to nine of eighteen chiefs who travelled to Auckland with the Governor after the 'Pacification Hui' and while the details of the confiscation were being arranged. Leading rangatira of Ngāi Te Rangi who lived in the Te Puna-Katikati area, such as Enoka Te Whanake, Te Moananui Maraki and Hori Tupaea, were not consulted.
- 2.25. In February 1866 Enoka Te Whanake protested to the Minister of Colonial Defence that the sale had been the work of the men who went to Auckland, and that people living peaceably at Te Puna-Katikati would object to the sale. The Crown still had approximately 200 military settlers stationed in the Tauranga district. During June and July 1866 Crown officials held a hui at Tauranga to inquire into the claims of those not involved in the first transaction and to arrange payment and reserves for land the Crown presented to Māori as already having been purchased. In October 1866 the Crown and 24 Ngāi Te Rangi chiefs signed a deed which provided for the Crown to pay Ngāi Te Rangi a further £6,000 for their rights in Te Puna, and £700 for their rights in Katikati. The deed listed approximately 6,000 acres of reserves for Ngāi Te Rangi.
- 2.26. By June 1864, the Crown had selected land at Te Papa for a military township. The Church Missionary Society opposed this, saying that Māori had given the land to the Church to hold for the benefit of Māori. The Te Papa Peninsula was within the boundaries of the confiscation district, but the Crown came to accept that CMS land was not included in the terms of the 1865 proclamation. In 1867, faced with the possibility of having the whole block taken, the CMS negotiated an arrangement with the Crown whereby the Society handed over four-fifths of the land without payment. When acquiring the land the Crown made no provision to recognise what the CMS described as the 'solemn Trust' under which it held the land for the benefit of Ngāi Te Rangi and other Tauranga Māori. Today the Te Papa purchase area includes the Tauranga central business district.
- 2.27. Some Māori continued to resist the proposed boundaries of the 50,000 acre confiscated block and tried to prevent its survey and that of the Te Puna-Katikati block by force. The Crown refused to back down, and this led to further armed conflict in the Tauranga district in early 1867. The Crown attacked settlements across the Wairoa River, with the aim of capturing Māori who had been interfering with the surveys. The Crown assisted by Māori from another iwi then destroyed inland settlements and cultivation lands, including Maenene where Ngāti Tapu held interests.

The allocation of reserves and return of lands

- 2.28. The effect of the 1865 proclamation and the subsequent validating legislation was to change 290,000 acres from Māori customary land to Crown land. Following the confiscation, the Crown established processes for the allocation of reserves and return

2: HISTORICAL ACCOUNT

of land according to Grey's undertakings. The Crown granted the land it reserved and returned to individuals rather than hapū.

- 2.29. In 1865 the Crown began allocating reserves in Te Puna-Katikati and the confiscated block. These awards, like the 1865 confiscation proclamation itself, were later validated by the Tauranga District Lands Act 1867.
- 2.30. The reserves awarded to Ngāi Te Rangi in the 50,000 acre and Te Puna-Katikati blocks were largely awarded to one, two, or at the most three named individuals. This included reserves set aside for specific Ngāi Te Rangi hapū. Most awards were granted to the named individuals without any trust obligation to a wider whānau or hapū group, and no alienation restrictions on the title.
- 2.31. The New Zealand Settlements Act 1863 provided for a Compensation Court to award compensation to 'loyal' Māori with interests in land in confiscation districts. Compensation Courts arranged the return of much land in other confiscation districts to individual Māori. However the Compensation Court was never established in Tauranga.
- 2.32. From 1867 the Crown began appointing Commissioners to decide which individual Tauranga Māori it should return land to. The Commission process was drawn out, and it took 18 years for the ownership of some areas to be settled. The Commissioners were not required to keep records of their work and there was no right of appeal against decisions. The Commissioners continued to work in other government roles while they served as commissioners. For example, some served as Resident Magistrate and land purchase officer.

Post-Raupatu land alienation

- 2.33. After the Crown confiscated the 50,000 acre block and purchased Te Puna-Katikati, Ngāi Te Rangi were left with reserves around the inner harbour, land to the east of the confiscated block, and Matakana Island and other offshore islands. Between 1866 and the early 1870s most reserves in the confiscated block and the Te Puna-Katikati block that had been granted to one or two individual owners were sold to private buyers. These included three Ngāi Tamawhariua hapū reserves at Rereatukahia, the sale of which later drew protests from other Ngāi Tamawhariua who argued that the land had been awarded for the hapū. In some cases arrangements to sell the land were made before the reserves were awarded and granted to the Ngāi Te Rangi rangatira.
- 2.34. Reserves for Ngāi Te Rangi hapū and individuals at Otumoetai were leased or sold in the 1860s. Ngāi Te Rangi recall that by the late 1860s numerous Ngāi Te Rangi kainga at Otumoetai had been abandoned, and Te Whānau a Tauwhao had relocated to Rangiwaea, while Ngāi Tukairangi, Ngāti Makamaka, Te Materawaho, and Ngāti Tapu shifted to Whareroa and Matapihi.

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- 2.35. Most of the titles for land returned to Ngāi Te Rangi, outside of the reserves in the 50,000 acre and Te Puna-Katikati blocks, were not confirmed by the Tauranga commissioners until the early and mid-1880s. The Crown sometimes included restrictions on the alienation of lands returned to Māori. However, in other cases, by the time ownership was decided or Crown grants issued some individuals had already entered into arrangements to sell and had received payments for their land. The Commissioners awarded titles in a way which frequently allowed transactions to be completed.
- 2.36. In 1867 a Crown official drew a map which showed Matakana and Rangiwaea as being reserved for Māori. In 1868 and 1869 private parties purchased around 16,000 acres on Matakana Island. The deeds were signed before the Tauranga Commissioner had completed the investigation of the ownership of Matakana. In 1874 the Crown purchased the private interests in about 8,000 acres, and these were later re-vested in Māori. However in 1877 the Commissioner awarded the remaining 8,000 acres without any restrictions on alienation to individual Māori who had already agreed to sell. In 1878 the Crown included this land in a certificate of title awarded to a private party.
- 2.37. In 1867 the Native Land Court awarded title to Motiti Island in two blocks. The larger southern block was awarded to Hori Tupaea as trustee for Te Whānau a Tauwhao. Tupaea leased the block to a private party, who started making payments to purchase the block. However, the Native Minister did not allow the private purchaser to gain the freehold at that time because blocks held in trust for hapū could not be sold. In 1884, after Tupaea died, the Native Land Court appointed successors after a hearing contested by different sections of Te Whānau a Tauwhao. The court subdivided the land into two blocks, and the larger 890-acre block, Motiti B, was awarded without alienation restrictions.
- 2.38. By late 1880 the Crown had decided to open negotiations to purchase Mauao and neighbouring Ngāi Te Rangi blocks for quarrying and other purposes. Mauao is one of the most significant sites for Ngāi Te Rangi. It was a strategic pā for defence purposes and access to fishing and other kaimoana, as well as being a wāhi tapu and urupā, and taonga of Ngāi Te Rangi. The Crown wanted to purchase the maunga for marine, defence, and recreation purposes.
- 2.39. In 1880 the Crown advised private interests that negotiating for land at Mauao would be futile, and proclaimed that any titles awarded to Māori for this land would be inalienable except to the Crown. In December 1880, a Crown land purchase officer reported the majority of owners were unwilling to sell. In 1881 this land purchase officer was re-appointed as a Commissioner. Between 1881 and 1883 he awarded Crown grants for differing parts of the maunga to individuals of the Ngāti Kuku, Ngāti Tukairangi and Ngāti Tuwhiwhia hapū of Ngāi Te Rangi.
- 2.40. In 1886 the Commissioner reported that, although the sale of Mauao had been opposed by chiefs from the land-owning hapū, he had recommended that shares be bought as each owner became individually willing to sell. The Crown adopted this approach and by October 1886 it had acquired all the interests in 13 blocks in the Mount Maunganui area, and more than 85 percent of the shares in the remaining seven. The non sellers were the rangatira Hori Ngatai, his sister, Hiria Enoka, and their hapū, Ngāti Kuku, with two or three exceptions.
- 2.41. In November 1886, Ngatai asked the Crown for seed because his crops had been destroyed in a flood. The Native Minister John Ballance declined to help, saying that no funds were available for this purpose, and suggested that Ngatai sell his surplus land interests at 'Mount Maunganui' to raise money for seed. He did not do so at this

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time. In January 1887 Ngatai exchanged his interests in the Mauao block for Crown-granted land in a block nearby.

- 2.42. By 1899 the Crown had acquired approximately 1,480 acres of Ngāi Te Rangi land in the Mount Maunganui area, including Mauao, parts of other blocks along the peninsula, the islands of Moturiki and Motuotau, and most of Karewa Island, where Hori Ngatai was refusing to sell his share.
- 2.43. From the mid-1880s the Crown also sought to purchase the large Papamoa and Ottawa 1 blocks which had been awarded to Ngā Pōtiki and Ngāti He. In February 1885 Native Minister John Ballance assured Tauranga settlers that he would support large-scale Crown purchasing of Māori land in the eastern part of the district for settlement. At first the Crown made few inroads into the Papamoa and Ottawa 1 blocks. However, in 1886 the Commissioner reported that owing to a drought Tauranga Māori would not have nearly enough produce for their own support. The result, he understood, would be that they would have to depend more on gum-digging, and some would probably wish to sell land to enable them to tide over the winter season. In 1887 the Crown began to acquire interests in Ottawa 1 which were offered because of a want of food. In 1891 another Crown agent was confident that individual owners dependent on seasonal work and gum-digging would sell once they had spent their earnings. Between 1886 and 1893 the Crown purchased the interests of individual owners in Ottawa 1.

Compulsory acquisition of Ngāi Te Rangi land for public purposes

- 2.44. Ngāi Te Rangi lost significant areas of their remaining lands through public works takings. As Tauranga City grew during the twentieth century, important infrastructure projects underpinning the economic development of the city and the district were constructed on land compulsorily acquired from Ngāi Te Rangi. Ngāi Te Rangi consider that the use of the Public Works Act had the same result as confiscation.
- 2.45. More than 4,100 acres of Ngāi Te Rangi land were taken for the following public works purposes:

Purpose	Area (acres)
East Coast Main Trunk Railway	214
Tauranga Te Maunga Motorway	124
Water Works Purposes	2,255
Harbour Works (Matakana)	428
Ottawa Scenic Reserve	465
Airport and Port Development	294
Electrical Substation	103
Wildlife Sanctuary (Karewa)	5
Mangatawa Quarry	20
Papamoa Rifle Range	140
Rubbish Disposal	97
Telecommunications Tower	6
Electricity Works	24
Total	4,175

In addition to these takings, Ngāi Te Rangi land has also been used for roading, schools and sewage line easements.

- 2.46. The Public Works Act 1928, as with earlier public works legislation, had different provisions regarding notification and compensation for the taking of Māori land as opposed to general land. For the large proportion of Māori freehold land that was not

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registered under the Land Transfer Act, public works takings could be made by proclamation without prior notification. Until the 1930s the Crown seldom undertook formal negotiations with Tauranga Māori over public works takings.

- 2.47. Until 1962 compensation for general land taken for public works under the 1928 Act was assessed by the Compensation Court, while compensation for Māori land was assessed by the Native/Māori Land Court. Between 1887 and 1962 it was the responsibility of the taking authority to apply for compensation to be paid to Māori owners. Between 1962 and 1974 the Māori Trustee was appointed statutory negotiator for Māori land with multiple owners, which removed Ngāi Te Rangi landowners from participating in the negotiation process.
- 2.48. Compensation payments from the Crown could not be considered until a public works taking had been gazetted. In some cases public works takings were not gazetted for many years, delaying compensation payments. For instance, work commenced on the Tauranga-Te Maunga motorway several years before the taking was gazetted, preventing any compensation hearing. In addition there could be delays in ascertaining compensation once an application was made. In 1966, when the Māori Land Court awarded compensation for Ngāi Te Rangi land taken at Matapihi for the motorway, the judge noted that the four-year delay was mainly due to the 'inaction' of the Ministry of Works.
- 2.49. Negotiations between the Māori Trustee and the Crown over valuations could become protracted and result in significant delays in compensation being paid. For some Maungatapu and Matapihi land taken for the motorway it took several years to agree final compensation payments. When compensation was paid, it was sometimes not what the former owners considered the land to be worth, and did not value specifically Māori interests, such as access to traditional food resources. In 1915 the Ngāi Te Rangi owners of land taken for the East Coast Main Trunk Railway sought compensation of £20 to £25 per acre. The Native Land Court however awarded compensation in line with the Crown's valuation of 10 to 15 shillings per acre.

Karewa

- 2.50. In 1884 the Tauranga Lands Commission granted title to Karewa Island to members of five Ngāi Te Rangi hapū. The Crown immediately began purchasing individual interests in Karewa, primarily to protect tuatara. Because many owners refused to sell, in 1917 the Crown acquired those parts of Karewa Island that it did not already own through a proclamation under the Animals Protection Act 1914 and the Public Works Act 1908. Compensation was paid to the owners. In 1972 the whole island was declared a wildlife sanctuary under the Land Act 1948. Karewa is now administered by the Department of Conservation who have a memorandum of understanding with Ngāi Te Rangi.

Whareroa

- 2.51. In 1948 the Ngāi Tukairangi hapū of Ngāi Te Rangi proposed vesting 242 acres at Whareroa in the Waiariki District Māori Land Board so they could subdivide this land to increase its value, and then sell it to raise capital to develop housing at Matapihi. The Minister of Māori Affairs was legally required to consent to these steps.
- 2.52. The Crown was then considering building a port at Mount Maunganui, and the Land and Counties Act 1946 provided that the Minister could decline to approve any subdivision if it would interfere with plans by the Crown or local authorities to carry out public works or development. The Minister delayed giving consent to the vesting,

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subdivision and sale while plans for the port were considered, but assured Māori that if any Whareroa land was taken for public works the Crown would pay them the prices they would receive for selling the subdivided land to the public.

- 2.53. In 1951, the Crown decided to locate the port at Mount Maunganui, and in 1952, it compulsorily acquired 91 acres at Whareroa for 'better utilisation' purposes. The Crown and Ngāi Te Rangi disagreed about the basis on which the Crown should pay compensation. The Māori Trustee took legal proceedings on behalf of Ngāi Te Rangi to require the Crown to pay them for the value the land would have had if it had already been subdivided. However, in 1958 the Privy Council upheld the Crown's argument that it should pay compensation only on the land's potential to be subdivided. In 1959 the Māori Land Court assessed compensation which equated to £394 per acre. That year the Crown sold some Whareroa land on which very little development had occurred for £2,500 per acre. Ngāi Te Rangi appealed the compensation awarded by the Māori Land Court and in 1961 the Māori Appellate Court awarded £43,582 including interest.

Tauranga-Mount Maunganui Power Transmission Line

- 2.54. In June 1954, the Crown selected a route for the Tauranga-Mount Maunganui power transmission line which crossed Ngāi Tukairangi land at Matapihi. The Crown was required to advise affected landowners of their right to apply for compensation for adverse effects to the land resulting from the construction of the line. However, the Crown did not send notices to all of the owners, most of whom did not live on the land. This may have been the reason why the owners of a number of blocks, including Ngāi Tukairangi and Ngāti He owners, did not apply for compensation within the specified timeframe.

Kaitemako B and C

- 2.55. In November 1967 the Crown proclaimed the taking of the Kaitemako B and C block, owned by Ngāti He, for the Hairini power substation. The Crown required only 43 acres of the block for the substation but acquired all 103 acres in the block to avoid leaving the owners with an uneconomic farming unit. The Public Works Act 1928 exempted land taken for hydropower from the usual notification and lodging of objection processes, and provided that notification of the owners was only required after land had already been proclaimed. In February 1968, the Ngāti He owners were notified by the Māori Trustee of the taking, but had no opportunity to negotiate the amount that would be compulsorily acquired. Some of the owners of Kaitemako B and C lost the final remnant of their lands through this taking. The Crown compensated them for the land's financial value alone.
- 2.56. The acquisition of land for public works and the construction of infrastructure in the midst of hapū communities have led to wāhi tapu being destroyed by quarrying at Mangatawa and by motorway construction at Maungatapu Pā. The Ngāti He land on Maungatapu Peninsula was bisected by the motorway, and traditional ceremonies at Maungatapu Marae suffer from noise and air pollution from the motorway. Whareroa Marae is now surrounded by the airport (with its associated traffic and aircraft noise), busy roads which carry heavy trucks heading to and from the port, and industrial tank farms. The airport also separates Whareroa Marae from its principal urupā.

Environmental and cultural sites of significance

- 2.57. Ngāi Te Rangi have always regarded Tauranga Moana (Tauranga Harbour) as an integral part of their rohe and a taonga over which they exercise kaitiakitanga. Ngāi

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Te Rangi held numerous pa and other sites of significance at strategic locations encircling the entire harbour. Its mahinga kai provided sustenance for Ngāi Te Rangi hapū. For Ngāi Te Rangi traditional use of the harbour is part of their cultural identity, and is embodied in oral traditions, whakatauki, tauparapara, pepeha, kiwaha and waiata. In 1885 Hori Ngatai told Native Minister Ballance that he considered the moana, 'the land below high-water mark immediately in front of where I live' as well as particular 'fishing-grounds within the Tauranga Harbour,' part of their customary land:

My mana over these places has never been taken away. I have always held authority over these fishing places and preserved them; and no tribe is allowed to come here and fish without my consent being given. But now, in consequence of the word of the Europeans that all the land below high-water mark belongs to the Queen, people have trampled upon our ancient Māori customs and are consequently coming here whenever they like to fish. I ask that our Māori custom shall not be set aside in this manner, and that our authority over these fishing-grounds may be upheld....I am speaking of the fishing-grounds where hapuku and tarakihi are caught. Those grounds have been handed down to us by our ancestors. This Māori custom of ours is well established, and none of the inland tribes would dare to go to fish on those places without obtaining the consent of the owners. I am not making this complaint out of any selfish desire to keep all the fishing-grounds for myself; I am only striving to regain the authority which I inherited from my ancestors. I ask that the Queen's sovereignty shall not extend to those fishing-grounds of ours, but remain out in the deep water away beyond Tuhua.

- 2.58. However, over the nineteenth century and most of the twentieth century the Crown made no provision for the recognition of Ngāi Te Rangi mana, rangatiratanga, kaitiakitanga and interests in the management of Tauranga Moana and its fisheries. The Crown assumed that it owned the harbour and later delegated authority for harbour development to local authorities. During the twentieth century many major projects were undertaken to develop Tauranga Harbour as a deep-water international port. Some of these, such as the construction of the Mount Maunganui deep-water wharf, channel deepening, and the reclamation of Sulphur Point, altered both the moana and the landscape. The Crown did not recognise the customary importance of the resources Ngāi Te Rangi lost in and around the harbour or provide any compensation for the loss of access to those resources.
- 2.59. Since at least 1928 Tauranga Māori have protested to the Crown and local authorities that discharges of untreated effluent and other waste products were polluting Tauranga Moana. However, it was not until the late 1960s that the first steps were taken to treat sewage before discharging it into the harbour, and such practices were not stopped completely until the end of the century. Matakana Island Māori did not discover that the island's outfall discharged untreated sewage until 1991. Ngāi Te Rangi have witnessed a severe and continuing decline in their fisheries since the 1960s, which has impacted on the ability of hapū to sustain their traditional way of life.
- 2.60. Efforts to clean up the harbour have sometimes created new problems. In the early 1970s Tauranga Māori led by Wiremu Ohia, Turirangi Te Kani and kaumatua of Ngā Pōtiki protested against plans to construct effluent treatment ponds adjacent to Māori land on the Rangataua mudflats. These plans were offensive to Ngāi Te Rangi, but the Mount Maunganui Borough Reclamation and Empowering Act 1975 provided for the construction of the ponds which destroyed valuable shellfish beds.
- 2.61. The Crown's confiscation of 50,000 acres and purchase of Te Puna-Katikati in the 1860s removed a number of wāhi tapū and other sites of significance from Ngāi Te

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Rangi ownership. Since that time Ngāi Te Rangi have felt unable to participate in the management of wāhi tapū contained within reserves in Crown or local body ownership such as Te Kura a Maia pā site in the Bowentown Domain. Until recently, the ownership and administration of Mauao by central and local government agencies was also a source of grievance. Ngāi Te Rangi consider that Māori cultural values have not been adequately accounted for in the management of such reserves. Commercial forestry developments on Matakana Island virtually erased traces of Ngāi Te Rangi settlements and sites. Ngāi Te Rangi also consider that the Historic Places Acts of 1954 and 1980 have not adequately prevented damage to wāhi tapū and other sites of cultural significance at Pāpāmoa, Mangatawa, Kopukairoa and Matakana Island, and other places.

- 2.62. In 1886 the Crown sought to purchase Tūhua (Mayor Island) from its Te Whānau a Tauwhao owners, even though the title issued by the Native Land Court prohibited alienations. The Crown made little progress, acquiring only 16 of the total 195 shares by 1895. In the same year, owners opposed to the sale reminded the Crown that Tūhua was an important wāhi tapū. They asked that the purchase be cancelled and that all shares already alienated be returned. In 1913 the Crown declared Tūhua a 'sanctuary for native or imported game' under the Animals Protection Act 1908 without the knowledge or consent of the owners. During the 1920s and 1930s the Crown made further unsuccessful efforts to purchase Tūhua in order to create a reserve. In 1951 the owners vested Tūhua in a trust and included provision for Crown representation on the trust's board. In recent times the Ngā Whenua Rāhui kawenata (covenant) made Tūhua the first island designated a Māori conservation area, and the Crown re-vested its shares in the Māori owners. The conservation designations over the island have restricted the amount of land available for the use of the owners.
- 2.63. The Resource Management Act 1991 envisaged greater iwi involvement in Crown and local authority decisions about resource management and environmental planning. Ngāi Te Rangi, however, regard the Act as limited in the opportunities it provides for them to exercise rangatiratanga and participate in decision-making processes. As a result, Ngāi Te Rangi consider that their interests receive insufficient recognition and protection in spite of the efforts of iwi members.

Further land alienation and socio-economic issues

- 2.64. After the Crown's raupatu and Te Puna-Katikati purchase Tauranga Māori communities experienced population decline, economic hardship and social dislocation. The hapū were also affected by the deaths of some important leaders during the war, including Rawiri Puhirake, Henare Taratoa, Te Wano, Ihaka and Te Reweti. Crown and private land acquisitions facilitated Pākehā settlement and the Tauranga regional economy grew around farming. Much of the land retained by Ngāi Te Rangi hapū was unsuitable for crop or livestock production. Aside from subsistence farming and gardening, Ngāi Te Rangi participation in the regional economy was largely limited to work as wage labourers.
- 2.65. During the first half of the twentieth century Ngāi Te Rangi hapū retained land at Otāwhiwhi and Katikati, around the eastern edge of the Tauranga Moana from Whareroa through Matapihi and along to Pāpāmoa, in the Maungatapu and Welcome Bay areas, and on some islands. Ngāi Te Rangi hapū lived in small communities with marae and gardens. In 1908 the Stout-Ngata commission recommended that most of the remaining Ngāi Te Rangi land be retained in their ownership. However, the Native Land Act 1909 removed all existing alienation restrictions on titles for Māori land. The Act provided for district Māori Land Boards to approve sales of Māori land and introduced a range of checks which were supposed to ensure the validity of sales and

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that no sales would result in landlessness. In the years following 1909 there was a significant increase in sales of Māori land in the Tauranga district. Between 1910 and 1930, 12,899 acres of Māori land was sold in Tauranga district.

- 2.66. Before the 1920s, Ngāi Te Rangi were generally unable to access Crown schemes for development finance or farm training in the same way as Pākehā land owners. The Stout-Ngata Commission was critical of the Crown for failing to provide Māori with the same level of assistance it provided for settlers to develop their land. In addition, private parties were generally unwilling to lend on the security of multiply-owned Māori land.
- 2.67. In 1931 the Crown initiated a land development scheme on Ngāti He lands at Kaitemako. Initially the scheme employed a large number of the landowners as wage labourers and one-quarter of the labour costs were charged against the land. From 1937 the owners began to call for subdivision and settlement of the land as dairy farms. Crown officials, however, were concerned about the potential for the land to revert to weeds. Whilst the scheme's debt was reduced through the 1940s the owners were effectively excluded from any meaningful management of their land, and received little financial return. In 1950-51, following a reduction of debt, the scheme was divided into seven dairy farms. These were leased by the owners to Ngāi Te Rangi individuals. The small size of the farms (100 acres) meant they were not economic dairying units. The trusts and incorporations now administering Ngāi Te Rangi blocks have often found it difficult to obtain development capital in financial markets.
- 2.68. Ngāi Te Rangi recall that their men fought overseas in the Second World War. On their return efforts were made to secure land grants for these men. The Crown established the Maungarangi Development Scheme at Welcome Bay for the settlement of all eligible Māori ex-servicemen. This land had originally been owned by Ngāti He of Ngāi Te Rangi. In 1957, when the training farm on Sections 1 and 2 of the Maungarangi scheme was disestablished and applications invited from Māori ex-servicemen to farm Section 2, the successful applicant was a farmer from outside Tauranga Maoana. Ngāi Te Rangi recall that Ngāi Te Rangi ex-servicemen were not allocated farms in Welcome Bay.

Rating

- 2.69. In 1910 Parliament enacted legislation promoted by the Crown which empowered local councils to levy rates on Māori land held under Native Land Court titles on the same basis as European land. Such land had been liable for rates at half the rate of European land since 1894. By the 1920s unpaid rates on Māori land had begun to accumulate. Legislation introduced in the 1920s allowed the Native Land Court to issue charging orders over Māori land to recover outstanding rates. Despite these measures, however, local authorities in Tauranga continued to struggle to collect rates on Māori land.
- 2.70. From the early 1950s local authorities in the Tauranga district looked to direct further urban development and commercial and residential expansion onto land around the eastern end of the harbour. A large proportion of the remaining Ngāi Te Rangi land was in this region and much of it was considered by local and Crown officials to be not 'usefully occupied' and 'unproductive'. Local authorities subsequently took steps to facilitate more efficient use of the land and to recover unpaid rates. Under the Māori Purposes Act 1950, and subsequently the Māori Affairs Act 1953, local authorities applied to the Māori Land Court to have Ngāi Te Rangi lands with unpaid rates vested in the Māori Trustee or have the Māori Trustee appointed as receiver for rates charging orders issued by the Māori Land Court. The Māori Trustee could generate income to

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pay outstanding rates charges by subdividing and leasing or, in certain circumstances, selling land. Between 1951 and 1969 more than sixty blocks containing approximately 3,700 acres of Māori-owned land were vested in the Māori Trustee to be leased to generate income to pay unpaid rates. At least sixteen of these blocks were sold with the consent of the owners either during the lease or at its end.

- 2.71. When the boundaries of Tauranga Borough were expanded in 1959 to include Ngāi Te Rangi lands at Maungatapu and Matapihi, these areas became desirable for residential housing development. Rates charges rose in accordance with their new classification as urban land. Concern grew amongst Ngāi Te Rangi hapū at Maungatapu that the additional rates burden would lead to further land alienation. In 1965 a majority of Maungatapu land owners agreed to allow the Māori Land Court to consolidate their lands into a single block known as Maungatapu B. The block was then vested in the Māori Trustee under the Māori Affairs Act 1953. Ngāti He envisaged that this would facilitate the rehousing of their whānau on residential sections within the block and provide income to assist with servicing the rates debt. The Māori Trustee subdivided Maungatapu B, and realised a large return from the sale of lots. However, this was paid out in instalments over a 15-year period to more than 900 owners, and most hapū members struggled to amass sufficient shares or capital to purchase the residential sections. After the subdivision process was completed only fourteen percent of the Maungatapu B sections remained in the ownership of original owners.
- 2.72. The Maungatapu subdivision contributed to the reduction of Ngāti He landholdings on the peninsula to 11 hectares by the end of the twentieth century. Maungatapu was once the centre of a Ngāti He community who used their land for gardens, but now the hapū only maintains the marae and headland domain, along with a small urupā.
- 2.73. The individualisation of Māori land tenure promoted by the Crown in the nineteenth century led to fragmented ownership as individual owners died, and their interests were divided among their whānau. Between 1953 and 1974 the Crown sought to address the fractionated nature of Māori land ownership by promoting legislation which empowered the Māori Trustee to compulsorily acquire what were deemed to be 'uneconomic' shares in Māori land. Initially the Māori Affairs Act 1953 provided for the Māori Trustee to compulsorily acquire uneconomic shares from deceased estates and sell them to other owners. The Māori Affairs Amendment Act 1967 empowered the Trustee to ask the Māori Land Court to actively identify uneconomic interests. Shares could then be sold to any Māori. The compulsory acquisition provisions were opposed by many Māori. The acquisition of uneconomic shares occurred extensively on Rangiwaea Island. An estimated 690 out of 700 acres were affected by the uneconomic interest provisions, and at least 150 acres acquired by the Māori Trustee were sold to a Māori farmer who was not a member of the hapū. The compulsory acquisition of uneconomic shares undermined Ngāi Te Rangi hapū and whānau connections to traditional ancestral lands. The exclusion from ownership of whānau lands continues to affect some Ngāi Te Rangi today.
- 2.74. By the end of the twentieth century, Ngāi Te Rangi had retained 9,755 acres of land which represents around 2 percent of their rohe, and only 19 per cent of the land which was left to them by the Crown after the confiscation.

Housing, health and education

- 2.75. The Crown's housing policies of the 1950s and 1960s placed some Ngāi Te Rangi whānau in new residential subdivisions, but in 1965 a Māori Affairs Department survey found that about a quarter of Māori housing in Tauranga was substandard, overcrowded, or both. Māori urbanisation and the 'pepper-potting' of Māori families in

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residential suburbs strained hapū communities. Ngāi Te Rangi hapū faced regulatory and economic hurdles to establishing hapū-based housing communities around marae and traditional lands. At the end of the twentieth century Tauranga Māori had lower levels of home ownership than non-Māori, and were more likely to live in crowded conditions.

- 2.76. Up until the mid-twentieth century Tauranga's hospital care services were in some instances less accessible to Tauranga Māori than to non-Māori (although some Māori were reluctant to enter hospital during this time). Poor housing conditions contributed to poor standards of health. Although Māori health improved during the twentieth century, evidence continues to suggest that standards of health amongst the Māori population of New Zealand lag behind that of other New Zealanders.
- 2.77. The public education system established by the Crown in Tauranga and elsewhere during the late nineteenth century had lower expectations for Ngāi Te Rangi students than for Pākehā. It was not until the 1940s and 1950s that the Education Department's Māori education policy began to reassess long-held expectations that most Māori would work on the land, in manual occupations, or as homemakers. In the early twenty-first century a lower proportion of Ngāi Te Rangi people hold formal qualifications than other New Zealanders. At the 2006 Census the median annual Ngāi Te Rangi income was lower than the median annual incomes for both the total Māori population and the total New Zealand population.

The pursuit of redress

- 2.78. In 1885 Ngāi Te Rangi spokesmen expressed their grievances to Native Minister Ballance when he met Tauranga Māori. These grievances included dissatisfaction with the operation of the Tauranga Commissioners, delays in the issue of grants for returned lands, the rating of Māori land, Crown assumption of ownership of the harbour and foreshore, and other instances where the spokesmen believed Māori suffered unequal treatment. Most of these issues remain a grievance for Ngāi Te Rangi today.
- 2.79. In 1926 the Crown appointed the Sim Commission to inquire into Māori grievances arising from land confiscation. The inquiry focused on raupatu in Waikato and Taranaki, and its hearing at Tauranga in 1927 lasted only two and a half days. It did not investigate the Te Puna-Katikati purchase. The Commission operated under restricted terms of reference and had limited time and resources. The Crown was far better resourced than Ngāi Te Rangi at the hearings and the Commission relied largely on the Crown's interpretation of events. Tauranga Māori asked that a thorough investigation of the land confiscation be undertaken by the Native Land Court, but the Commission concluded that such an inquiry was unnecessary. It found that that the confiscation in Tauranga 'was justified and was not excessive'.
- 2.80. This finding shaped the Crown's approach to claims regarding the Tauranga confiscation for almost 50 years. While some compensation for land confiscation was paid to iwi in the Waikato and Taranaki regions, the Crown dismissed claims from Tauranga Māori until the 1970s. In 1975 the Crown opened negotiations with Tauranga Māori over compensation for their raupatu claims. In 1981, after protracted negotiations, Tauranga Māori reluctantly agreed to accept a Crown offer of \$250,000 as a 'full and final settlement' of their raupatu claims provided that it was to 'the same extent as any other Trust Board, concerning all land confiscated'. This would have allowed Tauranga Māori to seek further compensation if and when the Crown offered further payments to other iwi affected by raupatu.

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- 2.81. However, the Government changed its mind about qualifying the finality of the settlement before legislation was introduced to implement the settlement. Ngāi Te Rangi were therefore dissatisfied with the Tauranga Moana Māori Trust Board Act 1981 because it purported to settle claims to all land acquired by the Crown in the district, including the Te Puna-Katikati purchase. Ngāi Te Rangi consider the \$250,000 paid out under the Act was completely insufficient to assist the Tauranga Moana iwi to improve their economic situation, especially as it was made at a time of rapidly increasing land values in the district. Ngāi Te Rangi also consider that the Act did not go far enough to remove the stigma resulting from the labeling of some Tauranga Māori as rebels.
- 2.82. In 1985 the Crown gave the Waitangi Tribunal jurisdiction to inquire into historical claims back to 1840. Ngāi Te Rangi and the Tauranga Moana Māori Trust Board viewed this as an opportunity to further pursue their claims to redress for raupatu and other historical grievances. The first Ngāi Te Rangi hapū Wai claim was filed with the Waitangi Tribunal in 1988.

NGĀ PŌTIKI HISTORICAL ACCOUNT

The Tauranga war and confiscation

- 2.83. In January 1864, the Crown deployed troops to Tauranga to stem the flow of Māori forces to the Waikato conflict. In June 1864, Crown forces and Tauranga Māori fought a battle at Pukehinahina (Gate Pā). According to a later report by a British soldier who was present in Tauranga, Ngā Pōtiki took no part in the battle. However, some Ngā Pōtiki today believe that Ngā Pōtiki individuals fought at Pukehinahina.
- 2.84. The New Zealand Settlements Act 1863 provided the legal framework for the Crown's confiscation of Māori land. The Act was designed to pay for the war by selling confiscated land, especially to military settlers, and to punish any Māori who had taken up arms or supported those involved in armed resistance against the Crown. It provided for the return of land both to those who had not been involved in fighting, and, as a condition of peacemaking, to those who had been in arms against the Crown. The Crown considered many Tauranga Māori to have been in 'rebellion' during 1863 and 1864, including those who took part in the battles of Gate Pā and Te Ranga.
- 2.85. Between 1865 and 1868 the Crown established a confiscation district in Tauranga encompassing 290,000 acres. The land in the confiscation district in which Ngā Pōtiki held interests was returned under Crown grants to individual owners. It ceased to be land held under customary title. Under the Tauranga District Lands Act 1867, Commissioners were appointed to award lands to Māori. The process of providing Māori with titles for the returned lands was very slow, and was not completed until the mid-1880s.

The return of the Tauranga lands

Otawa claims

- 2.86. In 1877, some 12 years after the Crown first proclaimed the Tauranga confiscation district, a Tauranga Lands Commissioner investigated the ownership of the lands covering approximately 38,000 acres on the eastern side of the Tauranga Harbour. The Commissioner divided the area into five blocks - Mangatawa, Ottawa 1 to 3, and Ngāpeke. Ngā Pōtiki made claims to the lands at Mangatawa and Ottawa based on ancestry and conquest, and were awarded Ottawa 2 and Mangatawa.

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- 2.87. Following several objections from other hapū over the Commissioner's decision, a rehearing was held in 1878. Ngā Pōtiki was again awarded the Mangatawa block. The Otawa blocks, including Otawa 2, were awarded to another hapū, and Ngā Pōtiki excluded from them. However, three Ngā Pōtiki individuals were admitted onto the list for the neighbouring Waitaha 2 block.
- 2.88. Ngā Pōtiki consider that the Commissioners did not recognise the full extent of Ngā Pōtiki interests in the Otawa lands, which were based on occupation and resource use. Nonetheless Ngā Pōtiki continued to have a strong relationship with the Otawa area owing to the proximity of Otawa to Ngā Pōtiki lands at Pāpāmoa and Mangatawa, and the continued use of the Otawa bush up to the present time.

Pāpāmoa claim

- 2.89. In the 1877 and 1878 hearings, the Tauranga Lands Commissioners awarded Ngā Pōtiki the lands at Mangatawa and Pāpāmoa, which run from the eastern edge of the confiscation district back to the eastern edge of Tauranga Harbour. It was later recounted that during the hearings Ngā Pōtiki kaumātua had 1,295 acres of this land, known as the Mangatawa block, set aside as a Ngā Pōtiki reserve for 102 owners. The remaining 12,763 acres became the Pāpāmoa block and was awarded to 60 owners. The Crown granted the land it returned to individual owners rather than to the hapū who had held the land under customary tenure. This made it possible for land to be alienated by individual owners without reference to their tribal collective.
- 2.90. In the mid-1880s the Crown decided to purchase as much as it could of the Pāpāmoa block, but most Ngā Pōtiki owners were unwilling to sell and progress was slow. However, a period of bad weather soon resulted in poor harvests and food shortages. In December 1886, the Crown purchase agent noted in his annual report that, 'the Natives are very short of food and I have been informed by some chiefs that meetings are being held to consider their advisability of selling'. In 1887 the Crown purchased the interests of a number of owners and the Crown continued attempting to purchase individual interests in Pāpāmoa for several years. In 1891 another Crown purchase agent stated 'I shall not lose a chance of acquiring a signature when offered or of pursuing it if it can possibly be got'. The Crown agent was confident that individual owners dependent on seasonal work and gum-digging would sell once they had spent their earnings. The Crown eventually acquired approximately 8,000 acres of Pāpāmoa, or well over half of the block. The Crown also acquired the shares of minors and had these purchases approved by the Chief Judge of the Native Land Court.
- 2.91. By May 1893, the Crown had acquired well over half the Pāpāmoa block and applied to the Native Land Court to have its interests partitioned out. On 13 May 1893, the Native Land Court partitioned the Pāpāmoa block and cut out the Crown's interest as Pāpāmoa No.1 (7,910 acres). The non-sellers' area was the Pāpāmoa No. 2 Block (4,265 acres). Pāpāmoa No. 3 Block (480 acres) was awarded to four minors. The area awarded to the Crown included most of the coastline in the Pāpāmoa block. This affected Ngā Pōtiki access to their important coastal resources and sites of significance such as coastal urupā, former pā sites and former areas of coastal settlement. Pāpāmoa was also the area through which Ngā Pōtiki had traditionally accessed lands and resources to the east of Wairakei.
- 2.92. Following the partition it was discovered the area awarded to the Crown incorrectly included the one and a half shares owned by two minors (amounting to 180 acres) instead of only half a share as intended by the minors' trustee. To resolve the error the Native Land Court added the two minors' names to the owners of Pāpāmoa 2, but decided not to adjust the areas of land awarded to the Crown and non-sellers until a

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later date when the Crown sought a further partition order. However, the Crown did not purchase any further interests in Pāpāmoa and no record has been found which shows that the areas mistakenly awarded to the Crown and non-sellers were adjusted.

- 2.93. From 1896 the remaining 6,000 acres of Pāpāmoa and Managatawa were subject to a long and complex process of subdivision and alienation. By the end of the twentieth century Ngā Pōtiki were left with just over 2,600 acres in Māori freehold title. This amounted to less than 20% of the almost 14,000 acres Ngā Pōtiki were initially awarded at Pāpāmoa and Mangatawa. This land loss led to Ngā Pōtiki being removed from their coastal lands and caused hardship in the community. The inspector of Native schools reported in 1903 that individualisation of title at Pāpāmoa resulted in less land under cultivation, forcing parents to send their older children gum digging.

Public Works takings and other land alienations for infrastructure development

- 2.94. Public works legislation empowered the Crown and local authorities to compulsorily acquire Māori or general land regarded as essential for public works. Since 1886, 421 acres of Ngā Pōtiki lands have been acquired for public works purposes.

East Coast Main Trunk Railway

- 2.95. Between 1913 and 1915 the Crown took approximately 153 acres of Ngā Pōtiki land in the Mangatawa and Pāpāmoa blocks for the Mount Maunganui to Te Puke and Te Maunga sections of the East Coast Main Trunk Railway. This further separated Ngā Pōtiki from the coast. Ngā Pōtiki consider that the taking of this land had a significant impact on both Ngā Pōtiki and its people. Compensation was awarded for the takings in the Pāpāmoa block. However, the Crown did not pay any compensation for the 44 acres of Mangatawa block, because the Crown grant for this block, issued under the Tauranga District Lands Act 1868, specifically reserved the Crown's right to take the land for roads without compensation. Later legislation extended this to cover railways. In 1915 the owners of the Pāpāmoa block argued that the land taken for railways was worth £20 to £25 pounds per acre. The Native Land Court awarded compensation in line with the Crown valuations of the various portions of the block, the majority of which were valued at 15 shillings per acre.

Rifle range

- 2.96. In 1941 the Crown took 139 acres of Pāpāmoa land for a rifle range. The owners were paid compensation in 1944. After the end of the Second World War the land was only occasionally used as a rifle range and leased by the Crown for grazing. In 1967 the Defence Department advised the Ministry of Works that the land was no longer required for a rifle range. The Crown subsequently proclaimed the land to be set apart for 'public buildings of the General Government' and continued to lease it for grazing. From 1958 the descendants of the original Ngā Pōtiki owners sought the return of the land on the basis that it was not being used for the purpose it was taken for. It was not until 1989 that the Crown returned the land to Ngā Pōtiki ownership.

Mangatawa quarry and reservoir

- 2.97. Mangatawa is a maungatapu of great importance to Ngā Pōtiki and noted as the burial place of Tamapahore, the founding tūpuna of Ngā Pōtiki. Its importance to Ngā Pōtiki is reflected in the actions of Ngā Pōtiki tūpuna who set Mangatawa aside as a reserve for Ngā Pōtiki in the 1870s.

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- 2.98. In 1946 the Crown compulsorily acquired 5 acres of Mangatawa for a quarry. Compensation was awarded in 1948. In the 1950s the Crown sought to expand quarrying operations on Mangatawa. Ngā Pōtiki opposed further compulsory takings of Mangatawa and, rather than submit to the public works process, instead entered into an agreement to allow quarrying on a further 6 acres of Mangatawa for a 10 year period for a payment of £2,000. In 1963, the Crown negotiated a further agreement for a 33 year term. This agreement expanded the quarry by 9 acres in return for £4,000.
- 2.99. Quarrying destroyed the once formidable Mangatawa hill-top pā, with its kainga and cultivation terraces, and burial caves and uncovered numerous koiwi. In some cases the remains were reinterred elsewhere, but in others they were lost within the rubble and consequently formed part of the aggregate and fill for the Port of Tauranga (where over one million cubic metres of metal from the quarry was used for the construction of the Mount Maunganui wharf), roading development, and other infrastructure projects such as the Kaituna River diversion. In addition to the physical impacts on Mangatawa and surrounding land, Ngā Pōtiki consider that the quarrying diminished the mana of their tāonga and had a demoralising impact.
- 2.100. In 1973 the Mount Maunganui Borough Council built a large water reservoir on Mangatawa above Tamapahore Marae. Ngā Pōtiki sought to retain freehold title and lease the land to the Council. However after protracted negotiations, including the council taking steps to invoke the Public Works Act, the owners agreed to lease the land to the Council for 999 years in return for a payment equal to the value of the land. The construction of a reservoir on Mangatawa remains a source of great distress for Ngā Pōtiki to this day.

Pāpāmoa rubbish dump

- 2.101. In 1967 the Crown took 32 acres of the Pāpāmoa A12 block adjacent to the Rangataua estuary, where some Ngā Pōtiki were living, for the purposes of rubbish disposal. The land was vested in the Mount Maunganui Borough Council. The rubbish dump was expanded in 1984. The Crown paid the owners compensation for the land, but Ngā Pōtiki consider that the value of the payment fell short of adequately recognising the impacts of the dump on their land. According to Ngā Pōtiki, the value of their land adjoining the dump decreased and the living conditions of those residing there became intolerable.

Te Tahuna o Rangataua (Rangataua Estuary)

- 2.102. For Ngā Pōtiki, Te Tahuna o Rangataua (Rangataua estuary) is an iconic body of water and a pataka kai (pantry) that is central to the cultural identity of Ngā Pōtiki.
- 2.103. In 1975, despite vociferous opposition by Ngā Pōtiki, the passage of the Mount Maunganui Borough Reclamation and Empowering Act brought into operation a plan for reclamation work on the Rangataua tidal flats, the construction of effluent treatment ponds on the reclaimed land, and the construction of an outfall joining the ponds to the ocean. This was done even though a 1974 assessment had concluded that 'a flourishing ecosystem on the tidal flats would be lost through reclamation', while the Commissioner for the Environment considered that the reclamation could not be justified because of the impact on the area and the possibility of other sites being used. Two government departments also opposed the scheme. In addition to the effects of the reclamation on shellfish beds, the location of the effluent treatment ponds has hindered Ngā Pōtiki access to the little that remains of the supply of customary foods such as tītiko and patiki. The ponds and adjacent rubbish dump make food gathering and other activities in Te Tahuna o Rangataua undesirable, effectively dislocating Ngā

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Pōtiki from the area. Furthermore, in 1988 a leakage spilled pond effluent into the estuary.

- 2.104. Ngā Pōtiki consider that development around the Te Tahuna o Rangataua has diminished the mana of this tāonga and undermined Ngā Pōtiki's kaitiaki relationship with this area. Its degradation is a source of deeply-felt grievance for Ngā Pōtiki.

Sewage pipeline through Waitahanui Urupā

- 2.105. In 1975 the Mount Maunganui Borough Council invoked the Public Works Act 1928 and the Municipal Corporations Act 1954 to create easements through Ngā Pōtiki lands in the Mangatawa and Pāpāmoa blocks for the laying of a pipe to discharge wastewater from the effluent treatment ponds into the Pacific Ocean. Between 1976 and 1978 the Council carried out earthworks, including excavations in the Waitahanui urupā situated in part of Pāpāmoa 2, for the purpose of laying the pipe. The passage of sewage and wastewater through this extremely tapu place continues to be repugnant to Ngā Pōtiki values and sensibilities.

Kopukairoa

- 2.106. Ngā Pōtiki regard Kopukairoa (sometimes also referred to as Kopukairua) as a maunga of immense cultural significance. Ngā Pōtiki traditions record the maunga as a tohorā (whale) who came in search of his family and who turned to stone, becoming Kopukairoa, after drinking from an enchanted spring. Kopukairoa is adjacent to the Waitao stream which marks the western boundary of the Ngā Pōtiki rohe. It was part of the original Pāpāmoa 2 block which was partitioned and vested in individual owners in 1896 and again in 1910. From 1962, with the agreement of the Māori owner, the Post Office used the summit of Kopukairoa as the site of a VHF transmitter. In 1967 the Ministry of Works agreed with some Ngā Pōtiki owners to acquire further land around Kopukairoa under the Public Works Act to provide access to the summit. In 1971 the Crown, following negotiations with the landowner, formally took Kopukairoa summit through public works legislation. The Crown paid the owner \$328 in compensation. In 1986 the Crown transferred the summit to Telecom under the State Owned Enterprises Act 1986. In 1990 the Crown sold Telecom and the Telecom Corporation inherited title to the land as a private interest. In recent times Ngā Pōtiki successfully registered Kopukairoa (180 ha) as a wāhi tapu under the provisions of the Historic Places Act 1993. However, the loss of Kopukairoa summit remains a source of significant grievance for Ngā Pōtiki.

Gas pipeline

- 2.107. A natural gas pipeline from Tirau to Te Puke, completed in 1982, runs through parts of the Mangatawa and Pāpāmoa blocks. The Māori Land Court appointed the Māori Trustee to negotiate with the Natural Gas Corporation for compensation on behalf of the owners. This engendered feelings of alienation amongst the owners from the process, and the compensation paid to Ngā Pōtiki land owners did not accord with the cost they placed on the disturbance caused by the pipeline. Ngā Pōtiki consider that the pipeline has limited the development potential of these blocks.

Pāpāmoa coastal dune plain

- 2.108. The Pāpāmoa coastal dune plain, which Ngā Pōtiki regard as an area of high cultural significance, has long been earmarked by the Tauranga City Council to help cater for the expansion of the population of Tauranga. Intensive subdivision and residential development in the area began in the 1990s. The remaining undeveloped areas of

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Pāpāmoa continue to be subject to development pressures that threaten archaeological sites and other sites of significance in the Ngā Pōtiki cultural landscape, such as Wairakei and Te Houhou.

- 2.109. For Ngā Pōtiki the amount of land taken for public works does not convey the full extent of the loss to them. Lands taken by the Crown and local authorities included some of the most sacred and iconic sites to Ngā Pōtiki, and some of these lands were used for activities which are highly objectionable to Ngā Pōtiki. Ngā Pōtiki consider that public works takings have had significant and enduring negative impacts on their lands, resources, mana, cultural integrity and identity.

3 ACKNOWLEDGEMENT AND APOLOGY

ACKNOWLEDGEMENT

- 3.1 The Crown acknowledges that until now it has failed to deal with the long-standing grievances of Ngāi Te Rangi and Ngā Pōtiki in an appropriate way. The Crown hereby recognises the legitimacy of the historical grievances of Ngāi Te Rangi and Ngā Pōtiki and makes the following acknowledgements.
- 3.2 The Crown acknowledges that, prior to 1864, Ngāi Te Rangi and Ngā Pōtiki continued to manage their lands and resources according to their tikanga and were engaging in the New Zealand economy.
- 3.3 The Crown acknowledges that it was ultimately responsible for the outbreak of war in Tauranga in 1864, and the resulting loss of life, and its actions were a breach of the Treaty of Waitangi and its principles. The Crown acknowledges that a number of Ngāi Te Rangi were killed and wounded in battles at Pukehinahina and Te Ranga, but that Ngāi Te Rangi were faithful to the rules of engagement they set down prior to the fighting, and provided aid to wounded Crown soldiers.
- 3.4 The Crown also acknowledges that Ngāi Te Rangi chief Hori Tupaea was detained without being charged or tried and was released on the condition that he declared his allegiance to the Crown. The Crown acknowledges that the confiscation at Tauranga and the subsequent Tauranga District Lands Acts 1867 and 1868 were indiscriminate, unjust and a breach of the Treaty of Waitangi and its principles. The Crown also acknowledges that:
- 3.4.1 it determined and imposed the location of the 50,000 acre block that was confiscated by the Crown;
 - 3.4.2 the confiscated block included Ngāi Te Rangi lands; and
 - 3.4.3 lands in the Tauranga Confiscation District returned or reserved to Ngāi Te Rangi and Ngā Pōtiki were in the form of individualised title rather than Māori customary title.
- 3.5 The Crown also acknowledges that land on the Te Papa Peninsula which today constitutes the Tauranga central business district was included within the confiscation district, and was conveyed to the Crown by a private institution despite this institution previously insisting that it would always hold this land for the benefit of Māori.
- 3.6 The Crown further acknowledges that the confiscation and the subsequent Tauranga District Lands Acts 1867 and 1868:
- 3.6.1 had a devastating effect on the welfare and economy of Ngāi Te Rangi and Ngā Pōtiki;
 - 3.6.2 deprived Ngāi Te Rangi and Ngā Pōtiki of wāhi tapu, access to significant parts of the cultural landscapes and seascapes, and opportunities for development at Tauranga; and

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- 3.6.3 restricted Ngāi Te Rangi and Ngā Pōtiki in the exercise of mana and rangatiratanga over their lands and resources within Tauranga Moana.
- 3.7 The Crown acknowledges that it failed to actively protect Ngāi Te Rangi interests in lands they wished to retain when it initiated the purchase of the Te Puna and Katikati blocks in 1864 with only nine members of Ngāi Te Rangi and completed the purchase despite the opposition of other Ngāi Te Rangi chiefs. The Crown acknowledges that this failure was in breach of the Treaty of Waitangi and its principles.
- 3.8 The Crown acknowledges that:
- 3.8.1 it imposed the individualisation of titles by the Tauranga Land Commissioners on Ngāi Te Rangi and Ngā Pōtiki, and did not consult Ngāi Te Rangi and Ngā Pōtiki on the introduction of native land legislation;
 - 3.8.2 the reserves set aside in the 50,000 acre and Te Puna-Katikati blocks were mainly awarded to just a few Ngāi Te Rangi individuals;
 - 3.8.3 the Tauranga Land Commissioners took many years to complete their investigations of the ownership of land;
 - 3.8.4 those Ngāi Te Rangi and Ngā Pōtiki lands within the confiscation district which were returned to Māori were granted by the Crown to individual owners;
 - 3.8.5 the awarding of titles to individuals by the Tauranga Land Commissioners and the Native Land Court made Ngāi Te Rangi and Ngā Pōtiki lands more susceptible to partition, fragmentation and alienation; and
 - 3.8.6 this had a prejudicial effect on Ngāi Te Rangi and Ngā Pōtiki as it contributed to the erosion of tribal structures which were based on collective tribal and hapū custodianship of land. The Crown failed to take adequate steps to protect those structures and this was a breach of the Treaty of Waitangi and its principles.
- 3.9 The Crown acknowledges that, less than twenty years after confiscating a large amount of land from Ngāi Te Rangi and Ngā Pōtiki, it began purchasing additional large amounts, including the sacred site of Mauao, the offshore islands of Karewa, Motuotau, Moturiki and Tuhua, and Papamoa and Otawa, at a time of great economic hardship for Ngāi Te Rangi and Ngā Pōtiki. The Crown further acknowledges that in negotiating land purchases from Ngāi Te Rangi and Ngā Pōtiki during the 1880s and 1890s it:
- 3.9.1 frequently made use of monopoly powers; and
 - 3.9.2 used aggressive tactics to negotiate for land including:
 - (a) exploiting food shortages to persuade individuals to sell; and
 - (b) purchasing interests from minors.
- 3.10 The Crown acknowledges that taken together these tactics meant that the Crown failed to actively protect the interests of Ngāi Te Rangi and Ngā Pōtiki, and that the Crown's conduct of land purchase negotiations in the 1880s and 1890s breached the Treaty of Waitangi and its principles.

- 3.11 The Crown acknowledges that:
- 3.11.1 by the end of the twentieth century, Ngā Pōtiki were left with just over 2,600 acres in Maori freehold title;
 - 3.11.2 the loss of most of their coastal lands has reduced Ngāi Te Rangi and Ngā Pōtiki's access to coastal urupā, kainga, food-gathering areas and associated resources;
 - 3.11.3 the cumulative effect of its actions and omissions has left Ngāi Te Rangi virtually landless; and
 - 3.11.4 the Crown's failure to ensure that Ngāi Te Rangi and Ngā Pōtiki retained sufficient land for their present and future needs was a breach of the Treaty of Waitangi and its principles.
- 3.12 The Crown acknowledges that the operation of a development scheme at Kaitemako from the 1930s to the 1950s meant that Ngāi Te Rangi lost effective control of this land for a number of years.
- 3.13 The Crown acknowledges that between 1953 and 1974, it empowered the Māori Trustee to compulsorily acquire Māori land interests it deemed 'uneconomic', and this was a breach of the Treaty of Waitangi and its principles, and deprived some Ngāi Te Rangi of a direct link to their turangawaewae.
- 3.14 The Crown acknowledges that it compulsorily acquired over 4,000 acres of land from Ngāi Te Rangi and Ngā Pōtiki under public works legislation, including areas of cultural significance to Ngāi Te Rangi and Ngā Pōtiki such as Panepane, the maunga tupuna Mangatawa and urupā. These takings have given rise to a serious grievance that is still felt today by Ngāi Te Rangi and Ngā Pōtiki. The Crown further acknowledges that it breached the Treaty of Waitangi and its principles by:
- 3.14.1 failing to protect the interests of the owners in relation to the Whareroa lands taken for 'better utilisation';
 - 3.14.2 failing to adequately notify or provide compensation to some owners in relation to the construction of power lines over Māori-owned land; and
 - 3.14.3 knowingly taking more land than was required for the public work in relation to Kaitemako B and C. By not consulting the owners, the Crown failed to provide them with the opportunity to negotiate the amount to be taken.
- 3.15 The Crown acknowledges that public works have had enduring negative effects on the lands, resources, and cultural identity of Ngāi Te Rangi and Ngā Pōtiki, including:
- 3.15.1 the laying of sewerage and wastewater pipes over the Waitahanui urupā and the taking of lands for effluent treatment ponds;
 - 3.15.2 the taking of land at Papamoa for rubbish disposal;
 - 3.15.3 the establishment of a communications tower on the peak of Kopukairoa;
 - 3.15.4 the development of the port and airport; and

- 3.15.5 the motorway and infrastructure networks on the Maungatapu and Matapihi Peninsulas.
- 3.16 The Crown further acknowledges:
- 3.16.1 the significant contribution that Ngāi Te Rangi and Ngā Pōtiki have made to the wealth and infrastructure of Tauranga on account of the lands taken for public works; and
- 3.16.2 the generosity of spirit shown by Ngāi te Rangi in enabling Tūhua to be the first island to be designated a Māori conservation area, and the lost opportunity for Ngāi Te Rangi to exercise rangatiratanga over the island.
- 3.17 The Crown acknowledges that the raupatu/confiscation at Tauranga, many of the Crown's subsequent policies, and the expansion of Tauranga onto the remaining lands of Ngāi Te Rangi and Ngā Pōtiki have contributed to the socio-economic marginalisation of Ngāi Te Rangi and Ngā Pōtiki in their rohe, and that Ngāi Te Rangi and Ngā Pōtiki living within their rohe suffer worse housing conditions, health, economic and educational outcomes than other New Zealanders.
- 3.18 The Crown acknowledges:
- 3.18.1 the significance of the land, forests, harbours, and waterways of Tauranga Moana to Ngāi Te Rangi and Ngā Pōtiki as a physical and spiritual resource; and
- 3.18.2 that the development of the Port of Tauranga, the disposing of sewerage and wastewater into the harbours and waterways of Tauranga Moana, and the construction of effluent treatment ponds on Te Tahuna o Rangataua, have resulted in the environmental degradation of Tauranga Moana and reduction of biodiversity and food resources which remain a source of great distress to Ngāi Te Rangi and Ngā Pōtiki.

APOLOGY

- 3.19 The Crown makes this apology to Ngāi Te Rangi and Ngā Pōtiki, to your tūpuna and to your descendants.
- 3.20 The Crown unreservedly apologises for not having fulfilled its obligations to Ngāi Te Rangi and Ngā Pōtiki under te Tiriti o Waitangi/the Treaty of Waitangi and for having shown disrespect for the mana and rangatiratanga of Ngāi Te Rangi and Ngā Pōtiki.
- 3.21 The Crown's acts and omissions since the signing of the Treaty of Waitangi have dishonoured the spirit with which Ngāi Te Rangi and Ngā Pōtiki entered the Treaty with the Crown. At the Crown's hands Ngāi Te Rangi and Ngā Pōtiki suffered because of war and raupatu in Tauranga and the serious deprivations that followed. The Crown is profoundly sorry for its actions and that your people have carried the heavy burden of these Crown actions over successive generations.
- 3.22 The Crown deeply regrets its acts and omissions which have led to the loss of so much of the lands of Ngāi Te Rangi and Ngā Pōtiki. The Crown apologises for the loss of sacred sites and key resources its acts and omissions have caused Ngāi Te Rangi and Ngā Pōtiki. In particular the Crown is profoundly sorry that Ngāi Te Rangi lost ownership of Mauao for 120 years and lost access to coastal lands, and that Ngā Pōtiki lost access to coastal lands at Papamoa.

3: ACKNOWLEDGEMENT AND APOLOGY

- 3.23 The Crown is deeply sorry for the marginalisation Ngāi Te Rangi and Ngā Pōtiki have endured while the city of Tauranga expanded on their customary lands. The Crown apologises for the lost opportunities for development, and for the significant harm its actions have caused to the social and economic wellbeing of Ngāi Te Rangi and Ngā Pōtiki.
- 3.24 Through this apology and this settlement the Crown seeks to address the wrongs of the past and to create a new platform from which to establish a relationship with Ngāi Te Rangi and Ngā Pōtiki, a relationship based on mutual respect and cooperation as was originally envisaged by the Treaty of Waitangi.

4 SETTLEMENT

ACKNOWLEDGEMENTS

- 4.1 Each party acknowledges that:
- 4.1.1 the Crown has to set limits on what and how much redress is available to settle the historical claims;
 - 4.1.2 it is not possible:
 - (a) to fully assess the loss and prejudice suffered by Ngāi Te Rangi and Ngā Pōtiki as a result of the events on which the historical claims are based;
 - (b) to fully compensate Ngāi Te Rangi and Ngā Pōtiki for all loss and prejudice suffered;
 - 4.1.3 the settlement is intended to enhance the ongoing relationship between Ngāi Te Rangi and Ngā Pōtiki and the Crown (in terms of the Treaty of Waitangi, its principles, and otherwise).
- 4.2 Ngāi Te Rangi and Ngā Pōtiki acknowledge that, taking all matters into consideration (some of which are specified in clause 4.1), the settlement is fair and the best that can be achieved in the circumstances.
- 4.3 Each party acknowledges that, in negotiating this settlement, within the context of wider settlement policy including the need by the Crown to consider the rights and interests of others, the parties have acted honourably and reasonably in relation to the settlement.

SETTLEMENT

- 4.4 Therefore, on and from the settlement date:
- 4.4.1 the historical claims are settled; and
 - 4.4.2 the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
 - 4.4.3 the settlement is final.
- 4.5 Except as provided in this deed or the settlement legislation, the parties' rights and obligations remain unaffected.

REDRESS

- 4.6 The Crown acknowledges that, except as provided by this deed or the settlement legislation, the provision of redress will not affect:
- 4.6.1 any rights Ngāi Te Rangi or Ngā Pōtiki may have in relation to water; and
 - 4.6.2 in particular, any rights Ngāi Te Rangi or Ngā Pōtiki may have in relation to aboriginal title or customary rights or any other legal or common law rights, including the ability to bring a contemporary claim to water rights and interests in water.

4: SETTLEMENT

- 4.7 The redress, to be provided in settlement of the historical claims:
- 4.7.1 is intended to benefit Ngāi Te Rangi and Ngā Pōtiki collectively; but
 - 4.7.2 may benefit particular members, or particular groups of members, of Ngāi Te Rangi and Ngā Pōtiki if the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity so determine in accordance with the relevant governance entity's procedures.

IMPLEMENTATION

- 4.8 The settlement legislation will, on the terms provided by part 1 of the draft settlement bill:
- 4.8.1 settle the historical claims; and
 - 4.8.2 exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and
 - 4.8.3 provide that the legislation referred to in section 17 of the draft settlement bill does not apply:
 - (a) to a cultural redress property, a commercial property or a purchased deferred selection property if settlement of that property has been effected, or any RFR land; or
 - (b) for the benefit of Ngāi Te Rangi and Ngā Pōtiki or a representative entity; and
 - 4.8.4 require any resumptive memorial to be removed from a computer register for a cultural redress property, a commercial property or a purchased deferred selection property if settlement of that property has been effected, or any RFR land; and
 - 4.8.5 provide that the rule against perpetuities and the Perpetuities Act 1964 does not:
 - (a) apply to a settlement document; or
 - (b) prescribe or restrict the period during which:
 - (i) the trustees of the Ngāi Te Rangi Settlement Trust, being the Ngāi Te Rangi governance entity, may hold or deal with property; and
 - (ii) the trustees of the Ngā Pōtiki a Tamapahore Trust, being the Ngā Pōtiki governance entity, may hold or deal with property; and
 - (iii) the Ngāi Te Rangi Settlement Trust may exist; and
 - (iv) the Ngā Pōtiki a Tamapahore Trust may exist; and
 - 4.8.6 require the Secretary for Justice to make copies of this deed publicly available.
- 4.9 Part 1 of the general matters schedule provides for other action in relation to the settlement.

5 CULTURAL REDRESS

CULTURAL FUND

5.1 The Crown must pay the Ngāi Te Rangi governance entity the following amounts:

5.1.1 \$1,158,997.80, payable in accordance with clause 5.3; and

5.1.2 \$502,665.20, payable within 10 business days from the date the draft settlement bill has been approved for introduction into the House of Representatives.

5.2 The Crown must pay the Ngā Pōtiki governance entity the following amounts:

5.2.1 \$120,000.00, payable in accordance with clause 5.3; and

5.2.2 \$30,000.00, payable within 10 business days from the date the draft settlement bill has been approved for introduction into the House of Representatives.

5.3 The Crown agrees to use its best endeavours to make the payments under clauses 5.1.1 and 5.2.1 within five business days from the date of this deed, and in any event, no later than 10 business days from the date of this deed.

ON ACCOUNT CULTURAL PAYMENT

5.4 The parties acknowledge that before the date of this deed, and on account of the settlement, the Crown paid \$270,000 to the Ngāi Te Rangi governance entity.

CULTURAL REDRESS PROPERTIES

5.5 The settlement legislation will vest in the Ngāi Te Rangi governance entity on the settlement date:

As a scenic reserve

5.5.1 the fee simple estate in each of the following sites as a scenic reserve, with the Ngāi Te Rangi governance entity as the administering body:

(a) Motuotau Island (as shown on deed plan OTS-078-08); and

(b) Waitao Stream Property (as shown on deed plan OTS-078-27);

As a nature reserve

5.5.2 the fee simple estate in Karewa Island (as shown on deed plan OTS-078-09) as a nature reserve, with the Ngāi Te Rangi governance entity as the administering body, subject to the Ngāi Te Rangi governance entity and the Director-General of Conservation entering into and there being in place a memorandum of understanding that includes the following matters:

(a) the agreed approach of Ngāi Te Rangi and the Department of Conservation to the management of the nature reserve under the Reserves Act 1977, including pest monitoring, control and protection

5: CULTURAL REDRESS

measures, and species management under the Wildlife Act 1953, the Marine Mammals Protection Act 1978 and the Conservation Act 1987;

- (b) providing for the Director-General (and any person authorised by the Director-General) to have access to and across Karewa Island for the purpose of undertaking at its own cost the matters agreed in clause 5.5.2(a);
- (c) acknowledging the historical hapu ownership and occupation and the tītī (mutton bird) gathering history of Ngāi Te Rangi on Karewa Island and the cultural aspirations of Ngāi Te Rangi to reconnect with Karewa Island;
- (d) technical assistance of the Director-General in the production of a management plan in accordance with section 41 of the Reserves Act 1977;
- (e) periodic review of the memorandum of understanding and the status of the reserve; and
- (f) any other matters as agreed between the parties.

5.6 When carrying out its functions as the administering body for Karewa Island nature reserve, the Ngāi Te Rangi governance entity must have particular regard to any Ngāti Ranginui statement of significance for Karewa Island, as provided to the Ngāi Te Rangi governance entity by the Crown.

5.7 The settlement legislation will vest in the Ngā Pōtiki governance entity on the settlement date:

As a scenic reserve

5.7.1 the fee simple estate in Otara Maunga Property (as shown on deed plan OTS-078-11) as a scenic reserve, with the Ngā Pōtiki governance entity as the administering body.

Jointly vested as a scenic reserve

5.8 The settlement legislation will, on the terms provided by section 45 of the draft settlement bill, jointly vest the fee simple estate in Pūwhenua (recorded name is Puwhenua) (as shown on deed plan OTS-078-32) as a scenic reserve in the following entities as tenants in common:

5.8.1 the Ngāi Te Rangi governance entity as to an undivided 1/6 share;

5.8.2 the trustees of Te Kapu o Waitaha as to an undivided 1/6 share;

5.8.3 the trustees of Tapuika Iwi Authority Trust as to an undivided 1/6 share;

5.8.4 the trustees of Te Tahuhu o Tawakeheimoa Trust as to an undivided 1/6 share;

5.8.5 the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust as to an undivided 1/6 share; and

5.8.6 the trustees of Te Tāwharau o Ngāti Pūkenga Trust as to an undivided 1/6 share.

5: CULTURAL REDRESS

- 5.9 The settlement legislation will, on the terms provided by section 46 of the draft settlement bill, establish a joint management body (with the trustees of the trusts referred to in clauses 5.8.1 to 5.8.6 each appointing a member to the joint management body) which will be the administering body for the reserve.

Jointly vested as a scenic reserve subject to a right of way easement

- 5.10 The settlement legislation will, subject to the entities listed in this clause providing a registrable right of way easement in gross in favour of the Crown in the form in part 4 of the documents schedule and on the terms provided by section 44 of the draft settlement bill, vest the fee simple estate in Otānewainuku (recorded name is Otanewainuku) (as shown on deed plan OTS-078-31) as a scenic reserve in the following entities as tenants in common:

- 5.10.1 the Ngāi Te Rangi governance entity as to an undivided 1/6 share;
- 5.10.2 the trustees of Te Kapu o Waitaha as to an undivided 1/6 share;
- 5.10.3 the trustees of Tapuika Iwi Authority Trust as to an undivided 1/6 share;
- 5.10.4 the trustees of Te Tahuhu o Tawakeheimoa Trust as to an undivided 1/6 share;
- 5.10.5 the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust as to an undivided 1/6 share; and
- 5.10.6 the trustees of Te Tāwharau o Ngāti Pūkenga Trust as to an undivided 1/6 share.

- 5.11 The settlement legislation will, on the terms provided by section 46 of the draft settlement bill, establish a joint management body (with the trustees of the trusts referred to in clauses 5.10.1 to 5.10.6 each appointing a member to the joint management body) which will be the administering body for the reserve.

Vesting date for Pūwhenua and Otānewainuku

- 5.12 The settlement legislation will, on the terms provided by section 43(1) of the draft settlement bill, provide that the vestings of, and establishment of the joint management bodies for, Pūwhenua and Otānewainuku will occur on a date to be specified by the Governor-General by Order in Council, on recommendation by the Minister of Conservation.

- 5.13 The settlement legislation will, on the terms provided by section 43(2) of the draft settlement bill, provide that the Minister must not make the recommendation referred to in clause 5.12 to the Governor-General until the following Acts of Parliament have come into force:

- 5.13.1 the settlement legislation; and
- 5.13.2 the legislation required to be proposed for introduction to the House of Representatives under each of the following deeds:
- (a) the Tapuika deed of settlement;
 - (b) the Ngāti Rangiwewehi deed of settlement;

5: CULTURAL REDRESS

- (c) the Ngāti Ranginui deed of settlement; and
- (d) the Ngāti Pūkenga deed of settlement.

5.14 The Crown and the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity will agree in writing to any necessary changes to the draft settlement bill proposed for introduction to the House of Representatives so as to give effect to the vesting of Pūwhenua and Otānewainuku in the manner specified in clauses 5.8 and 5.10.

5.15 Each cultural redress property is to be:

5.15.1 as described in schedule 3 of the draft settlement bill; and

5.15.2 vested on the terms provided by:

- (a) part 2 of the draft settlement bill; and
- (b) part 2 of the property redress schedule; and

5.15.3 subject to any encumbrances or other documentation in relation to that property:

- (a) to be provided by the relevant governance entity; or
- (b) required by the settlement legislation; and
- (c) in particular, referred to in schedule 3 of the draft settlement bill.

STATUTORY ACKNOWLEDGEMENT

5.16 The settlement legislation will, on the terms provided by sections 21 to 33 of the draft settlement bill:

5.16.1 provide the Crown's acknowledgement of the statements by Ngāi Te Rangi of their particular cultural, spiritual, historical and traditional association with the following areas:

General

- (a) Aongatete (as shown on deed plan OTS-078-03);

Rivers and Streams

- (b) the Crown-owned parts of the following rivers and streams:
 - (i) Waiau River (as shown on deed plan OTS-078-15);
 - (ii) Uretara Stream (as shown on deed plan OTS-078-17);
 - (iii) Waitao Stream (as shown on deed plan OTS-078-24); and
 - (iv) Kaiate Stream / Te Rere a Kawau (as shown on deed plan OTS-078-26);

5: CULTURAL REDRESS

5.16.2 provide the Crown's acknowledgement of the statements by Ngā Pōtiki of their particular cultural, spiritual, historical and traditional association with the following areas:

Rivers and Streams

- (a) the Crown-owned parts of the following rivers and streams:
 - (i) Waitao Stream (as shown on deed plan OTS-078-24); and
 - (ii) Kaiate Stream / Te Rere a Kawau (as shown on deed plan OTS-078-26);

Coastal

5.16.3 provide the Crown's acknowledgement of the statements by Ngāi Te Rangi and Ngā Pōtiki of their particular cultural, spiritual, historical and traditional association with Waiorooro ki Maketu (as shown on deed plan OTS-078-13);

5.16.4 require:

- (a) relevant consent authorities, the Environment Court, and the New Zealand Historic Places Trust to have regard to the statutory acknowledgement;
- (b) relevant consent authorities to forward to the relevant governance entity:
 - (i) summaries of resource consent applications within, adjacent to or directly affecting a statutory area; and
 - (ii) a copy of a notice of a resource consent application served on the consent authority under section 145(10) of the Resource Management Act 1991; and
- (c) relevant consent authorities to record the statutory acknowledgement on the statutory plans that relate to the statutory areas; and

5.16.5 enable the Ngāi Te Rangi governance entity and Ngā Pōtiki governance entity, any member of Ngāi Te Rangi, and any member of Ngā Pōtiki, to cite the statutory acknowledgement as evidence of Ngāi Te Rangi and Ngā Pōtiki's association with the area over which Ngāi Te Rangi or Ngā Pōtiki have a statutory acknowledgement.

Coastal Statutory Acknowledgement

5.17 The Ngā Pōtiki interest within the coastal statutory acknowledgement in clause 5.16.3 will be Parakiri (recorded name Omanu Beach) located on the western boundary of the Papamoā 2 block to Maketu (as shown on deed plan OTS-078-13), with the following areas of the coastal statutory acknowledgement being for the sole benefit of Ngā Pōtiki:

5.17.1 from Parakiri (Omanu Beach) located on the western boundary of the Papamoā 2 block to Wairakei; and

5.17.2 from Te Tumu to Maketu.

5: CULTURAL REDRESS

- 5.18 The coastal statutory acknowledgement in clause 5.16.3 applies to the area shaded dark blue on deed plan (OTS-078-13) and is limited to the marine and coastal area as defined in section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011.
- 5.19 The statements of association are in part 1.1 of the documents schedule.

Kaitiaki-a-Rohe

- 5.20 The Crown acknowledges the intention of the Ngāi Te Rangi governance entity to transfer the statutory acknowledgements and the cultural redress property described as Waitao Stream Property to the relevant Kaitiaki-a-Rohe, through the relevant hapu entities, following settlement. The Ngāi Te Rangi governance entity will notify the Crown and relevant consent authorities, the Environment Court, and the New Zealand Historic Places Trust as soon as reasonably practicable following the transfer of a statutory acknowledgement or the Waitao Stream Property in accordance with this clause.

STATEMENTS OF ASSOCIATION

- 5.21 Part 1.2 of the documents schedule contains statements by Ngāi Te Rangi and Ngā Pōtiki that record their cultural, spiritual, historical and traditional association with:
- 5.21.1 Kopuaroa Canal (as shown on deed plan OTS-078-25);
- 5.21.2 Waiooro Stream (recorded name being Three Mile Creek) (as shown on deed plan OTS-078-14); and
- 5.21.3 Wairakei River (as shown on deed plan OTS-078-22).

KAURI POINT

- 5.22 The Crown is in Treaty settlement negotiations with Ngāti Tamatera and has identified Kauri Point as a potential cultural redress property to form part of the Ngāti Tamatera settlement package.
- 5.23 The Crown acknowledges that Kauri Point is also a site of cultural significance to Ngāi Te Rangi and have proposed that any redress over Kauri Point provided to the Ngāti Tamatera Settlement Trust also provide for the interests of Ngāi Te Rangi.
- 5.24 Should the interests of Ngāi Te Rangi in Kauri Point not be provided for through the Ngāti Tamatera settlement or any other settlement the Crown will after the settlement date work with Ngāi Te Rangi and the Western Bay of Plenty District Council in good faith to explore options to recognise the interests of Ngāi Te Rangi in Kauri Point including the possible transfer of title and co-management.

5: CULTURAL REDRESS

OFFICIAL GEOGRAPHIC NAMES

5.25 The settlement legislation will, from the settlement date, provide for each of the names listed in the second column to be the official geographic name for the features listed in the third and fourth columns:

Existing name	Official geographic name	Location (NZTopo50 and grid references)	Geographic feature type
	Mananui Hill	NZTopo50 BC36 636 493	Hill
	Te Hō Pā	NZTopo50 BC36 645 493	Historic site
	Te Kura-a-Māia Pā	NZTopo50 BC36 641 490	Historic site
	Tokopiko Rock	NZTopo50 BC36 646 492	Rock
	Titirākāhu Pā	NZTopo50 BC36 638 494	Historic site
Hunters Creek	Ōtapu Creek	NZTopo50 BD36 729 338 to BD37 763 297	Creek
Shelly Bay	Paraparaumu / Shelly Bay	NZTopo50 BC36 633 491 to BC36 632 493	Bay
Anzac Bay	Anzac Bay / Waipaopao	NZTopo50 BC36 635 489 to BC36 641 489	Bay
Three Mile Creek	Waiorooro Stream	NZTopo50 BC36 577 535 to BC36 612 545	Stream
Welcome Bay	Te Tehe / Welcome Bay	NZTopo50 BD37 814 208 to BD37 823 211	Bay
North Rock	North Rock / Te-Toka-a-Tirikawa	NZTopo50 BD37 801 312	Rock
Blue Gum Bay	Uretureture Bay	NZTopo50 BD36 699 372 to BD36 703 376	Bay

LETTERS OF INTRODUCTION

5.26 Following the date of this deed, the Minister for Treaty of Waitangi Negotiations will write to the entities identified in clause 5.27 to:

5.26.1 introduce the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity; and

5.26.2 encourage the entities identified in clause 5.27 to establish an ongoing relationship with Ngāi Te Rangi and Ngā Pōtiki.

5: CULTURAL REDRESS

- 5.27 The entities referred to in clause 5.26 are:
- 5.27.1 Maritime New Zealand;
 - 5.27.2 Te Whare Wānanga o Awanuiarangi;
 - 5.27.3 Ministry of Education;
 - 5.27.4 Ministry for the Environment;
 - 5.27.5 Ministry for Social Development;
 - 5.27.6 Ministry for Health;
 - 5.27.7 New Zealand Police;
 - 5.27.8 Ministry of Business, Innovation and Employment;
 - 5.27.9 Ministry of Primary Industries;
 - 5.27.10 Department of Internal Affairs;
 - 5.27.11 Ministry for Culture and Heritage;
 - 5.27.12 Te Puni Kokiri;
 - 5.27.13 Department of Conservation;
 - 5.27.14 New Zealand Transport Agency;
 - 5.27.15 Bay of Plenty Polytechnic;
 - 5.27.16 Bay of Plenty Tertiary Partnership;
 - 5.27.17 University of Waikato;
 - 5.27.18 University of Auckland;
 - 5.27.19 Transpower New Zealand Limited;
 - 5.27.20 Tauranga City Council;
 - 5.27.21 Western Bay of Plenty District Council;
 - 5.27.22 Bay of Plenty Regional Council; and
 - 5.27.23 Telecom New Zealand Limited.

Kopukairoa

- 5.28 A letter of introduction will be sent from the Minister for Treaty of Waitangi Negotiations to Telecom New Zealand Limited on behalf of Ngā Pōtiki a Tamapahore Trust in relation to Kopukairoa Maunga. A draft will be prepared for Ngā Pōtiki a Tamapahore Trust to consider no later than one month from the signing of the deed of settlement. The Crown further agrees to explore how it will initiate, support and encourage negotiations between Ngā Pōtiki and Telecom New Zealand in relation to Kopukairoa.

5: CULTURAL REDRESS

RELATIONSHIP WITH HOUSING NEW ZEALAND

- 5.29 The Crown acknowledges that Ngāi Te Rangī, Ngā Pōtiki and Housing New Zealand have objectives that overlap in relation to the provision of safe, affordable and quality housing.
- 5.30 The Crown acknowledges that Housing New Zealand owns properties within the traditional tribal rohe of Ngāi Te Rangī and Ngā Pōtiki.
- 5.31 The Crown acknowledges that members of Ngāi Te Rangī and Ngā Pōtiki have significant housing needs.
- 5.32 The Crown also acknowledges that Ngāi Te Rangī and Ngā Pōtiki have been actively exploring housing initiatives in discussions with Housing New Zealand.
- 5.33 The Crown further acknowledges that Ngāi Te Rangī, Ngā Pōtiki and Housing New Zealand have a positive relationship, which they intend to build upon to advance areas of mutual interest.
- 5.34 On the basis of the discussions that have taken place between Housing New Zealand and Ngāi Te Rangī and Ngā Pōtiki, the Crown understands that those parties intend:
- 5.34.1 within two months of initialling the deed, to meet to discuss Housing New Zealand properties within the traditional tribal rohe of Ngāi Te Rangī and Ngā Pōtiki that are of particular significance or interest to Ngāi Te Rangī and Ngā Pōtiki;
 - 5.34.2 that following that meeting, Housing New Zealand will consider its current and future strategic objectives in relation to those properties; and
 - 5.34.3 to then work together in good faith to examine whether there might be options in relation to some or all of the identified properties that could potentially further their overlapping housing related objectives in a way that is beneficial to all.
- 5.35 Housing New Zealand will also discuss and pursue other areas where the interests of Housing New Zealand and each of Ngāi Te Rangī and Ngā Pōtiki may overlap.
- 5.36 The Crown, Ngāi Te Rangī and Ngā Pōtiki acknowledge that any discussions that have occurred to date, and any discussions that will occur in the future, with Housing New Zealand are subject in all respects to the consideration and approval of Housing New Zealand's Board acting in accordance with its statutory objectives, powers and functions.

RIGHT OF FIRST REFUSAL (RFR) OVER CERTAIN SPECIES YET TO BE INTRODUCED INTO THE QUOTA MANAGEMENT SYSTEM

- 5.37 The Ngāi Te Rangī governance entity is to have a right of first refusal over certain species should they be introduced into the quota management system, as provided under clauses 5.38 to 5.41.

5: CULTURAL REDRESS

Delivery by the Crown of a RFR deed over certain quota

- 5.38 The Crown must, by or on the settlement date, provide the Ngāi Te Rangi governance entity with two copies of a deed (the "RFR deed over certain quota") on the terms and conditions set out in part 2 of the documents schedule and signed by the Crown.

Signing and return of RFR deed over certain quota by the Ngāi Te Rangi governance entity

- 5.39 The Ngāi Te Rangi governance entity must sign both copies of the RFR deed over certain quota and return one signed copy to the Crown by no later than 10 business days after the settlement date.

Terms of RFR deed over certain quota

- 5.40 The RFR deed over certain quota will:

5.40.1 relate to the area of interest;

5.40.2 be in force for a period of 50 years from the settlement date; and

5.40.3 have effect from the settlement date as if it had been validly signed by the Crown and the Ngāi Te Rangi governance entity on that date.

Crown has no obligation to introduce or sell quota

- 5.41 The Crown and Ngāi Te Rangi agree and acknowledge that:

5.41.1 nothing in this deed, or the RFR deed over certain quota, requires the Crown to:

(a) purchase any provisional catch history, or other catch rights, under section 37 of the Fisheries Act 1996;

(b) introduce any applicable species (being the species referred to in schedule 1 of the RFR deed over certain quota) into the quota management system (as defined in the RFR deed over certain quota); or

(c) offer for sale any applicable quota (as defined in the RFR deed over certain quota) held by the Crown; and

5.41.2 the inclusion of any applicable species (being the species referred to in schedule 1 of the RFR deed over certain quota) in the quota management system may not result in any, or any significant, holdings by the Crown of applicable quota.

CULTURAL REDRESS GENERALLY NON-EXCLUSIVE

- 5.42 The Crown may do anything that is consistent with the non-exclusive cultural redress, including entering into, and giving effect to, another settlement that provides for the same or similar non-exclusive cultural redress.

6 FINANCIAL AND COMMERCIAL REDRESS

FINANCIAL REDRESS

- 6.1 The Crown must pay the Ngāi Te Rangi governance entity the following amounts:
- 6.1.1 \$14,650,000, payable in accordance with clause 6.4; and
 - 6.1.2 \$5,900,000, payable within 10 business days from the date the draft settlement bill has been approved for introduction into the House of Representatives.
- 6.2 The Crown must pay the Ngā Pōtiki governance entity \$3,000,000, payable in accordance with clause 6.4.
- 6.3 The amounts referred to in clause 6.1 and 6.2 are the financial and commercial redress amount of \$29,500,000.00 less:
- 6.3.1 the on account payment referred to in clause 6.5; and
 - 6.3.2 \$50,000, being the value of the nominated shares transferred to the Ngāi Te Rangi governance entity in accordance with the deed recording on account arrangements.
- 6.4 The Crown agrees to use its best endeavours to make the payments under clauses 6.1.1 and 6.2 within five business days from the date of this deed, and in any event no later than 10 business days from the date of this deed.

ON ACCOUNT PAYMENT

- 6.5 The parties acknowledge that before the date of this deed the Crown paid \$5,900,000 to the Ngāi Te Rangi governance entity on account of the settlement.

COMMERCIAL PROPERTIES

- 6.6 In relation to each commercial property:
- 6.6.1 the parties are to be treated as having entered into an agreement for the sale and purchase at its transfer value, plus GST if any, on the terms in part 7 of the property redress schedule and under which, on the commercial property settlement date:
 - (a) the Crown must transfer the property to the relevant governance entity; and
 - (b) the relevant governance entity must pay to the Crown an amount equal to the transfer value of the property, plus GST if any, by:
 - (i) bank cheque drawn on a registered bank and payable to the Crown; or
 - (ii) another payment method agreed by the parties.

6: FINANCIAL AND COMMERCIAL REDRESS

- 6.7 The transfer of each commercial property will be subject to, and where applicable with the benefit of, the encumbrances provided in the property redress schedule in relation to that property.
- 6.8 The Ngāi Te Rangi governance entity intends to transfer the Te Papa properties, following settlement, to a Te Papa joint venture to be established by Ngāi Te Rangi and Ngāti Ranginui.

DEFERRED SELECTION PROPERTIES

Leaseback properties

- 6.9 The Ngāi Te Rangi governance entity may, for two years after settlement date, elect to purchase the leaseback properties described in table 4A of part 4 of the property redress schedule, on and subject to, the terms and conditions in parts 5 and 7 of the property redress schedule.
- 6.10 The leaseback properties are to be leased back to the Crown immediately after their purchase by the Ngāi Te Rangi governance entity. The form of lease to be entered into between the Ngāi Te Rangi governance entity and the Ministry of Education is set out in part 3 of the documents schedule. As the lease is a registrable ground lease, the Ngāi Te Rangi governance entity will be purchasing only the bare land, the ownership of the improvements remaining unaffected by the purchase.

Withdrawal of leaseback properties

- 6.11 In the event that any of the leaseback properties become surplus to the land holding agency's requirements, then the Crown may, at any time before the Ngāi Te Rangi governance entity has given a notice of interest in accordance with paragraph 5.2 of the property redress schedule in respect of the property, give written notice to the Ngāi Te Rangi governance entity advising it that a leaseback property or properties are no longer available for selection by the Ngāi Te Rangi governance entity in accordance with clause 6.9. The Ngāi Te Rangi governance entity's right to purchase under clause 6.9 ceases in respect of the property on the date of receipt of the notice by the Ngāi Te Rangi governance entity under this clause. To avoid doubt, the Ngāi Te Rangi governance entity will continue to have a right of first refusal in relation to the leaseback properties in accordance with clause 6.14.

Non-leaseback property

- 6.12 The Ngā Pōtiki governance entity may, for two years after settlement date, elect to purchase the deferred selection property described as Bell Road / Railway, Papamoa in table 4B of part 4 of the property redress schedule, on and subject to, the terms and conditions in parts 6 and 7 of the property redress schedule.

SETTLEMENT LEGISLATION

- 6.13 The settlement legislation will, on the terms provided by part 3 of the draft settlement bill, enable the transfer of the deferred selection properties and the commercial properties.

6: FINANCIAL AND COMMERCIAL REDRESS

RFR FROM THE CROWN

- 6.14 The relevant governance entity is to have a right of first refusal in relation to a disposal by the Crown of RFR land that on the settlement date:
- 6.14.1 is vested in the Crown;
 - 6.14.2 the fee simple for which is held by the Crown; or
 - 6.14.3 is a reserve vested in an administering body that derived title to the reserve from the Crown and that would, on application of section 25 or 27 of the Reserves Act 1977, revert in the Crown.
- 6.15 The right of first refusal is:
- 6.15.1 to be on the terms provided by part 3 of the draft settlement bill; and
 - 6.15.2 in particular, to apply:
 - (a) for a term of 174 years from the settlement date; but
 - (b) only if the RFR land is not being disposed of in the circumstances provided by sections 78 to 84 of the draft settlement bill.
- 6.16 The parties acknowledge that it is the intention of Ngāi Te Rangi and Ngā Pōtiki to deal directly with Housing New Zealand with regard to a right of first refusal over its properties.

Transfer of commercial properties and leaseback properties to relevant hapu entities

- 6.17 The Crown acknowledges the intention of the Ngāi Te Rangi governance entity to transfer the commercial properties and the leaseback properties to the relevant hapu entities, following settlement.

7 SETTLEMENT LEGISLATION, CONDITIONS AND TERMINATION

SETTLEMENT LEGISLATION

- 7.1 The Crown must propose the draft settlement bill for introduction to the House of Representatives by the later of the following dates:
- 7.1.1 12 months after the date of this deed; or
 - 7.1.2 12 months after the signing of the collective deed.
- 7.2 The draft settlement bill proposed for introduction must:
- 7.2.1 include all matters required to give effect to the deed;
 - 7.2.2 reflect, as appropriate for the purposes of Parliament, the drafting conventions of the Parliamentary Counsel Office; and
 - 7.2.3 be in a form that is satisfactory to the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity and the Crown.
- 7.3 Ngāi Te Rangi, Ngā Pōtiki, the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity will support the passage through Parliament of the settlement legislation.

SETTLEMENT CONDITIONAL

- 7.4 This deed, and the settlement, are conditional on the settlement legislation coming into force.
- 7.5 However, the following provisions of this deed are binding on its signing:
- 7.5.1 clauses 5.1, 5.2, 5.3 and 5.4;
 - 7.5.2 clauses 6.1, 6.2 and 6.5;
 - 7.5.3 clauses 7.1 to 7.9; and
 - 7.5.4 paragraph 1.3, and parts 2, 4 to 7, of the general matters schedule.

EFFECT OF THIS DEED

- 7.6 This deed:
- 7.6.1 is "without prejudice" until it becomes unconditional; and
 - 7.6.2 in particular, may not be used as evidence in proceedings before, or presented to, the Waitangi Tribunal, any court or any other judicial body or tribunal.
- 7.7 Clause 7.6 does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

7: SETTLEMENT LEGISLATION, CONDITIONS AND TERMINATION

TERMINATION

- 7.8 The Crown, or the Ngāi Te Rangi governance entity and the Ngā Pōtiki governance entity (together), may terminate this deed by notice to the other, if:
- 7.8.1 the settlement legislation has not come into force within 36 months after the date of this deed; and
 - 7.8.2 the terminating party has given the other party at least 60 working days' notice of an intention to terminate.
- 7.9 If this deed is terminated in accordance with its provisions:
- 7.9.1 this deed (and the settlement) are at an end; and
 - 7.9.2 subject to this clause, this deed does not give rise to any rights or obligations; and
 - 7.9.3 this deed remains "without prejudice"; but
 - 7.9.4 the parties intend that every payment made (or referred to) under clauses 5.1, 5.2, 5.4, 6.1, 6.2, 6.3.2, 6.5 or part 2 of the general matters schedule is taken into account in any future settlement of the historical claims; and
 - 7.9.5 despite clause 7.6, the Crown may produce this deed to any Court or tribunal considering the quantum of any redress to be provided by the Crown in relation to any future settlement of the historical claims.

8 GENERAL, DEFINITIONS AND INTERPRETATION

GENERAL

- 8.1 The general matters schedule includes provisions in relation to:
- 8.1.1 the implementation of the settlement; and
 - 8.1.2 the Crown's:
 - (a) payment of interest in relation to the settlement; and
 - (b) tax indemnities in relation to redress; and
 - 8.1.3 giving notice under this deed or a settlement document; and
 - 8.1.4 amending this deed.

HISTORICAL CLAIMS

- 8.2 In this deed, **historical claims**:
- 8.2.1 means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that Ngāi Te Rangi and Ngā Pōtiki, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that:
 - (a) is, or is founded on, a right arising:
 - (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law, including aboriginal title or customary law; or
 - (iv) from fiduciary duty; or
 - (v) otherwise; and
 - (b) arises from, or relates to, acts or omissions before 21 September 1992:
 - (i) by, or on behalf of, the Crown; or
 - (ii) by or under legislation; and
 - 8.2.2 includes every claim to the Waitangi Tribunal to which clause 8.2.1 applies that relates exclusively to Ngāi Te Rangi and Ngā Pōtiki, or a representative entity, including the following claims:
 - (a) Wai 42 - K. Bluegum, D. Murray, Katikati & Te Puna Blocks (Athenree Forest) claim;
 - (b) Wai 42c - D. Murray (Ngāi Tamawhariua claim);
 - (c) Wai 159 - I. Berkett, Tuhua Island (Te Urungawera) claim;

8: GENERAL, DEFINITIONS AND INTERPRETATION

- (d) Wai 162 - R. Ohia, Tahuwhakatiki Trust claim;
- (e) Wai 209 - J. Gray, Otawa Kaiate Trust claim;
- (f) Wai 211 - M. Ellis & H. Burton, Whareroa Blocks claim (Ngāti Tukairangi);
- (g) Wai 228 - T. Kuka, Matakana Island claim;
- (h) Wai 266 - S. Tawhiao, Matakana Island claim;
- (i) Wai 342 - T. Heke-Kaiawha, Ngāti He lands claim;
- (j) Wai 353 - P. Nicholas, Mt Maunganui & Tauranga City land claim (Ruawahine and Ngāti Tukairangi);
- (k) Wai 360 - L. Waka, Matapihi Ohuki No. 3 claim;
- (l) Wai 465 - L. Grey, Maungatapu & Kaitemako claim (Kaitemako B&C);
- (m) Wai 489 - T. Faulkner, Whareroa Blocks claim (Ngāti Kuku);
- (n) Wai 522 - K. Bluegum, Western Bay of Plenty claim (Ngāi Tamawhariua);
- (o) Wai 540 - K. Ngātai, Ngāi Te Rangi whanui claim;
- (p) Wai 546 - T. Stockman and P. Ihaka, Ngāti Tapu Tribal Lands claim;
- (q) Wai 636 - W. McLeod, Papamoa No. 2 Section 6B No. 1A Block claim;
- (r) Wai 668 - W. Te Kani, M. Ellis & H. Burton. Ngāti Tukairangi Block claim (Ngāti Tukairangi Trust);
- (s) Wai 715 - J. White Matakana Island Succession claim;
- (t) Wai 717 - M. Duncan, Ngā Potiki Hapu Estate (Tauranga) claim;
- (u) Wai 755 - T. Stockman, Rangiwaea Island Blocks (Tauranga) claim (Te Whānau a Tauwhao/Te Ngare);
- (v) Wai 807 - D. Tata & others, Motiti Island claim (Te Whānau a Tauwhao);
- (w) Wai 817 - N. Hirama, Whareroa 2G No. 1A Block (Tauranga) claim;
- (x) Wai 854 - J. Toma, Lot No 7. Tuingara (Matakana Island, Tauranga) claim (Ngāi Tamawhariua ki Matakana);
- (y) Wai 938 - T. Wicks, Ngāi Tauwhao Tauranga Moana claim;
- (z) Wai 947 - H. Ngatai, Ngāti Kuku Tauranga Moana land confiscation and alienation claim;
- (aa) Wai 963 - K. Ngatai, Ngāti Tukairangi Western Bay of Plenty claim;
- (bb) Wai 1061 - W. McLeod, Ngāti Kahu Mangatawa No. 2 Block claim;
- (cc) Wai 1078 - H. Palmer Ngāi Te Rangi (Rotorua Inquiry) claim;
- (dd) Wai 1328 - M. Duncan, Ngā Pōtiki Land Banking Policy claim;

8: GENERAL, DEFINITIONS AND INTERPRETATION

- (ee) Wai 1355 - M. Kakau, Kakau Whānau claim (Papamoa 2);
- (ff) Wai 1774 - R. Ellis, Otauna block claim (Ngāti Tapu hapū of Ngāi Te Rangi);
- (gg) Wai 1785 - E. Potene, Te Whānau a Roretana Te Whānau a Tauwhao claim (Hapū of Ngāi Te Rangi);
- (hh) Wai 1792 - T. Te Kawana, T Wepiha and K. Hawkes - Wepiha Whānau claim (Ngā Pōtiki hapū of Ngāi Te Rangi);
- (ii) Wai 2252 - C. Pakuru, Ngāti Te Ngare lands (Pakuru) claims (Ngāti Te Ngare hapū of Ngāi Te Rangi);
- (jj) Wai 2263 - P. Wharekawa, Waitangi Tribunal claim (Ngāi Tamawhariua, Ngāi Tuwhiwhia and Ngāti Tauiti of Ngāi Te Rangi); and

8.2.3 includes every other claim to the Waitangi Tribunal to which clause 8.2.1 applies, so far as it relates to Ngāi Te Rangi and Ngā Pōtiki, or a representative entity, including the following claims:

- (a) Wai 47 - W. Ohia, Pukenga Land claim (Ngāi Te Rangi, Ngāti Ranginui, Ngāti Pukenga);
- (b) Wai 383 - C. Bidois, Katikati Te Puna Purchase Claim (lodged 13 September 1993, withdrawn 23 July 1998);
- (c) Wai 365 - R. Tooke, Matakana Island claim (Matakana Island);
- (d) Wai 580 - T. Faulkner, M. Ellis & others, Otamataha Lands claim (Otamataha);
- (e) Wai 603 - W. Te Kani, Tauranga Moana - Public Works Takings and Crown Activities claim (Papakānuī Trust);
- (f) Wai 645 - E. Ngatai, Tauranga Moana Maori Trust Board Act claim (Tauranga Moana Maori Trust Board);
- (g) Wai 701 - C. Bidios & M. Ellis, Katikati & Te Puna Blocks (Athenree Forest) claim;
- (h) Wai 1462 - Tuhua Island claim;
- (i) Wai 1793 - T. R Te Keeti, Wairoa and Valley Roads Lands claim (Ngāti Pango, Ngāti Kuku, Ngāti Kahu and Ngāti Tamahapai);
- (j) Wai 2042 - N. Whānau, Nikora Whānau Lands claim (Tauwhao hapū, Coromandel and Tauranga); and
- (k) Wai 2265 - K. Marsden and T. Black, Kaitimako B block claim Ngāti Pukenga, Ngāi Te Rangi and Ngāti He).

8.3 However, **historical claims** does not include the following claims:

8.3.1 a claim that a member of Ngāi Te Rangi and Ngā Pōtiki, or a whānau, hapū, or group referred to in clause 8.6.2 or 8.7.2, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in clause 8.6.1 or 8.7.1; and

8: GENERAL, DEFINITIONS AND INTERPRETATION

8.3.2 a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 8.3.1.

8.4 To avoid doubt, clause 8.2.1 is not limited by clauses 8.2.2 or 8.2.3.

NGĀI TE RANGI AND NGĀ PŌTIKI

8.5 According to Ngāi Te Rangi and Ngā Pōtiki tradition, Ngā Pōtiki are a hapū of Ngāi Te Rangi. However for treaty settlement purposes Ngāi Te Rangi and Ngā Pōtiki have agreed that:

8.5.1 Ngāi Te Rangi and Ngā Pōtiki have been recognised by the Crown as separate large natural groups;

8.5.2 as documented in the background to this deed, the Crown has recognised:

(a) Te Rūnanga o Ngāi Te Rangi Iwi Trust as mandated to settle the historical treaty claims of Ngāi Te Rangi; and

(b) Ngā Potiki a Tamapahore Trust as mandated to settle the historical treaty claims of Ngā Pōtiki; and

8.5.3 Ngāi Te Rangi and Ngā Pōtiki as defined in clause 8.6 and 8.7 will each receive a specific and exclusive settlement redress package.

8.6 In this deed, **Ngāi Te Rangi** means:

8.6.1 the collective group composed of individuals who descend from one or more Ngāi Te Rangi ancestors; and

8.6.2 every whānau, hapū or group to the extent that it is composed of individuals referred to in clause 8.6.1, including the following groups:

(a) Te Whānau a Tauwhao;

(b) Ngāi Tamawhariua;

(c) Ngāti Tauaiti;

(d) Ngāi Tuwhiwhia;

(e) Te Ngare;

(f) Ngāi Tukairangi;

(g) Ngāti Kuku;

(h) Ngāti Tapu;

(i) Ngāti He; and

8.6.3 every individual referred to in clause 8.6.1.

8: GENERAL, DEFINITIONS AND INTERPRETATION

8.7 In this deed, **Ngā Pōtiki** means:

8.7.1 the collective group composed of individuals who descend from one or more Ngā Pōtiki ancestors; and

8.7.2 every whānau, hapū or group to the extent that it is composed of individuals referred to in clause 8.7.1, including the following groups:

- (a) Ngāti Kaahu;
- (b) Ngāti Tahuora;
- (c) Ngāti Puapua;
- (d) Ngāti Mate Ika;
- (e) Ngāti Pou;
- (f) Ngāti Hinetoro;
- (g) Ngāti Kiriwera;
- (h) Ngāti Kauae;
- (i) Ngāti Kiritawhiti;
- (j) Ngāti Turumakina;
- (k) Ngāti Patukiri;
- (l) Ngāti Homai; and

8.7.3 every individual referred to in clause 8.7.1.

8.8 For the purposes of clauses 8.6.1 and 8.7.1:

8.8.1 a person is **descended** from another person if the first person is descended from the other by:

- (a) birth; or
- (b) legal adoption; or
- (c) Māori customary adoption in accordance with Ngāi Te Rangi's or Ngā Pōtiki's tikanga (Māori customary values and practices); and

8.8.2 **Ngāi Te Rangi ancestor** means an individual who:

- (a) exercised customary rights by virtue of being descended from:
 - (i) Te Rangihouhiri and/or Tamapahore; and
 - (ii) a recognised ancestor or any of the groups referred to in clause 8.6.2; and

8: GENERAL, DEFINITIONS AND INTERPRETATION

- (b) exercised those customary rights predominantly in relation to the Ngāi Te Rangi area of interest any time after 6 February 1840;

8.8.3 **Ngā Pōtiki ancestor** means an individual who:

- (a) exercised customary rights by virtue of being descended from:
 - (i) the eponymous Ngā Pōtiki ancestor Tamapahore, through his children Uruhina, Kiritawhiti, Rereoho, Pupukino, Kahukino, Tamapiri, Ngaparetaihinu and Parewaitai; and/or
 - (ii) one or more of Tamapahore's siblings Tamaururoa, Tamapinaki and Werapinaki; and
 - (iii) a recognised ancestor of any of the groups referred to in clause 8.7.2; and
- (b) exercised those customary rights predominantly in relation to the Ngā Pōtiki area of interest any time after 6 February 1840.

8.8.4 **customary rights** means rights according to tikanga Māori (Māori customary values and practices), including:

- (a) rights to occupy land; and
- (b) rights in relation to the use of land or other natural or physical resources; and

8.8.5 to avoid doubt:

- (a) an individual is descended from a Ngāi Te Rangi ancestor or Ngā Pōtiki ancestor whether, in accordance with clause 8.8.1(b) or 8.8.1(c), they have been adopted into or out of a family where a parent is descended from a Ngāi Te Rangi ancestor or Ngā Pōtiki ancestor; and
- (b) an individual is descended from a Ngāi Te Rangi ancestor or Ngā Pōtiki ancestor if they are a member of a family where a parent is descended from Ngāi Te Rangi or Ngā Pōtiki tūpuna by virtue of clause 8.8.5.

ADDITIONAL DEFINITIONS

8.9 The definitions in part 6 of the general matters schedule apply to this deed.

INTERPRETATION

8.10 Part 6 of the general matters schedule applies to the interpretation of this deed.

SIGNED as a deed on

SIGNED by the trustees of the)
NGĀI TE RANGI SETTLEMENT TRUST)
for and on behalf of **NGĀI TE RANGI**)
and as trustees of)
NGĀI TE RANGI SETTLEMENT TRUST)
in the presence of:)

Charlie Tawhiao

Signature of witness

Mita Ririnui

Witness name

Maureen Ririnui

Occupation

Puhirake Ihaka

Address

Kerewai Wanakore

Wena Harawira

Whiti McLeod

Turi Ngatai

Anthony Fisher

SIGNED by the trustees of the)
NGĀ PŌTIKI A TAMAPAHORE TRUST)
for and on behalf of **NGĀ PŌTIKI**)
and as trustees of)
NGĀ PŌTIKI A TAMAPAHORE TRUST)
in the presence of:)

Colin Reeder

Signature of witness

Matire Duncan

Witness name

Occupation

Victoria Kingi

Address

Poihaere Walker

Waka Taite

SIGNED for and on behalf of **THE CROWN** by:)
The Minister for Treaty of Waitangi)
Negotiations, in the presence of:)

Hon Christopher Finlayson

Signature of witness

Witness name

Occupation

Address

The Minister of Finance)
(only in relation to the tax indemnities given in)
part 3 of the general matters schedule of this)
deed) in the presence of:)

Hon Simon William English

Signature of witness

Witness name

Occupation

Address

Other witnesses / members of Ngāi Te Rangī or Ngā Pōtiki who support the settlement

Other witnesses / members of Ngāi Te Rangī or Ngā Pōtiki who support the settlement

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NGĀ HAPŪ O NGĀTI RANGINUI

and

NGĀI TE RANGI

and

NGĀTI PŪKENGA

and

TAURANGA MOANA IWI COLLECTIVE LIMITED PARTNERSHIP

and

THE CROWN

TAURANGA MOANA IWI COLLECTIVE DEED

21 January 2015

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COLLECTIVE DEED

THIS DEED is made between

NGĀ HAPŪ O NGĀTI RANGINUI

and

NGĀI TE RANGI

and

NGĀTI PŪKENGA

and

TAURANGA MOANA IWI COLLECTIVE LIMITED PARTNERSHIP

and

THE CROWN

1 BACKGROUND

INTRODUCTION

- 1.1 Tauranga tangata (people) are defined by our location and environment - Tauranga Moana (the sea) and Tauranga whenua (the land). Our collective mana extends over a vast tribal estate. Like a great fishing net with the top strake at the summit of the Kaimai mountain range across to Otawa and the bottom strake reaching out to the many islands and including the marine environs, the area this net encompasses represents the totality of our physical identity and includes traditional and contemporary sources of sustenance and mana.
- 1.2 Every inch of this land holds special significance to our whānau, hapū and iwi whilst the moana nourishes us physically and spiritually. Indeed, we are intertwined with the moana to such an extent that we are identified by it and known as Tauranga Moana, the only tribal groups in New Zealand identified in such a manner. Therefore the restoration of our mana upon our moana and whenua is paramount.
- 1.3 Ngāti Pūkenga, Ngāi Te Rangi and Ngāti Ranginui suffered significantly from Crown breaches of the Treaty of Waitangi. The iwi suffered loss of life, loss of land and loss of connection with culturally significant areas and resources. Their claims have been inquired into and reported on by the Waitangi Tribunal in two reports (2004 report on the Tauranga confiscation claims and 2010 report on Tauranga Moana claims 1886-2006) which provide comprehensive descriptions of the grievances and Treaty breaches.
- 1.4 The members of the Tauranga Moana Iwi Collective are:
 - 1.4.1 Ngāi Te Rangi;
 - 1.4.2 Ngāti Pūkenga; and
 - 1.4.3 Ngāti Ranginui.
- 1.5 Ngāi Te Rangi are generally represented in Tauranga Moana Iwi Collective by Te Runanga o Ngāi Te Rangi Iwi Trust, which has been mandated to represent the hapū of Ngāi Te Rangi in settlement negotiations with the Crown. Ngā Potiki has separately mandated Ngā Pōtiki a Tamapahore Trust for the purposes of settlement negotiations with the Crown and has participated in the Tauranga Moana Iwi Collective negotiations through Ngāi Te Rangi membership in the collective.
- 1.6 Ngāti Pūkenga are represented in the Tauranga Moana Iwi Collective by Te Au Maaro o Ngāti Pūkenga Charitable Trust, which has been mandated to represent Ngāti Pūkenga in settlement negotiations with the Crown.
- 1.7 Ngāti Ranginui were represented in the Tauranga Moana Iwi Collective until 20 June 2012 by Te Roopu Whakamana o Nga Hapū o Ngāti Ranginui, the entity mandated to negotiate the settlement of the Ngāti Ranginui claims. However, since the signing of the Ngā Hapū o Ngāti Ranginui Deed of Settlement on 21 June 2012 the mandate to represent Ngāti Ranginui interests in the Tauranga Moana Iwi Collective negotiations and settlement with the Crown has been passed to the Ngāti Ranginui Post Settlement Governance Entity, Ngā Hapū o Ngāti Ranginui Settlement Trust.

1: BACKGROUND

- 1.8 Ngāti Ranginui, Ngāi Te Rangi and Ngāti Pūkenga entered into collective negotiations in 2010 in order to negotiate shared redress alongside their individual iwi settlements. This collective approach has required intensive engagement over a two and a half year period. This approach resulted in the three iwi agreeing on the shared redress set out in this collective deed and the allocation of Crown properties within the Tauranga Moana area.
- 1.9 On 22 December 2011, the Tauranga Moana Iwi Collective signed a Statement of Position and Intent with the Crown, which summarised the status of negotiations between the Crown and the Tauranga Moana Iwi Collective and outlined the remaining steps required to reach final agreement on collective redress. The Minister for Treaty of Waitangi Negotiations wrote separately to Ngā Pōtiki a Tamapahore Trust acknowledging the Ngā Pōtiki interest in the collective redress.
- 1.10 On 2 November 2012, the collective deed was initialled by the Crown and Tauranga Moana Iwi Collective.
- 1.11 Between 12 November and 12 December 2012 the Tauranga Moana iwi ratified the collective deed, entity and signatory by a majority of the percentages set out at clause 1.14.
- 1.12 Following a Crown determination process that concluded on 27 June 2014, sale and leaseback sites and the majority of right of first refusal properties were reallocated to the individual iwi within the Tauranga Moana Iwi Collective.
- 1.13 In September 2014, the Tauranga Moana Iwi Collective and the Crown reached final agreements on collective redress which is set out in this collective deed. Settlement redress for each individual iwi within the Tauranga Moana Iwi Collective is or will be set out in their respective individual deeds of settlement.

RATIFICATION AND APPROVALS

- 1.14 The Tauranga Moana iwi have, since the initialling of the collective deed, by a majority of –
- 1.14.1 the percentage for each Tauranga Moana iwi specified next to the iwi below, ratified this deed; and
- 1.14.2 the percentage for each iwi specified next to the iwi below, approved the collective entity receiving the redress; and
- 1.14.3 the percentage for each Tauranga Moana iwi specified next to the iwi below, approved the signing of the deed on their behalf by the signing entity:

Iwi	Deed ratification	Collective entity approved	Signatory to the deed
Ngā Hapū o Ngāti Ranginui	90%	90%	92%
Ngāi Te Rangi	94%	94%	93%
Ngāti Pūkenga	95%	94%	97%

- 1.15 Each majority referred to in clause 1.14.3 is of valid votes cast in a ballot by eligible members of each iwi.

1: BACKGROUND

- 1.16 Between 8 and 26 July 2014 each of the members of the Tauranga Moana Iwi Collective ran a communications process outlining to their members the reallocation process referred to in clause 1.12.
- 1.17 The collective entity approved entering into, and complying with, this deed by a resolution of board of directors of the Tauranga Moana Iwi Collective General Partner Limited on 18 December 2014.
- 1.18 The Crown is satisfied –
- 1.18.1 with the ratification and approvals of each iwi of Tauranga Moana iwi referred to in clauses 1.14.1 to 1.14.3; and
 - 1.18.2 with the collective entity; and
 - 1.18.3 with the collective entity's approval referred to in clause 1.17; and
 - 1.18.4 with the communications process explaining the reallocation process referred to in clause 1.16; and
 - 1.18.5 the collective entity is appropriate to receive the redress.

AGREEMENT

- 1.19 Therefore, the parties –
- 1.19.1 wish to enter, in good faith, into this deed; and
 - 1.19.2 agree and acknowledge as provided in this deed.

2 TAURANGA MOANA FRAMEWORK

BACKGROUND

- 2.1 The whānau and hapū of Ngāti Pūkenga, Ngāi Te Rangi and Ngāti Ranginui and their hapū comprise a significant community of interest within the Western Bay of Plenty. They are moana-centric people with an enduring thousand year association with Tauranga Moana that is fundamental to their identity and wellbeing, culturally and materially. They are inextricably bound to the entire Tauranga Harbour catchment area and much of the western Bay of Plenty coastline and marine area, as well as inland to the Kaimai Ranges. This relationship is best captured in the following pepeha, "*ko tatou te moana ko te moana tatou*" - "*we are one with the moana*".
- 2.2 Tauranga Moana iwi belong to the landscapes in which their whakapapa embeds them. Their ancestral landscapes are those places made sacred by the lives and deaths of their ancestors. These landscapes include natural features such as forests and rivers; physical formations such as mountains, valleys, harbours and estuaries; and cultural features such as pā, kāinga, mahinga kai and wāhi tapu. The ancestral landscape defines the relationship between Tauranga Moana iwi and the natural environment; it is, quite literally, the embodiment of their cultural heritage. The state of their ancestral landscapes is inextricably linked to the spiritual, emotional, physical and social wellbeing of the people of the Tauranga Moana iwi and is expressed through the ethic and practise of kaitiakitanga.¹ The health and wellbeing of the Moana has a direct correlation to the iwi of Tauranga. If the Moana is unwell then its people are unwell. As kaitiaki, there is an obligation upon Tauranga Moana iwi to protect, enhance and restore the Moana to full health and wellbeing for all current and future generations.
- 2.3 For countless generations this unique and profound association has been and remains central to the cultural, social, economic and environmental wellbeing of the whānau and hapū of these Tauranga Moana iwi and to their identity.
- 2.4 Ngāti Pūkenga, Ngāi Te Rangi and Ngāti Ranginui and their hapū have suffered significantly from Crown breaches of the Treaty of Waitangi. They suffered loss of life, loss of land and loss of connection with culturally significant areas and resources. Their claims have been inquired into and reported on by the Waitangi Tribunal in two reports (2004 report on the Tauranga confiscation claims and 2010 report on Tauranga Moana claims 1886-2006) which provide comprehensive descriptions of the grievances and Treaty breaches.
- 2.5 In its 2010 report the Waitangi Tribunal found that Tauranga Māori ought to have had the full protection of their Treaty rights to rangatiratanga and kaitiakitanga over Tauranga harbour recognised at all times, unless alienated by freely negotiated agreement, or when strictly necessary in the national interest. The Waitangi Tribunal further found that Crown control over natural resources, and the destruction of forests and fisheries permitted by the Crown, left Tauranga Māori unable to sustain their traditional way of life, and unable to utilise natural resources as a base for economic development.

¹ Source: Waitangi Tribunal 2010 report - *Tauranga Moana 1886 to 2006*.

2: TAURANGA MOANA FRAMEWORK

- 2.6 Tauranga Moana comprises the Tauranga Harbour, the significant number of rivers, streams and wetlands within the harbour catchment, and the coastal marine area from the Waiororo Stream (to be assigned in legislation giving effect to the Ngāi Te Rangi deed of settlement) in the north-west to the Wairakei Stream in the south-east. Tauranga Moana is a significant resource with environmental, conservation, cultural, economic, social and recreational values. Over time, the natural and physical environment has altered and, together with its associated ecosystems, has suffered deterioration.
- 2.7 While the Resource Management Act 1991 and the Local Government Act 2002 ensure due consideration of Treaty principles when decisions are made that affect the relationship tangata whenua have with their taonga, relationship building means going beyond the statutory compliance issues. It means building awareness, understanding, agreement and commitment within the relationship that gives confidence to both parties that their values, principles and perspectives have been included in the decision-making process. A consistent approach is required to facilitate discussion and the exchange of information on resource consents, heritage management, development issues, and community well-being. These communications will contribute to effective decision-making in the Western Bay of Plenty.²
- 2.8 Recognition of their mana, rangatiratanga and kaitiakitanga over the moana is fundamentally important to Tauranga Moana iwi and hapū who aspire to achieve, among other things:
- 2.8.1 the restoration, protection and maintenance of the health and wellbeing of Tauranga Moana and the health and wellbeing of the people around the moana; and
 - 2.8.2 direct involvement in policy development and decision-making affecting Tauranga Moana; and
 - 2.8.3 use of the full range of tools available under existing and newly developed regulatory frameworks; and
 - 2.8.4 consistent good-faith engagement on relevant issues.
- 2.9 For the Crown, arrangements in respect of Tauranga Moana should –
- 2.9.1 meet Treaty of Waitangi obligations and be informed by the reports of the Waitangi Tribunal concerning the Tauranga Moana claims; and
 - 2.9.2 be consistent with the principle of public access within marine and coastal area as reflected in sections 26 and 27 of the Marine and Coastal Area (Takutai Moana) Act 2011; and
 - 2.9.3 preserve democratic local decision-making and action by and on behalf of communities, including preserving the role of, and final decision-making by, local authorities as provided in relevant legislation; and
 - 2.9.4 provide an effective role for iwi and hapū in natural resource management; and
 - 2.9.5 promote sustainable management of natural and physical resources; and

² Source: SmartGrowth Strategy 2004 (2007 revision).

2: TAURANGA MOANA FRAMEWORK

- 2.9.6 improve and protect the health of the moana and the connected health of whānau, hapū and iwi; and
 - 2.9.7 provide for customary interests and accommodate cultural diversity and more than one world-view; and
 - 2.9.8 be characterised by arrangements that are fit for purpose; and
 - 2.9.9 be characterised by arrangements that are durable and will endure.
- 2.10 The Crown acknowledges that the Tauranga Moana iwi are the Crown's Treaty partners.

TAURANGA MOANA FRAMEWORK

- 2.11 For the purpose of recognising and addressing the foregoing matters the Crown and Tauranga Moana iwi agree –
- 2.11.1 that the collective legislation will, on the terms provided by part 3 of the legislative matters schedule –
 - (a) establish a statutory committee called the Tauranga Moana Governance Group; and
 - (b) provide for the preparation, review, amendment and adoption of a Tauranga Moana framework document - Ngā Tai ki Mauao; and
 - 2.11.2 to the other provisions in this part 2; and
 - 2.11.3 within 20 business days of the settlement date the Crown will provide a financial contribution to the Bay of Plenty Regional Council to support the provision of administrative and technical support to the Tauranga Moana Governance Group and the preparation and adoption of Ngā Tai ki Mauao (the Tauranga Moana framework document).

RELATIONSHIP WITH TAURANGA MOANA IWI

- 2.12 The documents schedule contains a statement by Tauranga Moana iwi of their relationship with Tauranga Moana.
- 2.13 The parties will discuss how the statement of relationship will be recognised in the collective legislation.

PROVISION FOR OTHER IWI INTERESTS

- 2.14 The parties acknowledge that –
- 2.14.1 the Crown is at various stages of Treaty of Waitangi settlement negotiations with claimant groups who the Crown considers have or may have interests in Tauranga Moana; and
 - 2.14.2 where negotiations with those claimant groups results in redress being provided in relation to parts of Tauranga Moana, that redress will be given effect to through future Treaty of Waitangi settlement legislation.

2: TAURANGA MOANA FRAMEWORK

- 2.15 The Crown agrees that any future redress will be subject to the resolution of overlapping interests (including those of Tauranga Moana iwi) to the satisfaction of the Crown and will –
- 2.15.1 be commensurate with matters such as –
 - (a) the relative strength and nature of the association of the claimant group to Tauranga Moana, taken as a whole; and
 - (b) the nature of the claimant group's grievances in relation to Tauranga Moana; and
 - 2.15.2 not undermine the fundamental elements of the Tauranga Moana arrangements set out in this deed; and
 - 2.15.3 not derogate from the Crown's recognition of the relationship between Tauranga Moana iwi and hapu and Tauranga Moana referred to in clauses 2.12 and 2.13 of this deed; and
 - 2.15.4 be designed to preserve and enhance relationships between Tauranga Moana Iwi and claimant groups.
- 2.16 The Crown agrees that the process for developing any future Tauranga Moana redress will be as follows:
- 2.16.1 the Crown will engage with the Tauranga Moana Iwi Collective as early as is practicable in the negotiation process:
 - 2.16.2 the Crown will encourage and facilitate engagement directly between the Tauranga Moana Iwi Collective and the relevant claimant group:
 - 2.16.3 the Tauranga Moana Iwi Collective will be kept informed and will be provided with appropriate relevant information to allow informed views to be developed:
 - 2.16.4 prior to any redress over Tauranga Moana being agreed with another claimant group, the Tauranga Moana Iwi Collective will have the opportunity to express a view on the proposed redress:
 - 2.16.5 the Crown will also engage with the Tauranga Moana Governance Group in relation to any future redress proposals over Tauranga Moana:
 - 2.16.6 the Crown will make the final decision on the provision of redress for future claimant groups when settling their historical claims, and will do so in a manner consistent with this deed and the interests in all iwi with historical Treaty of Waitangi claims.

Definitions

- 2.17 In this part –
- 2.17.1 "**recognised interests**" means the interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and are confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims; and

2: TAURANGA MOANA FRAMEWORK

- 2.17.2 "**recognised interest area**" means an area containing recognised interests of iwi, other than Tauranga Moana iwi, that are relevant to the Tauranga Moana Framework and is confirmed in legislation giving effect to future settlements of historical Treaty of Waitangi claims.

CROWN COMMITMENT

- 2.18 The Crown is in Treaty settlement negotiations with claimant groups which may result in redress arrangements over areas in which Tauranga Moana iwi consider they have an interest.
- 2.19 The Crown agrees that in developing any such arrangements it will engage with the Tauranga Moana Iwi Collective as early as practicable to provide for appropriate recognition of Tauranga Moana iwi interests, commensurate with the relative strength and nature of those interests, including appropriate participation in relevant natural resource frameworks that are developed through those negotiations.
- 2.20 Clauses 2.18 and 2.19, and any arrangements that result from any engagement, do not affect the settlement of any Tauranga iwi claims.

IMPORTANCE TO THE WESTERN BAY OF PLENTY AND ENHANCED DECISION-MAKING

- 2.21 Tauranga Moana contributes to the unique identity of the Western Bay of Plenty by providing natural, social, recreational, cultural and economic resources. It is central to the natural and cultural environment of the Western Bay of Plenty and to the lifestyles and social needs of the community. Tauranga Moana is at the heart of many people's connection with the Western Bay of Plenty. The natural character, ecology, cultural importance, recreational values and economic benefits of Tauranga Moana connect it inextricably with the character, lifestyles, culture and wellbeing of the Western Bay of Plenty. As a physical and spiritual symbol of identity for whānau, hapū and iwi living around it, Tauranga Moana is vital to the cultural wellbeing and cohesion of the Western Bay of Plenty community.
- 2.22 The collective legislation will provide that the part of the collective legislation that gives effect to part 3 of the legislative matters schedule will be interpreted in a manner that best furthers –
- 2.22.1 the statements referred to or set out in clauses 2.12; and
- 2.22.2 the parties' shared intention that part 3 of the legislative matters schedule, and the rest of this part, provide for Tauranga Moana iwi and hapū to participate more fully in decision-making related to Tauranga Moana.

SHARED PRINCIPLES

- 2.23 Tauranga Moana iwi and the Crown have negotiated the arrangements for Tauranga Moana set out in this part (including part 3 of the legislative matters schedule) in good faith based on their respective commitments to each other.
- 2.24 The arrangements are intended by Tauranga Moana iwi and the Crown to –
- 2.24.1 operate in accordance with their relationship under the Treaty of Waitangi; and

2: TAURANGA MOANA FRAMEWORK

- 2.24.2 provide for Tauranga Moana iwi and hapū to participate meaningfully in decision-making and the framing of policy related to Tauranga Moana; and
- 2.24.3 promote holistic and integrated management of Tauranga Moana; and
- 2.24.4 provide for iwi and hapū values and mātauranga Māori in the management of Tauranga Moana; and
- 2.24.5 not derogate from –
- (a) existing arrangements between Tauranga Moana iwi and hapū and the Crown or local authorities; or
 - (b) specific redress obtained by Tauranga Moana iwi under their respective Treaty of Waitangi settlements; and
- 2.24.6 operate within and through existing statutory frameworks; and
- 2.24.7 enable Tauranga Moana iwi and hapū, and local authorities and agencies with responsibilities related to Tauranga Moana to establish and maintain positive, co-operative and enduring relationships based on –
- (a) respecting the autonomy of the parties and their individual mandates, roles and responsibilities;
 - (b) actively working together to –
 - (i) share knowledge and expertise; and
 - (ii) maintain an effective role for –
 - (I) Tauranga Moana iwi to participate in the governance of Tauranga Moana; and
 - (II) Tauranga Moana iwi and hapū to participate in co-management arrangements for Tauranga Moana; and
 - (iii) achieve effective and integrated management of Tauranga Moana for the good of all; and
 - (c) co-operating in partnership with a spirit of good faith, integrity, honesty, transparency and accountability; and
 - (d) engaging early on issues of known interest to either of the parties; and
 - (e) understanding that the parties' relationship is evolving.
- 2.25 If issues arise in the application of the principles referred to in clause 2.24 the parties will work together to endeavour to resolve those issues.
- 2.26 The collective legislation will provide that the part of the collective legislation that gives effect to part 3 of the legislative matters schedule will be interpreted in a manner that best furthers the matters set out in clauses 2.23 and 2.24.

2: TAURANGA MOANA FRAMEWORK

LOCAL GOVERNMENT ACT

- 2.27 Following the date of this deed, if requested the Crown will facilitate a discussion between Tauranga Moana iwi and the local authorities with a view to identifying opportunities for Tauranga Moana iwi to contribute to local authority decision-making processes in accordance with section 14(1)(d) and section 81 of the Local Government Act 2002 including whether joint working parties could be established in relation to the preparatory stages of relevant functions and powers including long term plans and annual plans under the Local Government Act 2002.

LETTERS OF INTRODUCTION

- 2.28 The Crown, through the appropriate Minister, will provide letters of introduction to assist Tauranga Moana iwi to –
- 2.28.1 seek approval to be a Heritage Protection Authority; and
 - 2.28.2 apply for appointment as a registered collector of ngā tāonga tūturu under the Protected Objects Act 1975; and
 - 2.28.3 establish a memorandum of understanding with Heritage New Zealand Pouhere Taonga; and
 - 2.28.4 establish a memorandum of understanding with the New Zealand Archaeological Association; and
 - 2.28.5 establish a memorandum of understanding with the Walking Access Commission.

MEANING OF TAURANGA MOANA

- 2.29 In this part and in part 3 of the legislative matters schedule, "**Tauranga Moana**" and "**moana**" –
- 2.29.1 mean:
 - (a) the waters (including internal waters and tidal lagoons) and other natural resources and the geographic features (including Tauranga Harbour) comprising the coastal marine area marked as "A" on the Tauranga Moana framework plan in the attachments; and
 - (b) the waters and other natural resources and the geographic features comprising the rivers, streams, creeks and natural watercourses within the catchment that flow into –
 - (i) Tauranga Harbour; or
 - (ii) the sea at any point within the area marked as "A" on the Tauranga Moana Framework plan in the attachments;
 - (c) the waters and other natural resources and the geographic features comprising wetlands, swamps and lagoons within the catchment; and
 - (d) the beds and aquatic margins of the water bodies referred to in clauses (a) to (c); and

2: TAURANGA MOANA FRAMEWORK

- (e) the ecosystems associated with the waters and natural features referred to in clauses (a) to (d); but

2.29.2 do not include –

- (a) the waters and other natural resources situated on offshore islands for which the Minister of Local Government is the territorial authority pursuant to section 22 of the Local Government Act 2002, including Tūhua (current recorded name "Mayor Island (Tuhua)") and Motītī Island (current recorded name "Motiti Island"); or
- (b) the waters and other natural resources and the geographic features comprising the rivers, streams, creeks and natural watercourses within the catchment that do not flow into:
 - (i) Tauranga Harbour; or
 - (ii) the sea at any point within the area marked as "A" on the Tauranga Moana framework plan in the attachments.

3 PUBLIC CONSERVATION LAND

STATUTORY ACKNOWLEDGEMENTS

- 3.1 The collective legislation will, on the terms provided by part 4 of the legislative matters schedule –
- 3.1.1 provide the Crown’s acknowledgement of the statements by Tauranga Moana iwi of their particular cultural, spiritual, historical, and traditional association with –
- (a) the ridge lines on the Kaimai-Mamaku Range (as shown on deed plan OTS-215-011); and
 - (b) the ridge lines from Ottawa to Pūwhenua (as shown on deed plan OTS-215-012); and
- 3.1.2 require relevant consent authorities, the Environment Court, and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement; and
- 3.1.3 require relevant consent authorities to forward to the collective entity and each representative entity –
- (a) summaries of resource consent applications within, adjacent to or directly affecting a statutory area; and
 - (b) a copy of a notice of a resource consent application served on the consent authority under section 145(10) of the Resource Management Act 1991; and
- 3.1.4 enable the collective entity and each representative entity, and any member of the Tauranga Moana iwi, to cite the statutory acknowledgement as evidence of Tauranga Moana iwi’s association with an area.
- 3.2 The statements of association are in the documents schedule.
- 3.3 The parties acknowledge that the statutory acknowledgements apply to areas in which other groups may assert mana whenua.

TE KŪPENGA

- 3.4 Te Kūpenga provides for the Department of Conservation and Tauranga Moana iwi and hapū to work together to enhance conservation lands in Te Kūpenga and consists of the following elements:
- 3.4.1 a Conservation Partnership Forum:
 - 3.4.2 Conservation Principles Document:
 - 3.4.3 Conservation Management Plan for Ngatukituki Area:
 - 3.4.4 engagement with East Coast Bay of Plenty Conservation Board:

3: PUBLIC CONSERVATION LAND

- 3.4.5 engagement with Tauranga Office:
 - 3.4.6 transfer to Iwi of specific decision-making functions:
 - 3.4.7 Wāhi Tapu Management Plans:
 - 3.4.8 Cultural Materials Plan:
 - 3.4.9 Wānanga Areas:
 - 3.4.10 relationship and operational matters.
- 3.5 The collective legislation will give effect to Te Kūpenga on the terms provided in part 3 of the documents schedule.

EFFECT OF CULTURAL REDRESS GENERALLY

- 3.6 The Crown may do anything that is consistent with the cultural redress, including entering into, and giving effect to, another settlement that provides for the same or similar redress.
- 3.7 However, clause 3.6 is not an acknowledgement by Tauranga Moana iwi that any other iwi has any interests in the areas covered by the cultural redress.

4 MAUAO

- 4.1 The trustees of the Mauao Trust and the Tauranga City Council have agreed to a new joint approach to the administration of the Mauao Historic Reserve, in which control and management of the reserve will be transferred from Tauranga City Council to a new joint administering body.
- 4.2 In particular, the Mauao Trust and the Tauranga City Council have agreed that –
- 4.2.1 the Mauao Historic Reserve will be managed and administered by a joint management body (the **joint board**). This arrangement will remain in place for a minimum one year period from settlement date, after which time the Mauao Trust and the Tauranga City Council may jointly agree to give notice that the Mauao Trust wishes to assume the role of sole administering body for the reserve; and
- 4.2.2 the joint board is appointed to manage and administer the Mauao Historic Reserve as if that appointment was made under section 30 of the Reserves Act 1977, but that section has no other application to the joint board; and
- 4.2.3 the joint board to be established by the settlement date will comprises –
- (a) 4 members appointed by the Mauao Trust; and
- (b) 4 members appointed by the Tauranga City Council; and
- 4.2.4 sections 31 to 34 of the Reserves Act 1977 apply to the joint board as if it were a Board; and
- 4.2.5 clause 4.2.4 applies, subject to clauses 4.2.6 and 4.2.7; and
- 4.2.6 the first meeting of the joint board must be held no later than 2 months after the settlement date; and
- 4.2.7 the joint board may adopt alternative provisions about its meetings and, if it does –
- (a) those provisions apply; and
- (b) any contrary provision in section 32 of the Reserves Act does not apply.
- 4.3 Tauranga Moana iwi support the new joint approach.
- 4.4 The collective legislation will give effect to clause 4.2 and, on the terms provided by part 4A of the legislative matters schedule, to other provisions required to give effect to the new joint approach.

5 COMMERCIAL REDRESS

FINANCIAL PAYMENT

- 5.1 The Crown will pay the collective entity the amount of \$250,000 within 10 business days after the date collective legislation has been approved as satisfactory under clause 6.3.3.

TMIC ATHENREE FOREST LAND

- 5.2 The TMIC Athenree forest land is to be –
- 5.2.1 sold by the Crown to the collective entity on the settlement date and on the terms of transfer in part 3 of the property redress schedule; and
 - 5.2.2 as described, and is to have the transfer value provided, in part 2 of the property redress schedule.
- 5.3 The transfer of the TMIC Athenree forest land will be subject to, and where applicable with the benefit of, the encumbrances provided in the property redress schedule in relation to that property. In addition, the parties agree that, on transfer, the TMIC Athenree forest land will have the benefit of, and be subject to, a reciprocal right of way easement on standard terms in respect of the existing formed road that forms part of the boundary between the TMIC Athenree forest land and the balance of the land in the Athenree forest.
- 5.4 On the settlement date –
- 5.4.1 the Crown will transfer the TMIC Athenree forest land to the collective entity on the terms set out in part 3 of the property redress schedule; and
 - 5.4.2 the collective entity must pay to the Crown an amount equal to the transfer value of the property plus GST, if any, by –
 - (a) bank cheque drawn on a registered bank and payable to the Crown; or
 - (b) another payment method agreed by the parties.

Collective legislation

- 5.5 The collective legislation will, on the terms provided by part 5 of the legislative matters schedule, enable the transfer of the TMIC Athenree forest land and, in particular, will provide for the following in relation to the land –
- 5.5.1 the TMIC Athenree forest land to cease to be Crown forest land upon registration of the transfer:
 - 5.5.2 the collective entity to be, from the actual settlement date, in relation to the TMIC Athenree forest land –
 - (a) a confirmed beneficiary under clause 11.1 of the Crown forestry rental trust deed; and

5: COMMERCIAL REDRESS

- (b) entitled to the rental proceeds since the commencement of the Crown forestry licence:
- 5.5.3 on the actual settlement date the Crown to give notice under section 17(4)(b) of the Crown Forests Assets Act 1989 terminating the Crown forestry licence at the expiry of the period determined under that section, as if –
- (a) the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of TMIC Athenree forest to Māori ownership; and
 - (b) the Waitangi Tribunal's recommendation became final on the actual settlement date for the TMIC Athenree forest land:
- 5.5.4 the collective entity to be the licensor under the Crown forestry licence, as if TMIC Athenree forest land had been returned to Māori ownership on the actual settlement date under section 36 of the Crown Forest Assets Act 1989, but without section 36(1)(b) applying:
- 5.5.5 if the Crown has not completed the processes referred to in clause 17.4 of the Crown forestry licence before the actual settlement date –
- (a) the Crown to be required to continue those processes on and after the actual settlement date for the TMIC Athenree forest land, and until the processes are completed; and
 - (b) for the period starting on the actual settlement date and ending on the completion of the processes referred to in clause 17.4 of the Crown forestry licence, the licence fee payable under the Crown forestry licence to be the amount calculated in the manner described in paragraphs 3.28 and 3.29 of the property redress schedule; and
 - (c) if the processes referred to in clause 17.4 of the Crown forestry licence commenced as a result of a notice under clause 5.5.3 (rather than an equivalent notice in respect of the balance of the land that is subject to the Crown forestry licence), with references to the "prospective Proprietors" in clause 17.4 of the Crown forestry licence to be read as the "collective entity":
- 5.5.6 if the TMIC Athenree forest land is not transferred under this deed it is deemed to have been the subject of a final recommendation of the Waitangi Tribunal under section 8HB(1)(b) of the Treaty of Waitangi Act 1975 that the land not be liable to return to Māori ownership:
- 5.5.7 for rights of access to areas that are wāhi tapu in the TMIC Athenree forest land.

RFR FROM THE CROWN

- 5.6 The collective entity is to have a right of first refusal in relation to a disposal of RFR land, being land listed in the attachments as RFR land that, on the settlement date, –
- 5.6.1 is vested in the Crown; or
 - 5.6.2 the fee simple for which is held by the Crown.

5: COMMERCIAL REDRESS

- 5.7 The right of first refusal is –
- 5.7.1 to be on the terms provided by part 7 of the legislative matters schedule; and
 - 5.7.2 in particular, to apply –
 - (a) for a term of 174 years from the settlement date; but
 - (b) only if the RFR land is not being disposed of in the circumstances provided by paragraph 6.11 of part 6 of the legislative matters schedule.
- 5.8 Clause 5.9 applies if the Crown offers the RFR land to the collective entity in accordance with part 6 of the legislative matters schedule.
- 5.9 The Crown acknowledges that in the event an RFR offer is accepted by the collective entity in respect of the RFR land, the collective entity intends to nominate a nominee in accordance with paragraph 6.9 of the legislative matters schedule. The collective entity intends that nominee to be, at its discretion, either –
- 5.9.1 an entity identified by the Ngā Hapū o Ngāti Ranginui governance entity and the Ngāi Te Rangī governance entity jointly; or
 - 5.9.2 if an entity is not identified jointly as per clause 5.9.1, then an entity identified by one of the governance entities in clause 5.9.1 individually.

6 COLLECTIVE LEGISLATION, CONDITIONS AND TERMINATION

COLLECTIVE LEGISLATION

- 6.1 Within 12 months after the date of this deed the Crown must propose collective legislation for introduction to the House of Representatives.
- 6.2 The collective legislation will provide for all matters for which legislation is required to give effect to this deed and, in particular, –
- 6.2.1 the legislative matters schedule; and
 - 6.2.2 those parts of part 3 of the documents schedule (Te Kūpenga Framework) which are required to be included in the collective legislation; and
 - 6.2.3 may include provisions to give effect to clause 4.4.
- 6.3 The collective legislation proposed for introduction to the House of Representatives –
- 6.3.1 must comply with the drafting standards and conventions of the Parliamentary Counsel Office for Government Bills, as well as the requirements of the Legislature under Standing Orders, Speaker's Ruling, and conventions; and
 - 6.3.2 to the extent necessary to ensure the legal effectiveness of the collective legislation, may differ in form from the legislative matters schedule; and
 - 6.3.3 must be in a form that is satisfactory to the collective entity and the Crown.
- 6.4 The Tauranga Moana iwi and the collective entity must support the passage through Parliament of the collective legislation.

DEED CONDITIONAL

- 6.5 This deed is conditional on:
- 6.5.1 a representative entity of each of the Tauranga Moana iwi having –
 - (a) been ratified by the iwi and established; and
 - (b) been approved by the Crown as being an entity properly ratified and representative of the iwi; and
 - (c) become a limited partner of the collective entity; and
 - 6.5.2 the collective legislation coming into force.

TERMINATION

- 6.6 The Crown, or the collective entity, may terminate this deed, by notice to the other, if –
- 6.6.1 the condition in clause 6.5.1 has not been satisfied within 6 months after the date of this deed; or

6: COLLECTIVE LEGISLATION, CONDITIONS AND TERMINATION

- 6.6.2 the collective legislation has not come into force within 30 months after the date of this deed; and
- 6.6.3 the terminating party has given the other party at least 20 business days' notice of an intention to terminate.

7 EFFECT OF THIS DEED AND IMPLEMENTATION

- 7.1 This deed does not settle any of the historical claims of the Tauranga Moana iwi.
- 7.2 This deed provides collective Treaty redress for historical claims in respect of the shared interests of the Tauranga Moana iwi. The Tauranga Moana iwi acknowledge that the redress under this deed will be part of the comprehensive settlement of the historical Treaty claims of each Tauranga Moana iwi.
- 7.3 The collective legislation will, on the terms provided by paragraphs 7.5 to 7.8 of the legislative matters schedule –
- 7.3.1 provide that the legislation referred to in paragraph 7.5.2 of the legislative matters schedule does not apply –
- (a) to the TMIC Athenree forest land or any RFR land; or
 - (b) for the benefit of the settling group of a representative entity; and
- 7.3.2 require any resumptive memorials to be removed from a computer register for the TMIC Athenree forest land or any RFR land; and
- 7.3.3 require the Secretary for Justice to make copies of this deed publicly available.

8 GENERAL, DEFINITIONS AND INTERPRETATION

GENERAL

- 8.1 The general matters schedule includes provisions in relation to –
- 8.1.1 the effect of this deed; and
 - 8.1.2 the taxation of redress, including indemnities from the Crown in relation to taxation; and
 - 8.1.3 the giving of notice under this deed; and
 - 8.1.4 amending this deed; and
 - 8.1.5 other miscellaneous matters.
- 8.2 The collective legislation will, on the terms provided by part 8 of the legislative matters schedule, provide for certain miscellaneous matters relating to interpretation and implementation.

TAURANGA MOANA IWI

- 8.3 In this deed, **Tauranga Moana iwi** means –
- 8.3.1 the collective group of the following iwi and hapū:
 - (a) Ngā Hapū o Ngāti Ranginui;
 - (b) Ngāi Te Rangi;
 - (c) Ngāti Pūkenga; and
 - 8.3.2 includes the individuals who are members of one or more of the iwi and hapū described in clause 8.3.1; and
 - 8.3.3 includes any whānau, hapū, or group to the extent that it is composed of those individuals.
- 8.4 Each iwi and its hapū is defined in the comprehensive settlement for that iwi and its hapū.

ADDITIONAL DEFINITIONS

- 8.5 The definitions in part 5 of the general matters schedule apply to this deed.

INTERPRETATION

- 8.6 The provisions in part 6 of the general matters schedule apply in the interpretation of this deed.

SIGNED as a deed on 21 January 2015

SIGNED by the Trustees of the Ngā Hapū o Ngāti Ranginui Settlement Trust

SIGNED by **KIMIORA RAWIRI**)
as trustee, in the presence of:)
)

Signature of Witness Kimiora Rawiri
(Ngāti Hangarau)
Witness Name: _____
Occupation: _____
Address: _____

SIGNED by **TE PIO KAWE**)
as trustee, in the presence of:)
)

Signature of Witness Te Pio Kawe
(Ngāi Te Ahi)
Witness Name: _____
Occupation: _____
Address: _____

SIGNED by **ROB URWIN**)
as trustee, in the presence of:)
)

Signature of Witness Rob Urwin
(Ngāi Tamarāwaho)
Witness Name: _____
Occupation: _____
Address: _____

SIGNED by **LANCE WAAKA**)
as trustee, in the presence of:)
)

Signature of Witness Lance Waaka
(Ngāti Ruahine)
Witness Name: _____
Occupation: _____
Address: _____

SIGNED by **MIKERE WAIRUA**)
as trustee, in the presence of:)
)

Signature of Witness
Witness Name: _____
Occupation: _____
Address: _____

Mikere Wairua
(Ngāti Te Wai)

SIGNED by **STEPHANIE TAIAPA**)
as trustee, in the presence of:)
)

Signature of Witness
Witness Name: _____
Occupation: _____
Address: _____

Stephanie Taiapa
(Ngāti Taka)

SIGNED by **RHESA JASON AKE**)
as trustee, in the presence of:)
)

Signature of Witness
Witness Name: _____
Occupation: _____
Address: _____

Rhesa Jason Ake
(Pirirākau)

SIGNED by **PHILLIP HIKAIRO**)
as trustee, in the presence of:)
)

Signature of Witness
Witness Name: _____
Occupation: _____
Address: _____

Phillip Hikairo
(Wairoa hapū)

SIGNED by the trustees of the
NGĀI TE RANGI SETTLEMENT TRUST

SIGNED by **CHARLIE TAWHIAO**
as trustee, in the presence of:

)
)
)

Charlie Tawhiao

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **MARGARET BROUGHTON**
as trustee, in the presence of:

)
)
)

Margaret Broughton

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **NGARAIMA TAINGAHAUE**
as trustee, in the presence of:

)
)
)

Ngaraima Taingahaue

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **PUHIRAKE IHAKA**
as trustee, in the presence of:

)
)
)

Puhirake Ihaka

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **MATE SAMUELS**
as trustee, in the presence of:

)
)
)

Mate Samuels

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **AWANUI BLACK**
as trustee, in the presence of:

)
)
)

Awanui Black

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **KALANI TARAWA**
as trustee, in the presence of:

)
)
)

Kalani Tarawa

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **TURI NGATAI**
as trustee, in the presence of:

)
)
)

Turi Ngatai

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **EDDIE BLUEGUM**
as trustee, in the presence of:

)
)
)

Eddie Bluegum

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **NGARETA TIMUTIMU**
as trustee, in the presence of:

)
)
)

Ngareta Timutimu

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by the trustees of the
TE TĀWHARAU O NGĀTI PŪKENGĀ TRUST

SIGNED by **RAHERA OHIA**
as trustee, in the presence of:

)
)
)

Rahera Ohia

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **HARRY HAERENGARANGI MIKAERE**
as trustee, in the presence of:

)
)
)

Harry Haerengarangi Mikaere

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **HORI PARATA**
as trustee, in the presence of:

)
)
)

Hori Parata

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **REHUA SMALLMAN**
as trustee, in the presence of:

)
)
)

Rehua Smallman

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by **REGINA BERGHAN**
as trustee, in the presence of:

)
)
)

Regina Berghan

Signature of Witness

Witness Name: _____

Occupation: _____

Address: _____

SIGNED by
TAURANGA MOANA IWI COLLECTIVE GENERAL PARTNERSHIP LIMITED as general partner on behalf of **TAURANGA MOANA IWI COLLECTIVE LIMITED PARTNERSHIP:**

SIGNED by **ROB URWIN**)
) _____
 Rob Urwin, Director

SIGNED by **MARU SAMUELS**)
) _____
 Maru Samuels, Director

SIGNED by **DOMINIC WILSON**)
) _____
 Dominic Wilson, Director

SIGNED for and on behalf of **THE CROWN** by –

The Minister for Treaty of Waitangi
Negotiations in the presence of –

Hon Christopher Finlayson, QC

WITNESS

Name:

Occupation:

Address:

The Minister for Māori Development
in the presence of –

Hon Te Ururoa Flavell

WITNESS

Name:

Occupation:

Address:

The Minister of Finance in relation to the tax
indemnities in the presence of –

Hon Simon William English

WITNESS

Name:

Occupation:

Address:

IN THE WAITANGI TRIBUNAL

WAI 2616

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

SECOND BRIEF OF EVIDENCE OF HUHANA ROLLESTON

Dated this 12th day of June 2017

RECEIVED

Waitangi Tribunal

12 Jun 2017

Ministry of Justice
WELLINGTON



p 09 404 0953
a 91 Hupara Road, RD2 Kaikohe, Northland 0472
e admin@tukaulaw.co.nz
w www.tukaulaw.co.nz

Solicitors acting

Season-Mary Downs
Heather Jamieson

MAY IT PLEASE THE TRIBUNAL:

1. My name is Huhana Rolleston. I am Ngāi Te Rangī.
2. I am the Operations Manager for the Ngāi Te Rangī Settlement Trust and Te Rūnanga o Ngāi Te Rangī Iwi Trust.
3. I provide this second brief of evidence to raise our concerns about the possible signing of the Pare Hauraki Collective Redress Deed (“the Hauraki Deed”).
4. On Thursday, 8 June 2017, we were advised by Mabel Wharekawa Burt that her husband had received a query for provision of services for a radio broadcast regarding the Hauraki Deed signing. It was said that the signing was to be held at Te Matai Whetu marae on 23 June 2017.
5. This was of serious concern to us and initiated further investigation by our Ngāi Te Rangī Treaty team.
6. We instructed our legal counsel to seek confirmation from the Crown. That afternoon, an email was sent to Crown Law and Lillian Anderson of the Office of Treaty Settlements (“OTS”).
7. On Friday, 9 June 2017, a phone call was made to the Ngāti Pukenga office, which confirmed that a memorandum had been received a week earlier from the Hauraki Collective confirming that a Deed of Settlement signing would be taking place on 23 June 2017. We have not been provided with a copy of that memorandum.
8. An additional call was made that morning to Ron Hooper, OTS Senior Analyst, who advised that he had no knowledge of a signing date. He advised that we make contact with Tessa Buchanan, Hauraki Settlement Manager, to confirm. Ron also advised that he would make enquiries.

9. Further attempts were made to contact OTS staff by telephone, however we could only get through to the voicemail of:
 - (a) Leah Campbell, Regional Director;
 - (b) Tessa Buchanan, Hauraki Settlement Manager; and
 - (c) Lillian Anderson, OTS Director.
10. I spoke to Ron Hooper an hour later and he said that he had received some information, but advised that an official response would be sent that afternoon.
11. Our Chairman emailed the Hauraki Collective Chairman. On Friday afternoon, the Hauraki Collective Chairman wrote via email that “the actual date has not been confirmed as yet” (this email exchange is **attached as Exhibit A**).
12. Crown Law advised that negotiations were continuing between Hauraki and the Crown and that the signing was “not imminent”.
13. OTS Director, Lil Anderson, wrote via email that “the actual date has not been set yet for the DOS signing” (email **attached as Exhibit B**).
14. A Facebook search also revealed that haka practices for Hauraki members were underway “in preparation for the Hauraki Collective Deed signing” (Facebook post **attached as Exhibit C**).
15. We do not feel comforted by the responses of the Crown and Hauraki.
16. We are concerned that the signing of the Hauraki Deed is imminent and that it will compromise our ability to have our urgent claims heard by this Tribunal.
17. We did our best to ensure that this application was brought in a timely manner, and we continue to do our best to ensure that timeframes for urgency are maintained.
18. The Crown has caused delays and we are now worried that the Crown intends to take steps that will entrench the prejudice we are suffering.

19. We expect transparency from the Crown. We have also asked that the Crown provide an undertaking that it will not take steps to finalise the Hauraki settlement while our issues are before the Tribunal. The Crown will not do this, but yet the Crown has said that it will not progress our settlement legislation (letter **attached** as **Exhibit D**):

It is important for us to be clear that given the litigation Ngāi Te Rangi has commenced against the Crown, we will not advance the Ngāi Te Rangi legislation through the House until the litigation has concluded.

20. We feel that we are being treated unfairly because of our choice to challenge the Crown and have our issues inquired into by the Tribunal.
21. We continue to seek the urgent assistance of the Tribunal and we believe that these recent developments exemplify why this is necessary.

DATED this 12th day of June 2017



Huhana Rolleston

OFFICIAL

Wai 2616, #A6(a)
Wai 2840, #A6(a)
EXHIBIT "A"

Fwd: Hauraki Iwi Collective DOS signing

huhana@ngaiterangi.iwi.nz

Sun 11/06/2017 6:57 p.m.

To: Heather Jamieson <heatherjamieson@tukaulaw.co.nz>;

Cc: Season-Mary Downs <seasonmarydowns@tukaulaw.co.nz>; joshua <joshua@ngaiterangi.iwi.nz>;

Begin forwarded message:

<p>RECEIVED Waitangi Tribunal</p>
<p>16 Jun 2017</p>
<p>Ministry of Justice WELLINGTON</p>

From: Charlie Tawhiao <charlie.tawhiao@gmail.com>
Date: 9 June 2017 at 12:43:34 PM NZST
To: Paul Majurey <paul.majurey@ahmlaw.nz>
Subject: RE: Hauraki Iwi Collective DOS signing

Thanks Paul.

On 9/06/2017 12:09, "Paul Majurey" <paul.majurey@ahmlaw.nz> wrote:

Tena koe Charlie

The actual date has not been confirmed as yet.

Nga mihi

paul

From: Charlie Tawhiao [mailto:charlie.tawhiao@gmail.com]
Sent: Friday, 9 June 2017 9:58 a.m.
To: Paul Majurey <paul.majurey@ahmlaw.nz>
Subject: Hauraki Iwi Collective DOS signing

Tena koe Paul

I have heard informally that the above is to be signed on 23 June. Are you able to confirm that for me please?

Charlie

Fwd: Hauraki DoS signing

EXHIBIT "B"

huhana@ngaiterangi.iwi.nz

Sun 11/06/2017 6:58 p.m.

To: Heather Jamieson <heatherjamieson@tukaulaw.co.nz>;

Cc: joshua <joshua@ngaiterangi.iwi.nz>; Season-Mary Downs <seasonmarydowns@tukaulaw.co.nz>;

Begin forwarded message:

From: "Anderson, Lillian" <Lillian.Anderson@justice.govt.nz>**Date:** 9 June 2017 at 3:02:33 PM NZST**To:** Kimiora Rawiri <kimirawiri@outlook.co.nz>**Cc:** Damian Stone <damian@kahuilegal.co.nz>, Rob Urwin <rob.urwin@ioof.com.au>, Rob Urwin <rob@ngatiranginui.org.nz>, Te Pio Kawe <tepio@ngatiranginui.org.nz>, Huhana Rolleston <huhana@ngaiterangi.iwi.nz>, Joshua Gear <joshua@ngaiterangi.iwi.nz>, "Paora@ngaiterangi.org.nz" <Paora@ngaiterangi.org.nz>, "charlie.tawhiao@gmail.com" <charlie.tawhiao@gmail.com>**Subject:** Re: Hauraki DoS signing

Kia ora Kimi- I'm just up at Parihaka (which has been amazing) but no the actual date has not been set yet for the DOS signing.

Nga mihi
Lil

Sent from my iPhone

On 9/06/2017, at 2:06 PM, Kimiora Rawiri <kimirawiri@outlook.co.nz> wrote:

Kia ora Lil

It's been brought to our attention that the Crown is intending to sign a Deed of Settlement with the Hauraki iwi on 23 June. Please advise via return email if this is correct?

Your urgent response would be appreciated.

Kimi

Sent from my iPhone

Confidentiality notice:

This email may contain information that is confidential or legally privileged. If you have received it by mistake, please:

- (1) reply promptly to that effect, and remove this email and the reply from your system;
- (2) do not act on this email in any other way.

6/12/2017

Fwd: Hauraki DoS signing - Heather Jamieson

Thank you.

**Ngāti Tamaterā**

30 May at 11:04 • 🌐

First waiata and haka practice at Matai Whetu Marae last Sunday in preparation for the Hauraki Collective Deed signing.. Matai Whetu will be creating a facebook group that will contain info about practice times, waiata and haka (words and audio). Will provide link once up and running. Next Practice is this Sunday @ 10am (yes Queens Birthday weekend). VENUE: THAMES HIGH SCHOOL MARAE





PART OF THE MINISTRY OF JUSTICE

EXHIBIT "D"

Office of Treaty Settlements
Justice Centre | 19 Aitken Street | DX SX10111 | Wellington
T 04 494 9800 | F 04 494 9801
www.ots.govt.nz

3 May 2017

Charlie Tawhiao
Chair, Ngāi Te Rangi Iwi Trust
PO Box 4369
MOUNT MAUNGANUI SOUTH 3149

Via email: charlie@moanaradio.co.nz

Tēnā koe Charlie

Wai 2616

This letter responds to your letter of 24 April in which you set out the Ngāi Te Rangi position that “all redress now contained in the Pare Hauraki Collective Redress Deed and individual Deeds that falls within Ngāi Te Rangi rohe should be removed until there has been a proper process for determining the interests claimed by Hauraki”. We note the proposed inclusion of all Hauraki redress that falls within Ngāi Te Rangi’s rohe is a significant departure from the position of Ngāi Te Rangi set out in their statement of claim filed in the Wai 2616 claim which refers to redress provided in the Pare Hauraki Collective Redress Deed only.

The Crown has now sought from the Waitangi Tribunal a further extension of the deadline for it to file its substantive response to the Wai 2616 application for urgency. We advised the Tribunal the Crown does not agree to the submission of all contested redress to a resolution process because:

- some of the redress items have been the subject of previous agreement between Ngāi Te Rangi and Hauraki;
- some of the redress items represent redress shared between Hauraki iwi and Ngāi Te Rangi, and the Ngāi Te Rangi share of redress is the subject of signed individual and collective settlement deeds and the subject-matter of legislation currently before the House;
- further work is required and further discussions are needed before it would be appropriate to make a decision on whether some items should be included; and
- some redress items are yet to be finalised.

The Crown sought the extension as we wish to explain further to you our rationale for this position.

I note the Tauranga Moana Framework (TMF) had already been agreed by both Tauranga Moana iwi (including Ngāi Te Rangi) and Hauraki iwi to be subject to a resolution process prior to your statement of claim being filed. The Pare Hauraki Collective Redress Deed does not provide cultural redress in relation to Tauranga Moana.

Redress previously agreed

It is important to remember Hauraki iwi and Ngāi Te Rangi (together with other Tauranga Moana iwi) worked carefully over several years to reach agreement on some of the redress items that Ngāi Te Rangi now say they take issue with. The following redress has been the subject of previous agreement between Hauraki iwi and Ngāi Te Rangi and therefore the Crown is not willing to agree to its inclusion in a resolution process:

- commercial properties in Tauranga Moana; and
- the Kaimai Statutory Acknowledgement in the Hauraki Collective Redress Deed.

The redress listed below is included in both the Pare Hauraki Collective Redress Deed and the Ngāi Te Rangi settlement and has been the subject of previous agreement between Hauraki iwi and Ngāi Te Rangi. The Crown is not willing to agree to its submission to a resolution process:

- Athenree Forest;
- RFR properties in Tauranga Moana.

The agreements reached on these redress items were the outcome of lengthy, complex processes involving both Ngāi Te Rangi and Hauraki iwi. The Crown considers those processes were robust and the agreements reached should be honoured by all affected parties. We note, however, four of the Tauranga RFR properties allocated to the Hauraki iwi through the agreed process and listed in the initialled Pare Hauraki Collective Redress Deed were mistakenly included in the Ngāi Te Rangi settlement through the Ngāi Te Rangi 2014 Deed to Amend. You have been advised of this mistake but have not responded to the Crown proposal to restore these.

Statement of Pare Hauraki world view

This Pare Hauraki world view statement is solely the view of Hauraki iwi and therefore should not be the subject of overlapping claims consultation, much as historical accounts and other historical redress are not. The Crown is not willing to agree to its submission to a resolution process.

Redress requiring further consideration

The Pare Hauraki Conservation Framework has several facets, and we are giving further consideration to the details of this redress in light of the Ngāi Te Rangi urgency application. At this stage we consider a number of parts do not overlap with the Ngāi Te Rangi area of interest and we are considering the implications of the remaining parts for Ngāi Te Rangi. In light of this, we are not currently willing to agree to submitting this redress instrument to a resolution process as it is premature to do so.

Ngāi Te Rangi refers its correspondence with the Crown, reference to including redress that may be negotiated as part of the individual Hauraki iwi settlements. We seek the opportunity to discuss this further and understand, what you mean in this regard given this is a significant departure from Ngāi Te Rangi's statement of claim.

Redress yet to be finalised

The following redress is not yet finalised therefore the Crown is not currently willing to agree to its inclusion in a resolution process:

- the Fisheries RFR deed over quota; and
- the Fisheries Advisory Committee.

The Fisheries RFR deed over quota is currently subject to an overlapping claims process regarding the area to which it will apply. On 6 April the Minister for Treaty of Waitangi Negotiations wrote to groups with overlapping interests, including Ngāi Te Rangi, setting out his preliminary decision to revise this area. I note that no feedback has been received from you on this proposal to date. I also note the revised area does not overlap with the Ngāi Te Rangi area of interest or the Ngāi Te Rangi Fisheries RFR deed over quota. The Minister is expected to consider feedback received from overlapping groups and make his final decision on the area within the next two weeks.

The Fisheries Advisory Committee is proposed to have the same area as the individual Hauraki iwi protocols. These protocol areas are currently the subject of an overlapping claims process. A preliminary decision will then be made by the Minister and further feedback sought from overlapping groups, including Ngāi Te Rangi. I encourage you to participate in that process.

Status of Ngāi Te Rangi negotiations with the Crown

It is important for us to be clear that given the litigation Ngāi Te Rangi has commenced against the Crown, we will not advance the Ngāi Te Rangi legislation through the House until the litigation has concluded. As noted in the letter from Lil Anderson dated 20 April, and again above, the Ngāi Te Rangi Deed of Settlement and legislation record and enact some of the very agreements that are the subject of your litigation against the Crown, where Ngāi Te Rangi have already received, or will shortly receive, their share of the redress agreed with Hauraki.

It is particularly difficult for the Crown to decide not to advance your legislation given the amount of on-account redress Ngāi Te Rangi has already received in respect of their settlement (more than \$28 million) and the recent request for the further early release of properties to Ngāi Te Rangi.



Doris Johnston
Acting Director

IN THE WAITANGI TRIBUNAL

WAI 2616

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

THIRD BRIEF OF EVIDENCE OF HUHANA ROLLESTON

Dated this 16th day of June 2017

RECEIVED

Waitangi Tribunal

16 Jun 2017

Ministry of Justice
WELLINGTON



p 09 404 0953
a 91 Hupara Road, RD2 Kaikohe, Northland 0472
e admin@tukaulaw.co.nz
w www.tukaulaw.co.nz

Solicitors acting

Season-Mary Downs
Heather Jamieson

MAY IT PLEASE THE TRIBUNAL:

1. My name is Huhana Rolleston.
2. I provide this third brief of evidence to raise further concerns about the possible signing of the Pare Hauraki Collective Redress Deed (“the Hauraki Deed”).
3. On 15 June 2017, our Ngai Te Rangi team were provided with a copy of a memorandum from the Chief Negotiator of the Office of Treaty Settlements (“OTS”) to Hauraki. The memorandum stated:

On 17 May I proposed 23 June as the signing date for the Pare Hauraki Collective Redress Deed (see H524).

Due to the ongoing overlapping claims process regarding the co-governance and co-management redress in the Mangatangi, Mangatawhiri and Whangamarino catchments the 23 June is no longer feasible.

I propose 22 July as the signing date for the Pare Hauraki Collective Redress Deed and seek confirmation you are available on that date.

4. A copy of the memorandum is **attached** as **Exhibit “A”**.
5. This memorandum is of real concern to us and we ask that the Crown confirm whether this correspondence is from OTS, and whether the Crown will sign a Deed of Settlement with Hauraki while our litigation is before the Tribunal and the redress to be provided to Hauraki is in dispute.

DATED this 16th day of June 2017



Huhana Rolleston

OFFICIAL**Memorandum****To:** Hauraki Collective**From:** Rick Barker, Lead Negotiator**Date:** 15 June 2017**Proposed deed signing date**

1. On 17 May I proposed 23 June as the signing date for the Pare Hauraki Collective Redress Deed (see H524).
2. Due to the ongoing overlapping claims process regarding the co-governance and co-management redress in the Mangatangi, Mangatawhiri and Whangamarino catchments the 23 June is no longer feasible.
3. I propose 22 July as the signing date for the Pare Hauraki Collective Redress Deed and seek confirmation you are available on that date.



IN THE WAITANGI TRIBUNAL

WAI 2616

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

SECOND BRIEF OF EVIDENCE OF CHARLIE TAWHIAO

Dated this 20th day of September 2017

RECEIVED

Waitangi Tribunal

20 SEPT 17

Ministry of Justice
WELLINGTON



p 09 404 0953
a 91 Hupara Road, RD2 Kaikohe, Northland 0472
e admin@tukaulaw.co.nz
w www.tukaulaw.co.nz

Solicitors acting

Season-Mary Downs
Heather Jamieson

MAY IT PLEASE THE TRIBUNAL:

1. My name is Charlie Tawhiao and I am the Chairman of the Ngāi Te Rangi Settlement Trust.
2. I provide this second brief of evidence to respond to the Crown's memorandum dated 20 September 2017.
3. Ngāi Te Rangi oppose the Crown's submission that our application no longer meets the grounds for urgency.
4. Since July 2017, Ngāi Te Rangi have willingly and fully participated in discussions with the Crown, the iwi of Tauranga Moana, and members of the Pare Hauraki Collective to resolve issues with the Pare Hauraki Deed of Settlement.
5. More recently, this has also applied to Individual Hauraki Iwi and their Deeds of Settlement.
6. Discussions to date have primarily been focussed on the form the tikanga process may take.
7. The substantive tikanga process has not yet been held and therefore we have not yet resolved our issues.
8. We were disappointed that as late as last week we were advised that the Minister was still considering signing the Pare Hauraki Collective Deed of Settlement, and that we were required to seek clarification on this point from the Crown.
9. It is now some relief to us that the Minister has advised that he will not be signing the Deed. However, it is fundamental that Ngāi Te Rangi seek proper resolution of the issues, and we intend to do this with the newly elected Government.

10. Until we have engaged with the new Government and are advised of their position on our issues, and until our issues are properly resolved, it is our view that the grounds for urgency remain live.

DATED this 20th day of September 2017



Charlie Tawhiao

IN THE WAITANGI TRIBUNAL

WAI 2616

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

THIRD BRIEF OF EVIDENCE OF CHARLIE TAWHIAO

Dated this 24th day of August 2018

RECEIVED

Waitangi Tribunal

24 Aug 2018

Ministry of Justice
WELLINGTON



p 09 404 0953
a 91 Hupara Road, RD2 Kaikohe, Northland 0472
e admin@tukaulaw.co.nz
w www.tukaulaw.co.nz

Counsel acting

Season-Mary Downs
Heather Jamieson

MAY IT PLEASE THE TRIBUNAL:

1. My name is Charlie Tawhiao and I am the Chairman of the Ngāi Te Rangī Settlement Trust.
2. I provide this evidence in response to the Crown's update on Ngāi Te Rangī's application for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress.
3. My evidence does not respond to all matters and I will provide further evidence should our application be granted.
4. On 26 July 2018, we received a letter from the Minister for Treaty of Waitangi Negotiations ("the Minister") advising that he was going to sign the Pare Hauraki Collective Redress Deed ("the Deed") (attached as **Appendix "A"**).
5. On 2 August 2018, our lawyer sent a letter to the Minister stating that Ngāi Te Rangī had not agreed to a tikanga process that was to be confined to the Tauranga Moana Framework, nor for that process to take place after the Deed had been signed (attached as **Appendix "B"**). Our lawyer also asked that the Minister allow space for the Tribunal's inquiry to take place if granted.
6. The Crown states that a number of amendments have been made to the Deed which relate to the redress in question. The Minister did not seek Ngāi Te Rangī's views or engage with us to assess whether those changes were adequate or resolved the issues.
7. We also requested a copy of the Deed; however, this was not forthcoming. We were only able to review the Deed once it had been published on the Office of Treaty Settlements' website.

8. In our view, the amendments to the Deed do not resolve the issues set out in our application and they remain live.
9. We feel that matters have become worse since we filed our application. Our relationship with the Crown is non-existent. There is real division between us and Hauraki.

DATED this 24th day of August 2018



Charlie Tawhiao



Minister of Justice

Minister Responsible for the NZSIS

Minister for Courts

Minister Responsible for the GCSB

Minister for Treaty of Waitangi Negotiations

Minister Responsible for Pike River Re-entry

26 JUL 2018

Charlie Tawhiao

Chairman

Te Rūnanga o Ngāi Te Rangi Iwi Trust and Ngāi Te Rangi Settlement Trust

By email: charlie.tawhiao@gmail.com

Tēnā koe

Decision regarding the Pare Hauraki Collective Redress Deed

RECEIVED

Waitangi Tribunal

24 Aug 2018

Ministry of Justice
WELLINGTON

Thank you for your 8 June letter and your recent engagement in relation to the Pare Hauraki Collective Redress Deed (the Deed). I acknowledge this has been challenging for all parties and I thank you for your engagement during the past 18 months.

I am writing to inform you that I have decided to sign the Deed.

Following the consultation period and after considering the submissions from overlapping iwi, including Ngāi Te Rangi, the following changes have been made to the Deed:

- the Fisheries Advisory Committee area will be revised;
- the Mineral Relationship Agreement area will be revised; and
- the Tauranga Moana clauses in the Deed will be amended.

Agreements reached in 2012 – 2014 between iwi will be maintained

The Deed will maintain the redress agreed between Hauraki and Tauranga Moana iwi in 2012 – 2014. As I have said to you previously, the Crown considers these agreements should be honoured by all parties. The Crown will not resile from its commitment to provide this agreed redress.

Fisheries Advisory Committee area

The southern boundary of the Hauraki Collective Fisheries Advisory Committee area has been moved to align with the southern boundary of the Fisheries RFR Deed over Quota area.

Minerals Relationship Agreement area

The boundaries of the Minerals Relationship Agreement area now match the boundaries of the Conservation Framework area. The Minerals Relationship Agreement will also apply to property outside the mapped area that will transfer collectively or individually to Hauraki iwi through Treaty settlements.

Tauranga Moana clause

Section 20¹ of the initialled deed (relating to Tauranga Moana) has been amended to include a reference to the tikanga process and to be consistent with the drafting contained in the 2015 deed to amend for Ngāti Ranginui and the 2016 deeds to amend for Ngāi Te Rangi and Ngāti Pūkenga.

It is my strong preference that a tikanga based resolution process between Hauraki and Tauranga iwi commence as soon as possible after the signing of the deed, and it is my understanding all parties have agreed the Tauranga Moana Framework will be included in this process.

Next steps

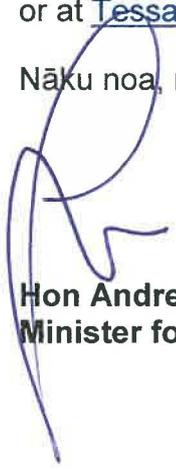
The Crown and the Hauraki Collective will now proceed to make arrangements for the Deed to be signed in the coming weeks.

Whether the proposed redress is provided to the Hauraki Collective will ultimately be a matter for Parliament. The redress will not be provided until, and unless, Parliament authorises it through settlement legislation.

Please find attached 2 maps illustrating the amended Fisheries Advisory Committee area and the amended Minerals Relationship Agreement area. The amended Tauranga Moana drafting is also attached to this letter. These attachments are provided to Te Rūnanga o Ngāi Te Rangi Iwi Trust and Ngāi Te Rangi Settlement Trust in confidence and are not for public release.

Should you wish to discuss this letter, please contact Tessa Buchanan on 04 494 9924 or at Tessa.Buchanan@justice.govt.nz.

Nāku noa, nā



Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

¹ Section 22 of the deed to be signed.

Revised Tauranga Moana drafting

TAURANGA MOANA

- 22.1 The Crown recognises the Iwi of Hauraki have interests in Tauranga Moana, particularly in Te Puna - Katikati.
- 22.2 The Iwi of Hauraki world view is the Iwi of Hauraki have interests within Tauranga Moana, which are of great spiritual, cultural, customary, ancestral and historical significance.
- 22.3 The Iwi of Hauraki and the Crown acknowledge and agree this deed does not:
- 22.3.1 provide for cultural redress in relation to Tauranga Moana as that is to be confirmed in separate negotiations; nor
 - 22.3.2 prevent the development of cultural redress in relation to Tauranga Moana.
- 22.4 The Iwi of Hauraki consider the Hauraki Treaty settlements will not be complete until they receive cultural redress in relation to Tauranga Moana.
- 22.5 The Crown acknowledges the Hauraki Collective and the Tauranga Moana Iwi Collective have agreed to discuss through a tikanga-based process how Tauranga Moana is to be protected and enhanced.
- 22.6 The Crown acknowledges and agrees unless the Hauraki Collective and Tauranga Moana Iwi Collective reach an alternative agreement through a tikanga-based process, the Tauranga Moana Framework will be provided for in separate legislation to be introduced to the House of Representatives as soon as the following matters have been resolved to the satisfaction of TMIC, the Crown and the Hauraki Collective, and in accordance with the principles of Te Tiriti o Waitangi / the Treaty of Waitangi:
- 22.6.1 whether a process is required, and, if so the nature of that process, for resolving the disagreements referred to in Part 1, paragraph 10.3 of the Appendix to Part 3 of the TMIC Legislative Matters Schedule;
 - 22.6.2 how such legislation will provide for the participation of two or more iwi with recognised interests in Tauranga Moana through one seat on the Tauranga Moana Governance Group (as provided in Part 1, paragraph 1.1.5 of the Appendix to Part 3 of the TMIC legislative matters schedule); and
 - 22.6.3 the scope of the area marked as 'A' on the Tauranga Moana Framework plan in the TMIC attachments.

PROVIDED IN CONFIDENCE

22.7 When the Tauranga Moana Framework is enacted through standalone legislation the Crown:

22.7.1 affirms the right of the Iwi of Hauraki, on the basis of its recognised interests in Tauranga Moana, to participate through the seat described in clause 3.11.4(e) of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed will be preserved; and

22.7.2 notes the Waitangi Tribunal's statement that "there is prejudice to Hauraki iwi as a result of the inclusion of clause 10.3" of the Legislative Matters Schedule of the Tauranga Moana Iwi.

Defined terms to be included in paragraph 4.1 of the general matters schedule to the deed:

Tauranga Moana has the meaning given to it in clause 2.29 of the Tauranga Moana Iwi Collective Deed; and

Tauranga Moana Iwi Collective means the Tauranga Moana Iwi who comprise Ngā Hapū o Ngāti Ranginui, Ngāi Te Rangi and Ngāti Pūkenga; and

Tauranga Moana Framework means the framework described in the legislative matters schedule to the Tauranga Moana Iwi Collective Deed; and

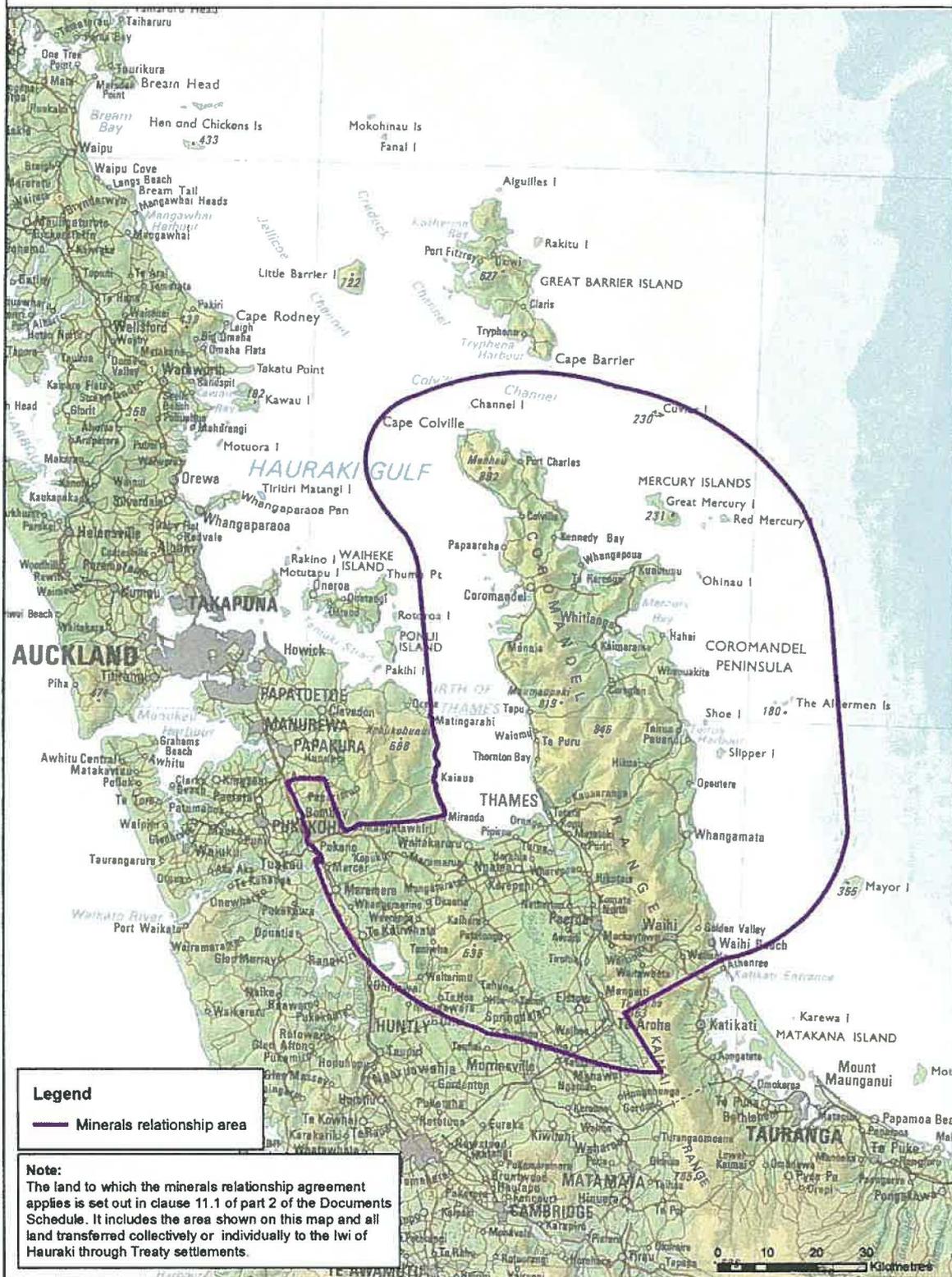
Tauranga Moana Iwi Collective Deed means the deed signed by the Crown, the trustees of the Ngā Hapū o Ngāti Ranginui Settlement Trust, the trustees of the Ngāi Te Rangi Settlement Trust, the trustees of the Te Tāwharau o Ngāti Pūkenga Trust and the Tauranga Moana Iwi Collective Limited Partnership dated 21 January 2015; and

Fisheries Advisory Committee Area



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Minerals Relationship Agreement Area



2 August 2018

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

By email: a.little@ministers.govt.nz
Zander.Lyons@parliament.govt.nz

Tena koe e te Minita

Decision regarding the Pare Hauraki Collective Redress Deed

1. This letter responds to your letter of 1 August 2018.
2. You state that it is your understanding that all parties had agreed to the Tauranga Moana Framework ("TMF") being included in a tikanga-based resolution process between Hauraki and Tauranga iwi, and that this remains your preference. This is incorrect.
3. Ngāi Te Rangi have never agreed to a tikanga process that is confined to the TMF, nor for that tikanga process to take place after signing of the Hauraki Deed.
4. Ngāi Te Rangi will not engage in discussions that do not include all disputed redress.
5. Your decision to sign the Hauraki Deed while issues remain unresolved, and where the Deed grants Hauraki redress in Tauranga Moana, is a direct undermining of Ngāi Te Rangi mana whenua and rangatiratanga.
6. Ngāi Te Rangi have met to discuss your decision to sign the Hauraki Deed and confirm their continued opposition to the signing.
7. Ngāi Te Rangi have filed a memorandum seeking a determination on the application for an urgent inquiry by the Waitangi Tribunal.
8. In Ngāi Te Rangi's view, it is bad faith for the Crown to continue to progress the Hauraki settlement and we ask that you allow space for the Tribunal's inquiry to take place if it is granted.

RECEIVED

Waitangi Tribunal

24 Aug 2018

Ministry of Justice
WELLINGTON

9. We note that in our letter dated 27 July 2018 a request was made for the Crown to provide Ngāi Te Rangi with a copy of the Hauraki Deed so that Ngāi Te Rangi was able to carry out their own assessment of that Deed. The Deed has not been provided to Ngāi Te Rangi.

Nga mihi



Season-Mary Downs

Director

Te Kapotai, Ngati Hine, Ngapuhi

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IN THE WAITANGI TRIBUNAL

**WAI 2840
WAI 2616**

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of the Hauraki Overlapping Claims Inquiry (Wai 2840)

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress

FOURTH BRIEF OF EVIDENCE OF HUHANA ROLLESTON

Dated this 18th day of February 2019



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MAY IT PLEASE THE TRIBUNAL:

In my view, the process proposed by the Crown is not robust and will not lead to a resolution. Hauraki will have no incentive to participate. They could wait out the two to four years, refuse to engage, and then receive the fifth seat. The process also does not require the Crown to assess the nature of the interests before confirming what is appropriate redress. This is the substantive issue that the Crown needs to address if it is concerned to achieve a fair and durable settlement with Ngai Te Rangī.¹

Introduction

1. My name is Huhana Rolleston.
2. I have already provided the following evidence in this inquiry:
 - (a) Wai 2840, #A5, *Brief of Evidence of Huhana Rolleston* [14 March 2017];
 - (b) Wai 2840, #A6, *Second Brief of Evidence of Huhana Rolleston* [12 June 2017]; and
 - (c) Wai 2840, #A7, *Third Brief of Evidence of Huhana Rolleston* [16 June 2017].
3. I provide this fourth brief of evidence to update the Tribunal on our concerns regarding the signing of the Pare Hauraki Collective Redress Deed (“the Hauraki Deed” / “the Deed”) and, in particular, events which took place between March 2017 when we filed our application for urgency and today.
4. I note that my previous evidence largely pertains to Issues 4-5 of the Tribunal’s Statement of Issues,² whereas the evidence that follows relates mainly to Issue 6, which asks:³

¹ Wai 2840, #A5, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at [36].

² Wai 2840, #1.4.1, *Tribunal Statement of Issues* [18 January 2019], at [4] – [5]. See: Wai 2616, #A5, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at [13] – [30].

³ Wai 2840, #1.4.1, above n 2, at [6].

- (a) What steps did the Crown take **subsequent** to offering the contested cultural or commercial redress items to the iwi of Hauraki to:
 - (i) Inform itself of the respective and relative interests of the six claimants and the iwi of Hauraki (both collectively and individually);
 - (ii) Alter any proposed redress to address any issues raised by the six claimants; and
 - (iii) Otherwise address any issues raised by the six claimants?

- 5. In summary, 2018 was an extremely frustrating and challenging year for Ngāi Te Rangi. Today we have no relationship with the Crown and feel the Crown have dismissed and ignored our concerns in order for it to achieve its own settlement objectives with Hauraki.

- 6. It has reached the point where we feel like the Crown was not only dismissive of our concerns, but they were hiding information from us and not being honest about their intentions to finalise the Hauraki settlement despite our issues being unresolved.

- 7. After over a year of futile engagement since we filed the application for urgency in the Waitangi Tribunal, we no longer have any faith or confidence in the Crown whatsoever.

Supporting documentation

- 8. **Attached** to my brief are the following documents:
 - (a) Updated chronology of key events (February 2017 - February 2019) (**Appendix A**);⁴ and

⁴ Counsel note that the chronology (Appendix A) is cross-referenced to the document bank (Appendix B1 and Appendix B2) for the Tribunal's ease of reference. Copies of documents on the Wai 2840 record of inquiry are not included in the document bank.

- (b) Document bank (**Appendix B1** (2017) and **Appendix B2** (2018)).

A lack of transparency

9. From the point that we discovered the Crown had breached previous agreements by providing more redress to Hauraki than we were informed of or agreed to, we felt like the Crown was dismissive of the concerns and issues we raised.
10. It felt like our relationship with the Crown shifted again after we filed the application for urgency in March 2017 and when we started opposing the Hauraki Deed. From that point, it felt like the Crown started hiding more things from us and was reluctant to address our issues.
11. Although we made repeated requests for undertakings and clarity from the Crown about when it intended to sign the Hauraki Deed, we were never given a clear position or timeframes from the Crown.
12. We have never had any certainty regarding the Crown's intentions and have always had to guess what it was doing in terms of finalising the Hauraki Deed and addressing our issues. That has been the trend since we first discovered the Crown intended to sign the Deed in 2017.
13. On a number of occasions,⁵ we thought we would get the space for a fair process to resolve the issues, but we found out through third parties that the Crown was actually intending to sign the Hauraki Deed. For example, on 8 June 2017, we heard that the signing of the Hauraki Deed was to occur on 23 June 2018.⁶ On 9 June 2017, the Office of Treaty Settlements ("OTS") advised (via telephone) that there was no knowledge of a signing date and that an official response would be issued that afternoon.⁷ That same day, OTS sent an email confirming

⁵ For example, see: Appendix B1, at 51-53, 58.

⁶ Appendix B1, at 80-81; Wai 2840, #3.1.17, *Memorandum of Counsel* [12 June 2017]; Wai 2840, #A6, *Second Brief of Evidence of Huhana Rolleston* [12 June 2017]; Wai 2840, #A6(a), *Appendix A* [12 June 2017].

⁷ Wai 2840, #A6, *Second Brief of Evidence of Huhana Rolleston* [12 June 2017], at [8].

that no date was set for signing.⁸ We later found out that a signing date for 23 June 2017 had in fact been proposed by OTS to the Hauraki Collective.⁹ It is this type of thing that created an environment of uncertainty and mistrust.

14. We came to realise that the Crown was never going to fully consider the issues and attempt to resolve them; rather, it was going to proceed with what they had provided to Hauraki, despite our objections. That is why we started to take affirmative action, because we felt like we had no other option and were not being heard.

Tikanga process

15. Up until August 2018 when the Crown signed the Hauraki Deed, we made many attempts to commence a tikanga process with Hauraki. To follow, I provide a brief overview and then I address these attempts in two time periods:
 - (a) Between March 2017 and the General Election in September 2017 (our attempts to enter a tikanga process when the National Government was in office); and
 - (b) Between September 2017 and August 2018 (when the Labour Government came into force).

Overview

16. As a preliminary point, I note that with both governments we sought assurances that the Crown would not sign the Hauraki Deed while we were engaged in a tikanga process with Hauraki. We consistently requested an undertaking from the Crown to this effect. The Crown never provided us with such assurances, and we believe this disincentivised Hauraki from having to engage because they knew they would be able to finalise their settlements with the disputed redress still included.

⁸ Wai 2840, #A6, *Second Brief of Evidence of Huhana Rolleston* [12 June 2017], at [11].

⁹ Wai 2840, #A7, *Third Brief of Evidence of Huhana Rolleston* [16 June 2017], at [3].

17. We were always conscious of not having certainty over what was going to happen next. That in itself put significant pressure on us to manage our responsibilities and do whatever we could to protect our mana whenua and position on the Hauraki settlement. The resources and time required for us to prepare for all possibilities was enormous, but we had no choice; that was our obligation that we had to sustain on a large scale for almost two years.
18. It was not until 27 July 2017, when Minister Finlayson said in the House that he would not sign the Hauraki Deed until all issues were resolved, that we felt some relief,¹⁰ albeit short-lived. We felt relieved by the Minister's statement, because after a three-month period of intense mobilisation and disruption to iwi affairs, we had a moment to step back and divert our efforts to exploring solutions without the fear of the Government pushing on without us.
19. As mentioned, that relief was short-lived, because by 6 September 2017, Minister Flavell was communicating to us that Minister Finlayson intended to sign the Deed prior to the election.¹¹
20. The signing did not occur, and we had renewed hope with the new Government.
21. Minister Little gave us confidence during our first meeting at Whareroa, on 14 March 2018, where he indicated that he would not sign the Hauraki Deed with the disputed redress included and while issues remained unresolved.¹²

¹⁰ Appendix B1, at 281-282: The Minister made the following statements in Parliament (refer to Hansard)

Hon Nanaia Mahuta: Will the Minister support the position of the Minister of Māori Development to not sign the Hauraki settlement until all issues currently in dispute with Tauranga Moana iwi are resolved?

Hon CHRISTOPHER FINLAYSON: Yes, I will, because I think these are difficult issues. The last thing I want to do through a Treaty settlement, or rushing through a Treaty settlement, is to create further grievances.

¹¹ Appendix A, at 12: Minister of Maori Development met with Ngāi Te Rangi trustees and staff advising that he had heard that negotiations were at an end, and the Minister of Treaty of Waitangi Negotiations was prepared to sign off on 5 September 2017 but waited for outcome from Te Ururoa Flavell's report from this meeting.

¹² Wai 2616, #3.1.26, *Memorandum of Counsel* [28 March 2018], at [5]. See also: Appendix A, at 16; Appendix B2, at 32-34.

22. By 11 April 2018, much to our surprise Minister Little advised that he had made a preliminary decision to sign the Hauraki Deed with the disputed redress included.¹³ We were shocked by not only his decision, but also how he made that decision with no engagement with us on the issues.
23. It is noteworthy that the Crown declined to halt Hauraki negotiations, despite the decision not to advance Ngāi Te Rangi's legislation through the House until litigation had concluded.¹⁴ In my view, this is an example of unfair treatment towards us and both processes should have been paused to enable a process for resolving all outstanding issues.
24. As I have alluded to earlier, we believe that the Crown's refusal to pause the Hauraki negotiations during the past year disincentivised Hauraki to engage,¹⁵ and that this made it really difficult for us to commence a tikanga process that carried any mana or had any chance of working. Why would Hauraki engage if they were going to get the redress that they wanted regardless of whether they resolved the issues with us?
25. Instead of making the decision to withdraw the redress or pause negotiations to allow a tikanga process to take place, the Crown was actively trying to set the scope of discussion by limiting what redress could be discussed.¹⁶
26. We felt pressured to negotiate an agreement on certain redress items, rather than undertake a proper tikanga process to resolve the issues and relationships with iwi.

¹³ Appendix B2, at 38-39.

¹⁴ Appendix B1, at 67-69: Ngāi Te Rangi received a response from OTS, which stated (among other things):

It is important for us to be clear that given the litigation Ngāi Te Rangi has commenced against the Crown, we will not advance the Ngāi Te Rangi legislation through the House until the litigation has concluded.

¹⁵ Above at [16].

¹⁶ Appendix B2, at 38-39, 70-71.

The tikanga process and the previous Government: March 2017 – September 2017

27. Following the filing of our application on 14 March 2017, Ngāi Te Rangi met with the Crown and Hauraki on 4 April 2017. At this meeting, all parties acknowledged that litigation was not the preferred way forward and that a tikanga-based process would:¹⁷
- (a) Look to address the relationship between Pare Hauraki tribes and Tauranga Moana tribes; and
 - (b) Look at redress from a different perspective and away from the heat of the Treaty settlement environment.
28. The Minister noted his desire to progress Tauranga settlements to completion and initial/sign the Hauraki iwi individual and collective deeds of settlement. The Crown noted that the first key step was to identify the issues of dispute that should be set aside to be discussed over a longer period through the tikanga-based process, versus those where there was already agreement that should not be undone and should proceed.¹⁸ The next meeting was to take place over the next week or so in light of the deadlines for the Tribunal process.¹⁹
29. On 11 April 2017, Ngāi Te Rangi Chairman, Mr Charlie Tawhiao (“Mr Tawhiao”), responded to OTS regarding a summary of the meeting held on 4 April 2017.²⁰ In that email, Mr Tawhiao reiterated our position, namely that the redress that was agreed to by Ngāi Te Rangi was agreed to under duress, and was understood by Ngāi Te Rangi at the time to be the full extent of the redress within Tauranga Moana that was to be made available to the Hauraki Iwi Collective. This understanding was subsequently overridden by the Crown offering redress to Hauraki in respect of the Tauranga Moana Framework (“TMF”), as well as other additional redress. For that reason, Ngāi Te Rangi’s position was that all redress within Tauranga Moana should be withdrawn in order to enable the proposed tikanga-based

¹⁷ Appendix A, at 2-3; Appendix B1, at 49-50.

¹⁸ Appendix A, at 2-3; Appendix B1, at 49-50.

¹⁹ Appendix A, at 2-3; Appendix B1, at 49-50.

²⁰ Appendix B1, at 54-57.

conversation to take place between ourselves and Hauraki Iwi without any external pressure on the parties.

30. During April 2017, there were several attempts to clarify our position to the Crown on the redress in issue and what a tikanga process could look like.²¹ We always maintained that a full review was needed because we did not think the Crown understood the nature of interests involved and the impact of Hauraki redress on us. We believed that if the Crown looked at the big picture, it would see that the redress offered to Hauraki was not commensurate to their interests and, in fact, impinged on our mana whenua and tikanga. We thought that if the Crown understood these things, they would begin to understand why a tikanga process was worth investing in.
31. On 12 April 2017, Ngāi Te Rangi wrote to the Crown and advised that they would be open to a tikanga-based process to resolve the issues, but that the starting point must be the removal or parking of all disputed redress from the Hauraki Settlements.²²
32. On 13 April 2017, the Crown filed a memorandum seeking an opportunity to attempt agreement on a tikanga process for resolving the issues, and for the Crown to report on progress by 21 April 2017.²³
33. On 19 April 2017, our lawyers filed a memorandum responding to the Crown's submissions regarding the tikanga process and seeking an assurance that no steps would be taken with Hauraki negotiations that would entrench the issues raised in the application for urgency.²⁴
34. On 8 May 2017, Ngāi Te Rangi received a letter from Minister Finlayson advising of his preliminary decision to maintain offers of

²¹ Appendix A, at 2-5; Appendix B1, at 49-50, 54-57, 58, 66; Wai 2616, #3.1.11, *Memorandum of Counsel* [19 April 2017].

²² Appendix B1, at 58.

²³ Wai 2616, #3.1.4, *Memorandum of Counsel for the Crown* [13 April 2017], at [11].

²⁴ Wai 2616, #3.1.11, *Memorandum of Counsel* [19 April 2017]. The Tribunal granted the Crown's request for an extension and directed that the Crown (Wai 2616, #2.5.4):

- File submissions and evidence in reply to the application for urgency by 27 April 2017; and
- File a progress report updating the Tribunal on the outcome of its discussions with parties regarding the tikanga process by 21 April 2017.

individual redress to Hauraki iwi, Ngāti Rahiri Tumutumu, and inviting feedback from Ngāi Te Rangi.²⁵ This signalled that, despite our clear opposition and level of protest, the Crown was still progressing without resolving our concerns, and in doing so, willing to further entrench the issues. It was like everything we did had no effect.

35. By 22 May 2017, we had still not received a response from the Crown in relation to our application for urgency and contacted the Crown for a response.²⁶
36. On 23 May 2017, the Crown filed a short memorandum advising that the Crown was not in a position to either oppose or not oppose urgency at this time.²⁷ We do not think that that constitutes a “substantive response” as the Crown would later assert.²⁸ As far as we are concerned, the Crown has never filed a proper response to our application.
37. Shortly after, between 7 and 9 June 2017, Ngāi Te Rangi were made aware that a Hauraki Deed signing ceremony was scheduled for 23 June 2017.²⁹
38. We asked the Crown, and the Crown first said they had no knowledge of a signing date,³⁰ and later it said that no actual date had been set for the deed signing.³¹
39. On 15 June 2017, we commenced our first protest against the Crown’s signing of the Hauraki Deed; a ship blockade in the Tauranga Harbour.³² We organised as many vessels as we could from the harbour and had people on the ground. The aim was to raise

²⁵ Appendix B1, at 70.

²⁶ Appendix B1, at 71-72.

²⁷ Appendix A, at 6; Wai 2616, #3.1.15, *Memorandum of Counsel for the Crown* [23 May 2017], at [3].

²⁸ Wai 2616, #3.1.39, *Memorandum of Counsel for the Crown – Update on Hauraki related claims* [17 August 2018], at [12]: “The Crown filed a substantive response to the application for urgency on 23 May 2017”.

²⁹ Appendix A, at 6-7; Appendix B1, at 80-81. See also: Wai 2616, #3.1.17, *Memorandum of Counsel* [12 June 2017], at [2] – [3].

³⁰ Appendix A, at 7; Wai 2616, #A6, *Second Brief of Evidence of Huhana Rolleston* [12 June 2017], at [13].

³¹ Wai 2616, #3.1.19, *Memorandum of Counsel for the Crown* [16 June 2017], at [2.2].

³² Appendix A, at 7; Appendix B1, at 90-92.

awareness and assert mana moana. About 500 people were present. It received a lot of media attention and initiated a negative reaction from the Government, including criticism from Minister Finlayson.³³ It also triggered people wanting to understand the issues.

40. The same day, Minister Flavell sought an update from our Chairman on the issues.³⁴
41. We were also informed that a new signing date for the Hauraki Deed had been proposed for 22 July 2017.³⁵
42. On 16 June 2017, an email outlining our position was sent to Minister Flavell and Mr Mair in response to their 15 June correspondence.³⁶
43. On 17 June 2017, Tauranga Moana iwi protested with the support of neighbouring iwi Ngāti Hauā, Te Whakatōhea, Waikato-Tainui, Tūhoe, and Ngāti Awa. Messages of support were also relayed by Ngāti Whātua, Ngāti Wai, Ngāti Porou ki Hauraki and Te Arawa.³⁷
44. On 27 June 2017, we wrote to the Minister advising that we would be available to meet on 3 July to discuss:³⁸
 - (a) The removal of all Tauranga Moana redress from the Hauraki Deed;
 - (b) A Crown undertaking that no steps would be taken with Hauraki iwi that would entrench the issues raised in our litigation; and
 - (c) A possible tikanga-based resolution process.

³³ Appendix B1, at 91-92: Mr Finlayson said: "I think they are insulting Māoridom", and "This is probably a pre-planned stunt and I am deeply unimpressed".

³⁴ Appendix A, at 7.

³⁵ Wai 2616, #3.1.18, *Memorandum of Counsel* [16 June 2017], Wai 2840, #A7, *Third Brief of Evidence of Huhana Rolleston* [16 June 2017].

³⁶ Appendix B1, at 98.

³⁷ Appendix A, at 7-8; Appendix B1, at 99-130; 132-138.

³⁸ Appendix B1, at 153.

45. On 30 June 2017, a meeting was held between Ngāi Te Rangi and Minister Flavell to brief him on Ngāi Te Rangi's position, key issues and potential solutions.³⁹
46. On 6 July 2017, we sent OTS a table of disputed redress to form the basis of the discussion to be held between Ngāi Te Rangi and the Crown that day.⁴⁰ We again sought assurances that the Crown would not sign the Hauraki Deed. Following this meeting, we then exchanged various emails with Ms Anderson from OTS as we attempted to clarify the outcomes of that meeting.⁴¹
47. On 14 July 2017, we received an email response from Leah Campbell confirming that there was no Hauraki Deed signing on 22 July 2017 and there was no new date proposed.⁴²
48. On 16 July 2017, we protested again at Wairoa where we blocked off State Highway 2. There were about 400 people in attendance at that one.⁴³
49. During the protests, our focus was on the collective redress as that was imminent; however, we later found out that the Crown was also progressing individual iwi redress in the background that overlapped or had the potential to overlap. We were aware that individual iwi were seeking redress in Tauranga Moana, but we did not know the details or extent of the redress. There was no transparency from the Crown.
50. The Crown would not provide copies of the individual deeds and did not notify us of how the deeds were progressing.
51. Our position was always clear, that we opposed all redress including any redress in individual deeds.⁴⁴

³⁹ Appendix A, at 8; Appendix B1, at 205.

⁴⁰ Appendix B1, at 159-178.

⁴¹ Appendix B1, at 179-189.

⁴² Appendix B1, at 230-231.

⁴³ Appendix B1, at 235-236.

⁴⁴ See for example: Wai 2616, #1.1.1, *Statement of Claim* [14 March 2017], at [46(f)]; Wai 2616, #3.1.1, *Memorandum of Counsel* [14 March 2017], at [97(a)]; Wai 2616, #A5, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at [13] – [30]; Wai 2616, #3.1.14, *Memorandum of Counsel* [5 May 2017], at [3] – [4]; Wai 2616, #3.1.34, *Memorandum of*

52. With the election fast approaching, we continued to receive mixed messages about the signing of the Hauraki Deed. In the media, Minister Finlayson said that he could not guarantee that the signing of the Deed would not take place.⁴⁵
53. A few days later, on 19 July 2017, Minister Flavell held a public hui at Huria Marae in Tauranga and stated that he would not sign any Hauraki Settlement while it contained redress disputed by Tauranga Moana.⁴⁶
54. That same day, Ngāi Te Rangi and Ngāti Pukenga representatives met and agreed to attempt to facilitate a meeting of four representatives from Tauranga Moana and Hauraki. The meeting was scheduled for 9 August 2017.
55. In the lead up to 9 August, pakeke of Tauranga Moana met to determine representatives on behalf of each Tauranga Moana iwi and to develop terms of engagement for the meeting with Hauraki.⁴⁷ We were committed to engaging in a tikanga process.
56. On 27 July 2017, Minister Finlayson reiterated that he would not sign the Hauraki Deed until all issues were resolved.⁴⁸
57. In light of the messages from the Crown, we thanked the Ministers in a media statement and suspended protests.⁴⁹
58. On 9 August 2017, a without prejudice discussion between Tauranga Moana iwi and the Hauraki Collective representatives took place to

Counsel [31 July 2018], at [7].

⁴⁵ Appendix A, at 9.

⁴⁶ Appendix A, at 9.

⁴⁷ Appendix A, at 9; Appendix B1, at 248-249, 264-265, 323-328.

⁴⁸ Appendix A, at 10; Appendix B1, at 281-282: The Minister made the following statements in Parliament (refer to Hansard)

Hon Nanaia Mahuta: Will the Minister support the position of the Minister of Māori Development to not sign the Hauraki settlement until all issues currently in dispute with Tauranga Moana iwi are resolved?

Hon CHRISTOPHER FINLAYSON: Yes, I will, because I think these are difficult issues. The last thing I want to do through a Treaty settlement, or rushing through a Treaty settlement, is to create further grievances..

⁴⁹ Appendix B1, at 353-353.

determine whether a tikanga process could be achieved. There was an agreement to meet again on 21 August 2017.⁵⁰

59. On 11 August 2017, the three Tauranga Moana iwi met to discuss next steps, and there was a preference to engage with our hapu first and reschedule the next meeting with Hauraki Collective representatives.⁵¹
60. On 16 August 2017, a Ngāi Te Rangi hui-ā-iwi was held at Whareroa marae in Tauranga to brief the iwi about the meeting held on 9 August 2017. The attendees agreed that preparation was required to ensure Ngāi Te Rangi was ready to engage in a meaningful way. The people decided that the meeting on 21 August 2017 with the Pare Hauraki Collective should not proceed until the Ngāi Te Rangi representatives had received input from their hapū communities.⁵²
61. On 30 August 2017, we informed the Waitangi Tribunal that we were attempting to develop a tikanga process to resolve the issues.⁵³
62. On the same day, we received a without prejudice negotiations document by email from the Hauraki Collective. It outlined what redress should and should not be included in the tikanga process.⁵⁴
63. On 1 September 2017, OTS confirmed that no date had been pencilled in for signing the Hauraki Deed.⁵⁵ On the same day, we wrote to the Minister updating him on the progress that had been made toward achieving a tikanga-based resolution of the issues.⁵⁶
64. On 2 September 2017, we responded to the negotiations document and stated that all redress items needed to be submitted to the tikanga process.⁵⁷ We received a response from Hauraki the following day disagreeing to our terms.⁵⁸

⁵⁰ Appendix A, at 10-11; Appendix B1, at 359-365.

⁵¹ Appendix A, at 10-11; Appendix B1, at 361-365.

⁵² Appendix A, at 11.

⁵³ Wai 2616, #3.1.20, *Memorandum of Counsel* [30 August 2017], at [6].

⁵⁴ Appendix B1, at 390-392.

⁵⁵ Appendix B1, at 405-407.

⁵⁶ Appendix B1, at 399-404.

⁵⁷ Appendix A, at 12; See also: Appendix B1, at 390-392.

⁵⁸ Appendix B1, at 12.

65. On 6 September 2017, Minister Flavell attended a meeting with Ngāi Te Rangi and said that we needed to reach agreement because Minister Finlayson was now going to sign prior to the election.⁵⁹
66. On 9 September 2017, representatives from the three Tauranga Moana iwi met to agree on the tikanga that would be included in the tikanga process.⁶⁰ There was a need to agree internally before we met with Hauraki. A tikanga process was later ratified by Tauranga Moana iwi on 16 September 2018.
67. We tried to hold fast to what we believed to be tika and we knew that the only way the process would have mana, was if it was inclusive of the people. It had to be held on the marae, it had to examine all issues, and it had to be led by people who had the mana to make an agreement binding; our rangatira. This was because the dispute was so significant, and our people were so engaged. The importance of the marae and sanctity it brings to the conversation is often overlooked. The protocols that are observed add to the sacredness of the agreement. Those were all factors in deciding what type of process would resolve the dispute. The tikanga process was to determine the parameters of the discussions, not the other way around. This was the only way it would be enduring.
68. On 11 September 2017, a letter was sent to the Minister of behalf of the three Tauranga Moana iwi regarding the meetings held in August and September to discuss the tikanga process.⁶¹
69. On 13 September 2017, we attempted to schedule the next meeting with the Hauraki Collective.⁶² At this time, the Chairman of the Hauraki Collective was recorded in the media saying that he wanted the Deed signed prior to the election.⁶³ Hauraki advised that they would meet after the Deed was signed.⁶⁴

⁵⁹ Appendix A, at 12; Appendix B1, at 415-417.

⁶⁰ Appendix A, at 13; Appendix B1, at 411.

⁶¹ Appendix B1, at 448-449.

⁶² Appendix B1, at 472-473.

⁶³ Appendix B1, at 13.

⁶⁴ Appendix B1, at 472.

70. On 15 September 2017, in a last attempt, we wrote to the Rt Hon. Bill English, acting Prime Minister, appealing to him not to sign the Hauraki Deed until either Tauranga and Hauraki had come to an agreement or the offending redress was removed.⁶⁵
71. On 15 September 2017, we received a letter from Doris Johnston outlining the Crown's position in regard to the disputed Hauraki Collective redress, which advised that signing, whenever that might be, would not impact on the ability to hold a tikanga process.⁶⁶ On that same day, there was an email from OTS advising that advice regarding whether or not to sign had not been put from OTS to the Minister.⁶⁷
72. On 16 September 2017, the three Tauranga Moana iwi held a hui-a-iwi to discuss the tikanga process.⁶⁸ Minister Flavell and Leah Campbell from OTS attended. The Minister got up and said that he had all the papers from the Crown that showed that there were previous agreements between Tauranga Moana and Hauraki. This felt like a final attempt to get us to reconsider our position.
73. On 18 September 2017, we received a letter from the Crown. It singled out Ngāi Te Rangi; it misrepresented our issues about not honouring previous agreements; and said that the next government would need to make the decision on whether to sign.⁶⁹ This was, in effect, an indication that the signing was not taking place before the election.
74. With the knowledge that the signing was not taking place under a National Government, we stood down plans of further protest.⁷⁰ It was the first time we had felt any relief as there had been uncertainty about the signing all year.

⁶⁵ Appendix B1, at 487-489.

⁶⁶ Appendix A, at 14; Appendix B1, at 477-480.

⁶⁷ Appendix B1, at 481.

⁶⁸ Appendix A, at 14; Appendix B1, at 460-461.

⁶⁹ Appendix A, at 14; Appendix B1, at 496-497.

⁷⁰ Appendix B1, at 498.

75. On 19 September 2017, there was a media release titled 'Tauranga Iwi Ngai Te Rangi Get Assurances That No Sleight-of-Hand Deal with Hauraki Will Be Signed During The Election Process'.⁷¹
76. We advocated for a change of government and pushed our people not to vote National because we were clear that if the same government got in, they would proceed to sign. Even if the government did change, we knew that all the letter gave us was some time and the opportunity to start afresh. We remained hopeful that we would be listened to.
77. It was a great relief for us that National lost the election and that we might have a greater chance of resolving the issues with the new coalition Government.

The tikanga process and the new Government: September 2017 – August 2018

78. Following the general election, we continued to seek to engage with the Crown and Hauraki on the issues.
79. On 13 October 2017, we sent a letter to OTS advising of the progress that had been made and requested further time to be able to engage with Hauraki.⁷² The Crown responded on 19 October 2017 advising that the lead Crown Negotiator would advise Hauraki iwi of our desire to meet to discuss overlapping claims.⁷³
80. On 16 October 2017, we sent a letter on behalf of the three Tauranga Moana Iwi to the Hauraki Collective outlining the tikanga we sought to apply to the process of resolving the issues between us.⁷⁴
81. On 17 October 2017, we received a response from Mr Majurey confirming that they would not engage in discussion on a tikanga process until agreement was reached on the redress to be submitted to the process.⁷⁵

⁷¹ Appendix B1, at 507-508.

⁷² Appendix B1, at 510.

⁷³ Appendix B1, at 516.

⁷⁴ Appendix B1, at 511-513.

⁷⁵ Appendix B1, at 514-515.

82. At the same time, we were also trying to engage with individual Hauraki iwi who had claims in our rohe. We wanted to understand their claims and see whether we could resolve any issues through tikanga.⁷⁶
83. On 25 October 2017, we held a hui with the Ngāti Rahiri Tumutumu negotiator to discuss overlapping claims.⁷⁷ Their indications were that they did not support the Hauraki Collective and were having their own issues with the Crown.
84. On 26 October 2017, we received an email from Ngāti Paoa confirming that they were not seeking redress in Tauranga Moana and acknowledging that there was an overlap but that Tauranga interests were primary, and we could work through issues with tikanga.⁷⁸
85. On 30 October 2017, we received a further email from the Ngāti Paoa CEO confirming that they were not seeking redress in Tauranga Moana.⁷⁹
86. On 13 November 2017, the Chief Crown negotiator, Rick Barker, contacted us and advised that Ngāti Tara Tokanui representatives were feeling threatened and would like to meet at a neutral venue.⁸⁰
87. On 27 November 2017, a further without prejudice meeting with OTS took place at Ngāi Te Rangi offices to discuss alternative redress options.⁸¹
88. On 14 December 2017, following the acknowledgement of Ngāti Paoa in October, there was a media release titled, 'Ngāti Paoa and Tauranga Iwi Sign a Mana Enhancing Declaration that Clarifies Rights Dispute in Tauranga Moana'.⁸²

⁷⁶ See: Appendix A, at 14-15; Appendix B1, at 517-527.

⁷⁷ Appendix A, at 14.

⁷⁸ Appendix B1, at 517-521.

⁷⁹ Appendix B1, 522.

⁸⁰ Appendix A, at 14.

⁸¹ Appendix A, at 15.

⁸² Appendix B1, at 526-527.

89. On 16 December 2017, Tauranga Moana held a hui at Maungatapu Marae - Tatau Pounamu with Ngāti Paoa.⁸³ All of this was the result of dedicated efforts to pursue tikanga resolutions. It demonstrated that tikanga could be used to resolve iwi to iwi issues. It restored faith in our people that our ways are still relevant in contemporary times, and our hope was that the Crown would see that too.
90. On 21 December 2017, we sent our first letter to Minister Little requesting a meeting.⁸⁴
91. On 23 January 2018, we attended a further without prejudice meeting with OTS in Wellington to discuss alternative redress options.⁸⁵ The engagement with OTS was to see whether the disputed redress could be parked. The Crown did not agree.
92. Between January 2018 and March 2018, there were a number of attempts to organise a hui with Minister Little.⁸⁶ There was a bit of back and forth because the Crown did not want to meet on the marae. We had to be firm about that.
93. On 14 March 2018, the Minister met with us at Whareroa Marae.⁸⁷ Our Chairman briefed him, and he seemed quite receptive to the idea of setting aside disputed matters to allow parties to resolve them. We left that meeting thinking that that would be the start of the process of resolving outstanding issues.
94. Following the meeting, on 16 March 2018, we sent a follow-up letter to the Minister, which included the handout that was presented at Whareroa.⁸⁸

⁸³ Appendix A, at 15.

⁸⁴ Appendix B1, at 528.

⁸⁵ Appendix A, at 15.

⁸⁶ Appendix A, at 15-16; Appendix B2, at 14-15, 20, 24-25.

⁸⁷ Appendix A, at 16.

⁸⁸ Appendix A, at 16; Appendix B2, at 32-34.

95. On 5 April 2018, we sent a further letter to Minister Little asking when we could expect a response to our proposal to have a tikanga process before signing or remove the redress from the Hauraki Deed.⁸⁹
96. We were shocked to receive the Minister's response on 11 April 2018, which said that he had made a preliminary decision to sign the Hauraki Deed and we were given 21 days to respond and provide new information.⁹⁰
97. On 15 April 2018, we held a Tauranga Hui-a-Moana to discuss the Minister's preliminary determination.⁹¹ MP Tamati Coffey attended this hui and committed to relaying our position to Minister Little.
98. We continued our attempts to resolve matters iwi to iwi. That resulted in an email being sent on 16 April 2018 to the Hauraki pakeke seeking a wananga to take place at Opureora Marae, Matakana Island, on 21 April 2018 to discuss the overlapping claims issues.⁹²
99. On 17 April 2018, we received an email from Mr Majurey stating that the proposed wananga was not relevant to the preliminary decision to sign the Hauraki Deed.⁹³
100. On 17 April 2018, we sent a letter to Minister Little acknowledging his preliminary determination, expressing disappointment in that decision and advising that a substantive response would follow by 2 May 2018.⁹⁴
101. On 22 April 2018, Ngāti Paoa sent a letter to the Minister confirming support for a tikanga process to occur to resolve all issues.⁹⁵
102. On 23 April 2018, Ngāi Te Rangi representative, Mita Ririnui, met with the Minister to brief him on the tikanga process.⁹⁶ Mita was confident

⁸⁹ Appendix B2, at 37.

⁹⁰ Appendix B2, at 38-39.

⁹¹ Appendix A, at 16; Appendix B2, at 43-44.

⁹² Appendix B2, at 43-45.

⁹³ Appendix B2, at 43.

⁹⁴ Appendix B2, at 46.

⁹⁵ Appendix B2, at 48-49.

⁹⁶ Appendix A, at 16.

that as a result of the discussion, the Minister fully understood that a tikanga process had not taken place, but that it was still our objective. Mita expected the Minister to reconsider his position on the basis of the new information.

103. At this point, we were becoming anxious because the clock was ticking on the 21-day timeframe. We tried to brief the MPs on taking the time to understand our issues and our proposed solution. We thought that if they properly understood, they would agree that it was appropriate to take some time to consider the issues.
104. Following Mita Ririnui's meeting with the Minister, we received a call from Tamati Coffey saying that the Minister was considering his position and would get back to us soon.
105. We agreed to wait until 27 April 2018 for the Minister's response as we remained hopeful that, as a result of the briefing on 23 April 2018, the Minister would reconsider his decision to sign.
106. On 27 April 2018, we joined a teleconference expecting a decision from the Minister. Instead, the call was with Tamati Coffey who had further queries about the tikanga process. We got the impression that Minister Little would confirm his position that day if we could satisfy him that we would enter the tikanga process in good faith, and that a timeframe for the tikanga process could be established. Tamati advised us to put our agreement to these matters in a letter.
107. We immediately drafted the letter and sent it to Tamati Coffey. It addressed what was required for a tikanga process to occur, and our intentions to enter the tikanga process in good faith. We also sought an assurance that the Minister would not sign the Hauraki Deed until Ngāi Te Rangi and Hauraki had completed the tikanga process.⁹⁷
108. We were notified later that afternoon that the Minister would not respond until Monday.

⁹⁷ Appendix B2, at 50.

109. That same afternoon, we received an email from OTS advising that the 21 days to respond to the Minister's letter dated 11 April 2018 had been extended to 18 May 2018.⁹⁸ This was not what we were expecting; we were expecting an undertaking and certainty, but we did not get it.
110. On 30 April 2018, we followed up with Tamati Coffey to see what was happening. He came back to us and said that the letter was addressed to him and not Minister Little. He instructed us to resend the letter directly to the Minister.⁹⁹
111. On 1 May 2018, we sent a letter to Minister Little clarifying our letter to Tamati Coffey and elaborating on the tikanga process. A request was made to meet with Minister Little directly.¹⁰⁰
112. On 2 May 2018, Minister Little responded acknowledging Ngāi Te Rangī's letter and inviting Ngāi Te Rangī to meet with Rick Barker.¹⁰¹ This was not acceptable to us and on 8 May 2018, we responded to the Crown declining the offer to meet with Rick Barker.¹⁰²
113. All of this shows how exasperating this process has been. It is quite ridiculous how contradictory the Crown has been and how many hoops we have been told to jump through.
114. On 14 May 2018, Ngāi Te Rangī travelled to Wellington to commence a protest at Parliament against the Minister's intention to sign the Hauraki Deed.¹⁰³ Minister Little invited us to meet with him for 30 minutes that evening. We again reiterated our issues and sought an assurance that the Minister would not sign the Deed. The Minister refused to give that assurance and noted that he had the power to make changes to the Deed if information was provided to him to convince him otherwise. He also said that Deed signing was not the end and that he could still make changes to the Deed following signing.

⁹⁸ Appendix B2, at 51.

⁹⁹ Appendix A, at 17; Appendix B2, at 72-73.

¹⁰⁰ Appendix B2, at 72-73.

¹⁰¹ Appendix B2, at 74.

¹⁰² Appendix B2, at 107.

¹⁰³ Appendix A, at 17; Appendix B2, at 110-116.

We left this meeting frustrated because we felt that if the Minister was not already convinced, there was not much more we could do to change his mind.

115. It really demonstrates how contradictory the Crown's position is where it says we cannot go back on past agreements, yet the Crown itself can change agreements contained in a Deed at the last minute. We are really unempowered in the treaty settlement context.
116. One of the confusing points from the meeting was that the Minister was saying that a tikanga process had happened and that it had failed. From this we knew that the Minister still did not have a good understanding of the process because we were clear that the process had not started, let alone happened.
117. I can only think that Minister Little believed that the events between August and September 2017 were the tikanga process.
118. On 15 May 2018, we protested at Parliament. There were over 600 people there in support.¹⁰⁴
119. The same day, Minister Nanaia Mahuta offered to facilitate a hui between Hauraki and Tauranga Moana iwi.¹⁰⁵
120. On 16 May 2018, we received an email from OTS extending the deadline to respond to the Minister's letter to 25 May 2018.¹⁰⁶
121. On 17 May 2018, Pare Hauraki Kaumatua, John Linstead, reached out to our rangatira, Kihi Ngatai. They signalled their support for a tikanga process between Pare Hauraki Kaumatua and Ngāi Te Rangi pakeke. They said an internal meeting for the Pare Hauraki Kaumatua Kaunihera was set down for 30 May 2018 to confirm whether they would go through a tikanga process.¹⁰⁷ If there was agreement, a date

¹⁰⁴ Appendix A, at 17; Appendix B2, at 110-111.

¹⁰⁵ Appendix B2, at

¹⁰⁶ Appendix B2, at 117-118.

¹⁰⁷ Appendix A, at 17; Appendix B2, at 119.

would be set for a meeting between the Pare Hauraki Kaumatua Kaunihera and Ngāi Te Rangi.

122. On 23 May 2018, a letter was sent from Kihi Ngatai to Minister Little advising of the discussion with John Linstead and the upcoming hui on 30 May 2018 for Pare Hauraki Kaumatua Kaunihera to discuss overlapping claims.¹⁰⁸
123. On 25 May 2018, Minister Little contacted Kihi Ngatai by phone to advise that he would not make a decision about signing on 25 May and would wait to see what came of the meeting with Pare Hauraki Kaumatua Kaunihera.¹⁰⁹
124. On 28 May 2018, Ngāi Te Rangi filed a formal response to the Minister regarding his letter dated 11 April 2018.¹¹⁰
125. On 29 May 2018, a letter was sent from Kihi Ngatai to Minister Little thanking him and explaining the expectations for the hui with Pare Hauraki Kaumatua Kaunihera.¹¹¹
126. On 30 May 2018, the Pare Hauraki Kaumatua Kaunihera meeting took place. As I understand it, Hauraki Collective negotiators turned up and an agreement to a meeting of kaumatua was not reached. The opportunity to meet with the Pare Hauraki Kaumatua Kaunihera did not eventuate.
127. On 6 June 2018, we received a letter from Minister Mahuta inviting the Hauraki Collective and Tauranga Moana iwi to hui at Ngāti Haua marae on 9 June 2018.¹¹²
128. On 7 June 2018, we responded accepting the invitation and noting that our expectations of the hui remained the same as those outlined in Kihi Ngatai's letter dated 29 May 2018.¹¹³

¹⁰⁸ Appendix B2, at 119.

¹⁰⁹ Appendix A, at 17; Appendix B2, at 120, 123.

¹¹⁰ Appendix B2, at 128-135.

¹¹¹ Appendix B2, at 136, 138-141.

¹¹² Appendix B2, at 144-145.

¹¹³ Appendix B2, at 147.

129. On 8 June 2018, the meeting proposed by Minister Mahuta was abandoned. I understand that this was because Mr Majurey advised the Minister that Hauraki would not attend.
130. With all other avenues shutting down, one of our hapū representatives went to visit the Māori King to ask whether he would facilitate a tikanga hui.
131. On 15 June 2018, we attended a Poukai at Pohara Marae to request that the King facilitate a hui with Hauraki iwi. Rahui Papa spoke on behalf of the King and confirmed that the King would assist.¹¹⁴
132. On 18 June 2018, we wrote a letter to the Minister informing him that the King was able to assist in discussions and encouraged the Minister not to sign.¹¹⁵
133. On 26 July 2018, we received a letter from Minister Little advising that he was signing the Hauraki Deed. The letter noted that the Fisheries Advisory Area, Conservation Framework Area, and Minerals Relationship Area had been redrawn to the confiscation line. The letter also advised that the TMF provisions remained, but it was anticipated that it would be dealt with by a tikanga process after signing, and the agreements reached between 2012 and 2014 would be maintained.¹¹⁶
134. When we learned that the Minister was still going to sign, it felt like the Crown was cutting across the mana of the kīngitanga. We instructed our lawyers to prepare a letter in response to the Minister, taking issue with his decision.¹¹⁷

The signing

135. We emailed OTS to get clarification on when the Hauraki Deed would be signed. We received an email from OTS on Tuesday, 31 July 2018,

¹¹⁴ Appendix A, at 18.

¹¹⁵ Appendix A, at 18; Appendix B2, at 149-150.

¹¹⁶ Appendix A, at 18; Appendix B2, at 157-162.

¹¹⁷ Appendix B2, at 163.

confirming that the signing would take place on Thursday, 2 August 2018.¹¹⁸

136. We were in disbelief that it was such short notice as we were told we would have at least 1-2 weeks. One has to wonder whether they would have told us if we had not emailed them.
137. We did not get any details of where and when, so we had to rely on our own sources to find out.
138. We agreed that we had to go to Wellington. It was a rush to try and inform people, and because of the short notice and cost, we only took a small contingent.
139. We knew that it would be highly unlikely that we would be able to stop the signing, but we needed to take a stand and make it known how wrong it was. As with every protest, it was a big thing for us to do, and it was not easy.
140. On the day, obviously we were not welcomed. It was clear that they had plans about how they would manage us when we arrived.
141. The day the Crown signed the Hauraki Deed is a sad day in our history.
142. Since then, we have had communications from iwi who have not signed saying they will not sign because they acknowledge there are issues that should be resolved via tikanga.

Deed review

143. The Minister's letter of 26 July 2018 noted the following amendments were made to redress items contained in the Deed:¹¹⁹
 - (a) The Fisheries Advisory Committee area would be revised;
 - (b) The Mineral Relationship Agreement area would be revised;and

¹¹⁸ See: Appendix B2, at 163-167, 169-173.

¹¹⁹ Appendix B2, at 157-162

- (c) The Tauranga Moana clauses in the Deed would be amended.
144. Generally, the issues we raised prior to filing our application for urgency are still live issues because they remain unresolved. Our rangatiratanga and mana continues to be undermined, and there continues to be a lack of certainty and fairness in the settlement process. We have not been through a meaningful process whereby the Crown understands our issues, prior to determining what the solutions may be.
145. A key component is our relationship, with both the Crown and Hauraki. It is in tatters. We believe that a process that restores our relationship and our mana within that process will create the certainty needed to move forward. It is imperative that we get it right.
146. The Minister's letter on 26 July 2018 was the first time we were informed of the amendments to the Hauraki Deed. We had no chance to provide any feedback. The Crown's amendments were done without engaging with us or seeking our agreement. There were no meetings to see whether the amendments resolved our issues.
147. The one thing that was amended, and this was done early on in the piece before Labour won the election, was the removal of the RFR fisheries quota.
148. It appears the Crown simply took what it knew to be our concerns, looked at the new redress items that were included without our agreement and tried to amend the boundaries for those redress items.
149. The only new amendment that we can see from the Labour Government was the boundary for the Minerals Relationship Agreement. We were not consulted about this redress item by either government and we did not pick it up in our review of the initialled deed. The first time we heard about this redress item was in the letter about the signing. The amendment was presented like it was a concession on their part, but it should never have been in there in the first place.

The risk to Ngāi Te Rangi rangatiratanga

150. Overall, the redress items as they are contained in the Hauraki Deed, pose a risk to our rangatiratanga and mana whenua. Some of the redress items contribute to false history, in other respects we see them as rights that will then contribute to the diminishing of our rangatiratanga in our rohe if we do not get it right now.
151. We do not distinguish between cultural and commercial redress because the impact is the same. Basically, we talk about there being affirmed rights for Hauraki in Tauranga Moana; and the provision for decision-making rights or the rights of Hauraki to be engaged in our rohe.
152. The redress confirms Crown recognition that Hauraki belong to the area. We realised that we would get to a situation where there would be four iwi of Tauranga Moana.
153. Given that it is clear that the Crown do not understand the tikanga and history of the area, coupled with the rights Hauraki are attempting to obtain, this presents a serious risk for us. The redress basically elevates Hauraki to the same status as us and this undermines our mana whenua and identity.
154. For us, it is not the quantity of the redress, it is any recognition by the Crown that Hauraki have rights to Tauranga Moana. The redress can be used by Hauraki to undermine our position as mana whenua. We have since learnt that it is not just a perceived risk, it is an actual risk as there are already examples of how that happens. For example, the Council is now, for the first time, including Hauraki iwi in their consent processes. This is because councils do not understand the history, they take a safe, inclusive approach. The Crown is communicating with the Council telling them that they need to engage with Hauraki iwi in areas where they do not belong.
155. For example, on 22 May 2017, a letter was sent from Rick Barker to the Bay of Plenty Regional Council (“BOPRC”) advising that Hauraki were near to initialling the Ngāti Tara Tokanui Deed of Settlement and

inviting them to build a relationship with Ngāti Tara Tokanui.¹²⁰ Ngāti Tara Tokanui have never been engaged in our rohe before. They are not tangata whenua. This situation highlighted to us the consequences of the Hauraki settlements and their impact on our relationships within our rohe.

156. On 26 January 2018, a letter was sent from the BOPRC to the Minister for the Environment advising that the Hauraki Iwi Collective needs to be consulted.¹²¹ On 19 February 2018, the Minister for Local Government responded to this letter and advised that the Hauraki Collective should be consulted for Tauriko.¹²² Again, this demonstrates the impact of the Hauraki settlements.
157. It has got to the point where enough is enough and revealed that there is no respect for our rangatiratanga in Tauranga Moana. The impact it will have on our status going forward is significant.
158. Initially, the dispute arose because we believed there was so much redress going to Hauraki that it was unreasonable, then when we tried to do something about it, we were ignored. That made us feel completely disempowered over our rohe. That made us question whether this was our future, and we knew we had to put it right.
159. Ngāi Te Rangi are focussed on ensuring that mana whenua is upheld, and that requires us to look at the practical impacts and implementation of the redress.
160. We are concerned with avoiding the practical consequences of the redress; however, this is something that the Crown is not interested in. The Crown says that the redress is not intended to undermine rangatiratanga, when in practice that is exactly what it does. The Crown has never engaged properly to assess the impact of the redress and what the redress does on the ground.

¹²⁰ Appendix B1, at 146-148.

¹²¹ Appendix B2, at 6-13.

¹²² Appendix B2, at 22-23.

Previous agreements

161. The Crown has always refused to engage on whether the previous agreements over the Athenree forest and other properties should now be maintained in light of the conditions of those agreements being breached and the risk that poses to our mana and rangatiratanga
162. One of the core conditions was that the Crown would not offer redress south of Te Puna.
163. When we discovered the breach and went to oppose it, the Crown ignored our concerns, which revealed there was a lack of understanding of our tikanga, our history and our mana whenua.
164. At the point of discovering the breach and realising there was nothing we could do to have our concerns addressed, we realised we needed to take a stand and assert that all redress (whether previously agreed or not) posed a significant risk to our mana whenua.
165. This was further confirmed by Ngāti Whātua o Ōrakei who are currently in the post-settlement environment. They warned us to be careful of how the Crown allows for and recognises rights within the settlement process because it is this recognition that enables other groups to undermine mana whenua.
166. Despite there being a negotiation history, in our view, previously negotiated outcomes are not legally binding until legislated. Even then, if issues arise after a settlement is finalised, I believe that issues should be able to be examined
167. The Crown has also said recently that it is not the signing of the deed that is the significant step, it is the legislation. This is inconsistent with its own Red Book policy. But if in this case it is true, then it tells us that there is still an opportunity to make changes and put this right.

Tauranga Moana Framework

168. The Minister proposes the following new wording to the TMF:¹²³

- 22.1 The Crown recognises the Iwi of Hauraki have interests in Tauranga Moana, particularly in Te Puna-Katikati.
- 22.2 The Iwi of Hauraki world view is the Iwi of Hauraki have interests within Tauranga Moana, which are of great spiritual, cultural, customary, ancestral and historical significance.
- 22.3 The Iwi of Hauraki and the Crown acknowledge and agree this deed does not:
 - 22.3.1 Provide for cultural redress in relation to Tauranga Moana as that is to be confirmed in separate negotiations; nor
 - 22.3.2 Prevent the development of cultural redress in relation to Tauranga Moana.
- 22.4 The Iwi of Hauraki consider the Hauraki Treaty settlements will not be complete until they receive cultural redress in relation to Tauranga Moana.
- 22.5 The Crown acknowledges the Hauraki Collective and the Tauranga Moana Iwi Collective have agreed to discuss through a tikanga-based process how Tauranga Moana is to be protected and enhanced.
- 22.6 The Crown acknowledges and agrees unless the Hauraki Collective and Tauranga Moana Iwi Collective reach an alternative agreement through a tikanga-based process, the Tauranga Moana Framework will be provided for in separate legislation to be introduced to the House of Representatives as soon as the following matters have been resolved to the satisfaction of TMIC, the Crown and the Hauraki Collective, and in accordance with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi:
 - 22.6.1 Whether a process is required, and, if so the nature of that process, for resolving the disagreements referred to in Part 1, paragraph 10.3 of the Appendix to Part 3 of the TMIC legislative matters schedule); and
 - 22.6.2 How such legislation will provide for the participation of two or more iwi with recognised interests in Tauranga Moana through one seat

¹²³ Appendix B2, at 159-160.

on the Tauranga Moana Governance Group (as provided in Part 1, paragraph 1.1.5 of the Appendix to Part 3 of the TMIC legislative matters schedule); and

22.6.3 The scope of the area marked as 'A' on the Tauranga Moana Framework plan in the TMIC attachments.

22.7 When the Tauranga Moana Framework is enacted through standalone legislation the Crown:

22.7.1 Affirms the right of the Iwi of Hauraki, on the basis of its recognised interests in Tauranga Moana, to participate through the seat described in clause 3.11.4(e) of the Legislative Matters Schedule of the Tauranga Moana Iwi Collective Deed will be preserved; and

22.7.2 Notes the Waitangi Tribunal's statement that "there is prejudice to Hauraki iwi as a result of the inclusion of clause 10.3" of the Legislative Matters Schedule of the Tauranga Moana Iwi.

169. The framework confirms the right for Hauraki to participate in the TMF. The way the framework is drafted essentially means that the iwi of Hauraki will have the same rights over the moana as us, which is incorrect.

170. It also does not require a tikanga process, and therefore the tikanga process has no bearing or weight, it is just tokenistic.

171. The revised drafting gives us two options:

(a) Accept it and allow Hauraki to participate; or

(b) Never accept it and forego a significant part of our redress.

172. The Crown has made the TMF conditional on there being agreement on how Hauraki will participate, whereas our position is that Hauraki has no right to participate unless we consent to that. While our people accepted a fifth seat, it was not confirmed for Hauraki. We have since been unable to agree on Hauraki's participation.

173. As it currently stands, Hauraki are able to dictate the scope of negotiations on the TMF and, in my view, this undermines any future tikanga-based resolution process.

Overlapping claims

174. It has been easier to resolve cross-claims with other iwi because there has been respect and an even playing field to negotiations. Hauraki, on the other hand, has been challenging because the Crown has protected their interests over and above ours. For example, on the day the Minister said that he was going to sign the Hauraki Deed, Mr Majurey contacted us seeking to engage in a tikanga process on the TMF.¹²⁴

175. The redress can be used as mechanisms or tools to undermine our position, especially if the Crown does not understand our position as mana whenua.

176. We have stayed within our rohe and are seeking to reasonably resolve issues with neighbouring iwi and hapū. We want the acknowledgement of our history and tikanga that demonstrate that we have mana whenua; we are simply seeking adherence to Te Tiriti.

177. Through this part of the settlement process, we have experienced the continual dismissing of our mana whenua and denial of our ability to exercise rangatiratanga. What is the point of Te Tiriti, if we cannot exercise rangatiratanga?

Events following the signing

178. Following the signing of the Hauraki Deed, we were in disbelief and reeling from the Crown's actions. Our only hope was an urgent Waitangi Tribunal inquiry. We were very anxious about the introduction of settlement legislation.

179. On 10 August 2018, the Tribunal directed the Crown to provide an update on all 13 applications and confirm that settlement legislation

¹²⁴ Appendix B2, at 187-188.

would not be introduced in the House while the urgency applications were before the Tribunal.¹²⁵

180. On 17 August 2018, the Crown filed an update.¹²⁶ It failed to alleviate our concerns, so we proceeded to prepare a response. A memorandum and further evidence were filed on 24 August 2018.¹²⁷
181. In October 2018, we instructed our lawyers to seek an update from the Tribunal in respect of a determination for our urgency application.¹²⁸
182. Later that month, in response to one of a number of requests for information under the Official Information Act 1982, OTS provided heavily redacted documentation. We felt as though the Crown was being strategic in its handling of our requests and we were very disappointed about the failure to provide information that was directly relevant to our application for urgency. On that basis, we instructed our lawyers to submit a complaint to the Ombudsman, which was done on 23 October 2018.¹²⁹
183. On 9 November 2018, we received the Tribunal's decision granting six applications for urgency and finally felt some sense of relief.¹³⁰

Concluding remarks

184. In our deed of settlement, the Crown says it will commit to an ongoing relationship (and restoration of mana) with Ngāi Te Rangī.¹³¹ The Crown is not doing that.
185. The big issue underlying this dispute is the Crown's failure to recognise and acknowledge our mana whenua and rangatiratanga.

¹²⁵ Appendix A, at 19; Wai 2616, #2.5.12, *Memorandum-Directions of Judge M P Armstrong* [10 August 2018], at [9].

¹²⁶ Appendix A, at 19; Wai 2616, #3.1.39, *Memorandum of Counsel for the Crown* [17 August 2018].

¹²⁷ Appendix A, at 19; See: Wai 2616, #3.1.40, *Memorandum of Counsel* [24 August 2018]; Wai 2616, #A10, *Third Brief of Evidence of Charlie Tawhiao* [24 August 2018].

¹²⁸ Appendix A, at 19; Wai 2616, #3.1.42, *Memorandum of Counsel* [2 October 2018].

¹²⁹ Appendix B2, at 180-184.

¹³⁰ Wai 2616, #2.5.16, *Decision on applications for an urgent hearing* [9 November 2018].

¹³¹ See: Office of Treaty Settlements, *Tauranga Moana Iwi Collective Deed* [21 January 2015], at Clauses 2.7 - 2.9, 2.12 – 2.13, 2.15 – 2.16.

186. Our concerns over additional redress, and our lack of consent to redress items, revealed a bigger issue for us; it revealed that the Crown did not consider the impact of its decisions on us nor the impact of offering additional rights to Hauraki in Tauranga Moana.
187. As this process has unfolded, I have come to believe the Crown either does not understand our issues, or it does understand what it is doing, and it is not compelled or willing to change its course of action. Either way, its performance is damaging to us.
188. This now means that whatever recognition for Hauraki is in the Hauraki Deed in respect of Tauranga Moana, whether agreed or not, and without being clarified, places us at real risk.
189. The Crown goes to lengths to clarify it does not get involved in tikanga and the determination of mana whenua status, but it does have an important role to play in ensuring that our mana whenua status is upheld and protected and that its settlement processes do not cause us further harm.
190. It does not matter how much of an overlap is recognised or exists, the overlap is significant because of the way it is imposed and practically applied. It is a serious threat to our rangatiratanga. Based on our experience with Hauraki and the Crown, this is not a perceived threat, it is real.
191. Whatever steps the Crown has taken since 2017 to resolve the issues have been inadequate. We are no better off now, then we were back then. In fact, the prejudice is greater given that the Hauraki Deed has now been signed.
192. In my view, the Crown has fallen well short of the partnership envisioned by Te Tiriti.
193. The Minister says he is not going to make Hauraki, who has been left landless, suffer any longer by not receiving a fair settlement. This completely overlooks that it is unfair and prejudicial to us and the other

claimant groups to compose a settlement for Hauraki that undermines our mana whenua rights.

DATED this 18th day of February 2019

A handwritten signature in blue ink, appearing to read 'Huhana Rolleston', is centered on the page.

Huhana Rolleston

UPDATED CHRONOLOGY OF KEY EVENTS (February 2017 to February 2019)

DATE	EVENTS	DOC BANK/ROI REF ¹
2017		
15 February 2017	Letter from OTS re Treaty settlements with Ngāti Rahiri Tumutumu	1-7
15 February 2017	Counsel submitted a request pursuant to s 12 of the Official Information Act 1982 for any and all information in relation to overlapping claims redress concerning Ngāi Te Rangi and the iwi of Hauraki (in terms of both the collective and individual Treaty settlements)	8
22 February 2017	Letter from Ngāi Te Rangi to OTS re overlapping claims	9-16
3 March 2017	Letter from Ngāi Te Rangi to the Minister regarding Hauraki Collective Redress seeking a response from the Crown on the issues and noting the need to review the revised Hauraki Deed	17
3 March 2017	Emails between Huhana Rolleston and OTS re Hauraki Collective and Marutuahu Collective Redress	18-26
7 March 2017	Letter from OTS to Charlie Tawhiao re overlapping claims (responds to letter dated 22 February 2017). OTS confirms its reliance on the Waitangi Tribunal's statement in its 2004 report that iwi of Hauraki held "substantial interests" in the Te Puna-Katikati area and discusses: <ul style="list-style-type: none"> - Crown's approach to overlapping claims; - Governance and management arrangements for Tauranga Moana; - Pare Hauraki Conservation Framework; - MPI Fisheries and Recognition Redress; - Pare Hauraki Redress Area Map; - Kaimai Range Statement of Association; - Previous agreements between Ngāi Te Rangi and Hauraki Iwi; - Engagement with Ngāi Te Rangi on iwi-specific overlapping claims; and - Ngāi Te Rangi's proposed solution 	27-30
8 March 2017	Letter from OTS to Charlie Tawhiao re Hauraki Collective right of refusal properties in Tauranga Moana. Refers to overlapping claims process, current situation, options and next steps	31-33
9 March 2017	Letter from Charlie Tawhiao to Minister Finlayson advising that Ngāi Te Rangi had resolved not to progress the Ngāi Te Rangi and Ngā Pōtiki Claims Settlement Bill until a satisfactory	34

¹ NB – All page references for 2017 are to Appendix B1 and all references for 2018 are to Appendix B2.

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	agreement with the Crown could be reached concerning Hauraki cross-claims. Also noted that an application for an urgent hearing would be filed	
14 March 2017	Letter from the Minister acknowledging letters of 3 and 9 March 2017 concerning overlapping claims	35
14 March 2017	Ngāi Te Rangi filed an application for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress	Wai 2840, #1.1.1, #3.1.1, #A1 to #A5
20 March 2017	Letter from Charlie Tawhiao (on behalf of Iwi Working Party) to Minister Finlayson advising that Iwi Working Party would work with OTS director to develop a new overlapping claims policy with a request that settlement matters negatively impacted by overlapping claims be put on hold until a new approach is agreed	
27 March 2017	Te Arawa filed an application for an urgent inquiry regarding the Hauraki Collective Deed	Wai 2617, #1.1.1
29 March 2017	Counsel received a response from OTS regarding the OIA request made on 15 February 2017	36-41
29 March 2017	Ngāi Te Rangi received a letter from OTS noting that "if the Crown agrees any revised Tauranga Moana wording with the Hauraki Collective it will be provided to you as soon as it is available"	42
30 March 2017	Letter to Charlie Tawhiao (on behalf of the Iwi Chairs Forum) from Minister Finlayson welcoming the development of a proposed Crown overlapping claims policy and process but confirming that he will not be in a position to put settlement negotiations on hold while work is undertaken	43
30 March 2017	Tribunal registered Ngāi Te Rangi's application for urgency (Wai 2840, #2.1.1) and directed that the Crown and interested parties file submissions and evidence in reply to the application as follows (Wai 2840, #2.5.1): <ul style="list-style-type: none"> - Crown and interested parties to file submissions and evidence in reply to application by Thursday, 13 April 2017; and - Applicants' reply to be filed by Thursday, 27 April 2017 	Wai 2840, #2.1.1 Wai 2840, #2.5.1
30 March 2017	Ngāi Te Rangi Cross Claims Briefing	44-48
4 April 2017	Ngāi Te Rangi met with Crown and Hauraki and the following notes were provided by OTS on 5 April: <ul style="list-style-type: none"> - All parties acknowledged that litigation was not the preferred way forward⁸ - Agreed that tikanga based process would look to address relationship between pare hauraki tribes and Tauranga moana tribes and look at 'redress' from a different perspective and away from heat of Treaty settlement environment 	49-50

	<ul style="list-style-type: none"> - Minister noted his desire to progress Tauranga settlements to completion - Minister noted his desire to initial/sign the Hauraki iwi individual and collective deeds of settlement - Charlie Tawhiao noted that the way forward might be to remove all of the Tauranga redress from Hauraki settlements until these are agreed between Tauranga and Hauraki and then the agreed redress could be put back into settlements. He noted his mandate was limited to this and exploration only of other options - Crown noted that this would involve redress from five of the individual Hauraki iwi deeds and redress from the Hauraki collective deed even though some/most of this redress has been agreed with Tauranga Moana a few years ago. Noted it may also involved undoing redress already agreed in the Tauranga Deeds of Settlement. - Paul Majurey noted that while he understood the TMF to be contested, he did not think this applied to redress that had already been agreed with Tauranga Moana (e.g Athenree Forest, Kaimais, RFRs) and that he only has a mandate to discuss the TMF - Crown noted that key first step is to identify the issues of dispute that should be set aside to be discussed over a longer period through the tikanga based process vs those where there was already agreement that shouldn't be undone and should proceed - Crown queried whether there was a point of time where we could identify that matters fell outside of 'agreed' and whether this was a starting point for discussions - Crown to provide outline of key points of discussion - COMPLETE HEREWITH - Crown to provide an outline of the full redress involved in the five individual deeds, collective deeds and Ngāi te Rangī iwi redress - COMPLETE AND ATTACHED - Charlie and Paul to look at 1-2 further team members to attend next meeting - Next meeting to focus on identifying issues of dispute for tikanga based process vs those matters that can proceed due to agreements already reached - Next meeting to take place over the next week or so given deadlines for Tribunal process - Crown and Minister offered facilitation or assistance as and whenever needed 	
6 April 2017	Ngāi Te Rangī received correspondence from the Minister with preliminary decision re Hauraki Collective Fisheries RFR Deed Over Quota area	51-53
7 April 2017	Counsel filed a MOC noting concerns regarding the information released under the OIA (request made 15 February 2017) and seeking a direction that the Crown produce all documents relevant to the Wai 2616 inquiry in a timely manner (Wai 2616, #3.1.22)	Wai 2616, #3.1.22

10 April 2017	Tribunal granted Hauraki's request for an extension and directed that submissions and evidence in reply to the application be filed by 18 April 2017 (Wai 2616, #2.5.3)	Wai 2616, #2.5.3
11 April 2017	<p>Ngāi Te Rangi Chairman responded to OTS regarding summary of meeting on 4 April 2017:</p> <p>Kia ora Lil Thanks for this record of understandings arising from our meeting on Tuesday. There is, however, an important point for Ngāi Te Rangi that is missing. I noted at our meeting that the redress that was agreed by Ngāi Te Rangi, was agreed to under duress and was understood by us at the time to be the full extent of redress to be made available to Hauraki Iwi Collective within Tauranga Moana. This understanding was subsequently over-ridden by the Crown offering further redress to HIC in respect of the Moana Framework as well as other additional redress.</p> <p>For that reason Ngāi Te Rangi proposed that all redress for HIC within Tauranga Moana be withdrawn in order to enable the proposed tikanga based conversation to take place between ourselves and Hauraki Iwi without any external pressure on both parties. While we accept the Crown preference that only the redress that has not been agreed should be discussed, we cannot agree to this as it allows for the real possibility that further redress will result from a tikanga based conversation. In view of the outcome of our tikanga based discussions with Hauraki kaumatua held in 2009 about the fisheries boundaries, we believe that a return to first principles on this matter is required.</p> <p>Charlie</p>	54-57
12 April 2017	Ngāi Te Rangi wrote to the Crown and advised that they would be open to a tikanga based process to resolve the issues but that the starting point must be the removal of all disputed redress from the Hauraki Settlements	58
13 April 2017	Ngāti Whatua Orakei filed a MOC in the Waitangi Tribunal supporting the application for urgency (Wai 2616, #3.1.7)	Wai 2616, #3.1.7
13 April 2017	The Crown filed a MOC seeking an opportunity to attempt agreement on a tikanga process for resolving the issues, and for the Crown to report on progress by 21 April 2017 (Wai 2616, #3.1.23)	Wai 2616, #3.1.23

19 April 2017	Counsel filed a MOC responding to Crown's submissions re tikanga process (Wai 2616, #3.1.11) and seeking an assurance that no steps would be taken with Hauraki negotiations that would entrench the issues raised in the application for urgency (Wai 2616, #3.1.11)	Wai 2616, #3.1.11
19 April 2017	The Tribunal granted the Crown's request for an extension and directed that the Crown (Wai 2616, #2.5.4): <ul style="list-style-type: none"> - File submissions and evidence in reply to the application for urgency by 27 April 2017; and - File a progress report updating the Tribunal on the outcome of its discussions with parties regarding the tikanga process by 21 April 2017 	Wai 2616, #2.5.4
19 April 2017	The Tribunal granted leave for the following parties to be joined as interested parties to the Wai 2616 inquiry (Wai 2616, #2.5.5): <ul style="list-style-type: none"> - John Tamihere on behalf of Te Rūnanga o Ngāti Porou ki Hauraki; - Haydn Edmonds on behalf of The Ngātiwai Trust Board; - Baden Vertongen on behalf of The Raukawa Settlement Trust; - Jamie Ferguson on behalf of Te Whakakitenga o Waikato Incorporated (Waikato Tainui); - Mokoro Gillet on behalf of Ngāti Hauā; and - Justin Graham on behalf of Ngāti Whātua Ōrākei 	Wai 2616, #2.5.5
20 April 2017	Ngāi Te Rangi received correspondence from Lil Anderson seeking "clarity" on what redress is disputed	59-64
21 April 2017	The Crown filed a MOC advising that further time was needed to provide a progress report on the proposed tikanga process (Wai 2616, 3.1.12)	Wai 2616, #3.1.12
21 April 2017	OTS email to Ngāi Te Rangi seeking a response on the Minister's preliminary decision on changes to Hauraki RFR quota redress	65
24 April 2017	Ngāi Te Rangi responded to correspondence from OTS dated 20 April, and said: A full review of all redress and a robust process is required to ensure the allocation of redress to Hauraki is fair and reflects the nature of their interests. This will only be achieved if the Crown creates a fair and even playing field for all parties to engage. For this to occur, all redress in issue must be removed from the Hauraki Deeds, and the Crown must give an undertaking that no steps will be taken with Hauraki that will have the effect of entrenching the issues raised in our application	66
3 May 2017	Ngāi Te Rangi received a response from OTS, which stated (among other things): It is important for us to be clear that given the litigation Ngāi Te Rangi has commenced against the Crown, we will not advance the Ngāi Te Rangi legislation through the House until the litigation has concluded	67-69

3 May 2017	Crown filed a MOC stating that Ngāi Te Rangi and the Crown had been unable to agree to a resolution process and proposing next steps. On that basis, the Crown sought an extension to reply to the application for urgency until 12 May 2017 (Wai 2616, #3.1.13)	Wai 2616, #3.1.13
5 May 2017	Counsel filed a MOC confirming Ngāi Te Rangi's position on redress, expressing concerns regarding delays and the Crown's unwillingness to park the redress in issue, and opposing the Crown's request for a further extension to respond to the application for urgency (Wai 2616, 3.1.14)	Wai 2616, #3.1.14
8 May 2017	Ngāi Te Rangi received a letter from the Minister Finlayson advising of his preliminary decision to maintain offers of redress to Hauraki iwi, Ngāti Rahiri Tumutumu and inviting feedback from Ngāi Te Rangi.	70
12 May 2017	Tribunal granted the Crown's request for an extension and directed that submissions and evidence in reply to the application be filed by 19 May 2017 (Wai 2840, #2.5.8). The Tribunal also noted: Finally, I note this application is progressing under an urgent time frame, it is imperative that all parties file on time and on the full Hauraki distribution list, in order to avoid prejudice and further delays. All documents must at least be served on the Tribunal, Crown and the claimants. In future, I will not be so lenient to grant further extensions in relation to these applications	Wai 2840, #2.5.8
22 May 2017	Counsel emailed the Crown requesting an update on the Crown's response to the application for urgency	71-72
23 May 2017	Crown filed a MOC which advised that the Crown was not in a position to either oppose or not oppose urgency at this time (Wai 2616, #3.1.15)	Wai 2616, #3.1.15
26 May 2017	Counsel replied to the Crown's MOC responding to the application for urgency (Wai 2616, #3.1.16)	Wai 2616, #3.1.16
2 June 2017	Counsel filed a complaint to the Ombudsman regarding the request made under the Official Information Act on February 2017	73-75
2 June 2017	Ngāi Te Rangi received an email from OTS advising of amendments made to the Ngāi Te Rangi/Ngā Pōtiki Settlement Bill in relation to Kauri Point redress property and that the Ngāti Tamaterā Bill will mirror the amendments	76-79
7 June 2017	Ngāi Te Rangi hapū representative was made aware of a Hauraki Deed signing ceremony on 23 June – as a Hauraki member had requested use of their sound system for the ceremony	Wai 2840, #3.1.17, #A6
8 June 2017	Ngāti Pūkenga advised Ngāi Te Rangi that they had received a memo confirming the signing of the Hauraki Deed on 23 June (Wai 2616, #3.1.17, #A6)	Wai 2840, #3.1.17, #A6

8 June 2017	Counsel were advised by Ngāi Te Rangi that the signing of the Pare Hauraki Collective Redress Deed was to occur on 23 June 2017	
8 June 2017	Counsel wrote to the Crown and advised of concerns that Hauraki may be signing DOS this month.	80-81
9 June 2017	OTS advised (via telephone): - No knowledge of a signing date. - An official response would be issued that afternoon	
9 June 2017	Paul Majurey advised Ngāi Te Rangi via email “the actual date has not been confirmed as yet” (Wai 2616, #A6, #A6(a))	Wai 2616, #A6, #A6(a)
9 June 2017	OTS advised Ngāi Te Rangi via email “no the actual date has not been set yet for the DOS signing” (Wai 2616, #A6)	Wai 2616, #A6
12 June 2017	Ngāi Te Rangi Memorandum of Counsel and BOE informing Tribunal of concerns of arrangements to sign the Hauraki Collective Deed (Wai 2616, #3.1.17, #A6)	Wai 2616, #3.1.17, #A6
13 June 2017	Email from Tessa Buchanan, OTS, to Kimiora Rawiri (cc'd in Ngāi Te Rangi team) outlining summary of overlapping claims processes that relate to Ngāti Ranginui	82-85
13 June 2017	Letter from Brioney Carew, OTS, to Ngāi Te Rangi introducing protocol areas for Ngāi Tai ki Tāmaki that overlap with Ngāi Te Rangi rohe	86-89
15 June 2017	Ngāi Te Rangi protest in Tauranga Harbour (https://www.radionz.co.nz/news/te-manu-korihi/333116/protesters-block-tauranga-harbour-s-port)	90-92
15 June 2017	Email from Trina Dyall, OTS, advising of OTS response to TVNZ requests for information related to protest	93-97
15 June 2017	Receipt of Memorandum from Rick Barker to Hauraki Collective, proposing new signing date for Hauraki Collective Deed of 22 July 2017 (Wai 2616, #3.1.18, #A7, #A7(a))	Wai 2616, #3.1.18, #A7, #A7(a)
15 June 2017	Phone call from Minister for Māori Development, Te Ururoa Flavell, to Charlie Tawhiao seeking an update on Ngāi Te Rangi position	
16 June 2017	Ngāi Te Rangi MOC introducing evidence - memorandum of Rick Barker to Hauraki Collective dated 15 June 2017 (Wai 2616, #3.1.18, #A7, #A7(a))	Wai 2616, #3.1.18, #A7, #A7(a)
16 June 2017	Crown MOC response to Ngāi Te Rangi MOC 16 June 2017, and request for urgent telephone conference (Wai 2616, #3.1.19)	Wai 2616, #3.1.19
16 June 2017	Email from Charlie Tawhiao to Minister Flavell briefing him on Ngāi Te Rangi position	98
17 June 2017	Tauranga Moana iwi protest with support of neighbouring iwi Ngāti Hauā, Te Whakatohea, Waikato-Tainui, Tuhoe, Ngāti Awa. Messages of support also relayed by Ngāti Whātua, Ngāti Wai, Ngāti Porou ki Hauraki and Te Arawa.	

15-19 June 2017	Press Releases and Media Stories	99-130
19 June 2017	Email from Ron Hooper, OTS, inviting Charlie Tawhiao to meet with Minister Finlayson and Minister Flavell	131
19 June 2017	Phone call from Minister Flavell to Charlie Tawhiao to follow up on invitation to meet with Minister Finlayson	
20 June 2017	Phone Call from Charlie Tawhiao to Minister Flavell inviting Minister Flavell to meet with the Ngāi Te Rangi team in Tauranga	
20 June 2017	Ngāi Te Rangi online petition with change.org launched	
20 June 2017	Ngāi Te Rangi pānui – Why are we protesting? http://www.Ngāiterangi.iwi.nz/p257nui/june-22nd-2017	132-138
21 June 2017	Tauranga Moana iwi Mass Haka and Ahi Kā campaign https://www.maoritelevision.com/news/regional/mass-haka-videos-flood-internet-support-tauranga-moana	
22 June 2017	Ngāi Te Rangi pānui – Hauraki Cross Claims, In More Detail http://www.Ngāiterangi.org.nz/panui/id/162	139-145
23 June 2017	Receipt of letter addressed to Bay of Plenty Regional Council from Rick Barker, Crown Lead Negotiator for Hauraki dated 22 May 2017, informing BOPRC of near initialling of Ngāti Tara Tokanui Deed of Settlement, and inviting BOPRC to build a relationship with Ngāti Tara Tokanui	146-148
23 June 2017	Letter from Minister re Tauranga Moana Framework	149
23 June 2017	Letter from the Minister re Ngāti Rahiri Tumutumu Overlapping Claims: Final Decision	150
25 June 2017	Marae TV panel discussion Charlie Tawhiao and Paul Majurey facilitated by Scotty Morrison.	
25 June 2017	Media: Government to Grant Rights in Tauranga to 11 Additional Iwi	151-152
26 June 2017	Radio Waatea interview of Paul Majurey and David Taipari	
27 June 2017	Letter of invitation to Minister Finlayson to meet with Ngāi Te Rangi	153
27 June 2017	Email from Tessa Buchanan, OTS, providing a copy of proposed protocol areas for Ngāti Rahiri Tumutumu that overlap with Ngāi Te Rangi	154-155
30 June 2017	Meeting between Ngāi Te Rangi and Te Ururoa Flavell to brief him on Ngāi Te Rangi position, key issues and solution	
30 June 2017	Emails between Crown and counsel re meeting on 6 July 2017	156-158
6 July 2017	Table of disputed redress sent to OTS to form basis of discussion in meeting between Ngāi Te Rangi and OTS on 6 July 2017	159-178
8 July 2017	Outcomes of meeting between Ngāi Te Rangi and OTS held on 6 July in Wellington.	179-180
10 July 2017	Email response to meeting outcomes from Lillian Anderson	181-182

11 July 2017	Email response to Lillian Anderson's email dated 10 July	183-185
11 July 2017	Email response from Lillian Anderson to email dated 11 July	186-189
12 July 2017	Letter from Minister re revised Protocol areas	190-201
13 July 2017	Letter from Minister re revised Fisheries Quota RFR	202-204
13 July 2017	Follow up email to Te Ururoa Flavell to provide information on disputed redress and an update on discussions with OTS	205
14 July 2017	Follow up email to Lil Anderson regarding Minister's response to assurances sought on 6 July 2017	206-209
14 July 2017	Email response from Leah Campbell confirming no signing of Hauraki Collective Deed on 22 July. No new date has been proposed	230-231
14 July 2017	Ngāi Te Rangī panui to beneficiaries providing an update on Hauraki settlement	232-234
15 July 2017	Media: Tauranga Protest Against Hauraki Raupatu Continues Sunday	235
16 July 2017	Media: Tauranga Iwi Protest Against Hauraki Attempt to Grab Power Set To Escalate	236
17 July 2017	Email to Lil Anderson re Minister response and to seek confirmation of whether there is a date confirmed for Marutuahu signing	237-238
17 July 2017	Charlie Tawhiao interview with Dale Husband	
17 July 2017	Charlie Tawhiao phone conversation with Te Ururoa Flavell. Flavell offered to broker meetings with Minister. He also offered to broker meetings of 4 reps from each Tauranga Moana/Hauraki	
17 July 2017	Te Ururoa interview on Moana AM "can you guarantee that the signing will not take place until the conversation between Tauranga Moana and Hauraki has taken place?" "No I cannot make that assurance"	
17 July 2017	Email from Lil Anderson re signing date for Marutūahu Collective and outlining Minister response to assurances sought by Ngāi Te Rangī at meeting of 6 July 2017	239-243
19 July 2017	Media: Northland Iwi Ngātiwai Stands Alongside Tauranga Moana Iwi To Fight Crown-Assisted Hauraki Incursions	244-245
20 July 2017	The Minister of Māori Development held a public hui at Huria Marae, Tauranga. At that meeting he stated that he will not be signing off any Hauraki Settlement while it contains redress disputed by Tauranga Moana	
24 July 2017	Letter from Minister re Ngāti Tara Tokanui protocols	246-247
25 July 2017	Hui-ā-Pakeke o Tauranga Moana held at Maungatapu Marae	248-249
26 July 2017	Letter from Charlie Tawhiao to OTS re overlapping claims regarding proposed protocol areas for Hauraki Iwi	250-253

27 July 2017	Email from OTS regarding Minister's understanding of redress agreed between Ngāi Te Rangi, Hauraki iwi and the Crown. Also confirms Hauraki's agreement to discuss the TMF in a tikanga process for disputed redress	254-263
27 July 2017	Email to Minister Flavell attaching a summary of outcomes from the Hui-ā-Pakeke o Tauranga Moana held at Maungatapu Marae on 25 July 2017	264-265
27 July 2017	The Minister made the following statements in Parliament (refer to Hansard document) Hon Nanaia Mahuta: Will the Minister support the position of the Minister of Māori Development to not sign the Hauraki settlement until all issues currently in dispute with Tauranga Moana iwi are resolved? Hon CHRISTOPHER FINLAYSON: Yes, I will, because I think these are difficult issues. The last thing I want to do through a Treaty settlement, or rushing through a Treaty settlement, is to create further grievances	281-282
28 July 2017	Email to Ken Mair attaching Hui a Pakeke outcomes	323-328
30 July 2017	Email from Ngāti Ranginui with statement of position	329-336
1 August 2017	Email from Electorate Office of Te Ururoa Flavell confirming OTS contact person for wananga	337-339
4 August 2017	Internal email with briefing for initial hui with Hauraki	340-341
7 August 2017	Email from Ngāi Te Rangi to Harry Mikaere and Areta Gray with draft agenda for tikanga hui	342-345
8 August 2017	Email from Charlie Tawhiao to Ken Mair re meeting with Hauraki Iwi Collective (advising that three kaumatua have proposed that they attend in a support role)	346
8 August 2017	Email from Ken Mair confirming arrangements for meeting scheduled for 9 August 2017.	347-349
8 August 2017	Letter from Ngāti Whātua to Minister re overlapping Treaty of Waitangi settlement claims, requesting that the Government delay signing settlement agreements with Ngāti Paoa and Marutūāhu Collective	350-351
8 August 2017	Media: Tauranga Iwi Thank Ministers For Their Actions and Suspend Protest Action For The Time Being	352-353
9 August 2017	Without prejudice discussions between Tauranga Moana iwi and the Hauraki Collective representatives. Initial agreement to meet again on 21 August 2017	
10 August 2017	Email to Ngāi Te Rangi from Ngā Hapū o Ngāti Ranginui Settlement Trust re TMIC hui	354
11 August 2017	Email to TMIC for Ngā Hapū o Ngāti Ranginui Settlement Trust confirming arrangements for hui on 12 August 2017	355-356
11 August 2017	Email from Charlie Tawhiao to Ngāi Te Rangi Settlement Trust re tikanga process	359-360

12 August 2017	Three Tauranga Moana iwi meet to discuss next steps, prefer to engage with hapū and reschedule next meeting with Hauraki Collective representatives	
13 August 2017	Email to TMIC attaching TMF for engagement	361-363
14 August 2017	Email to TMIC attaching Tikanga Process PowerPoint and key lines document from hui	364-365
15 August 2017	Ngāi Te Rangi Settlement Trust called a special meeting so that the trustees could be informed on the progress made by the Tauranga Moana representatives at the 9 August 2017 meeting	
16 August 2017	Ngāi Te Rangi hui-a-iwi was held at Whareroa marae, Tauranga to brief the iwi about the meeting held on 9 August 2017. The attendees agreed that preparation was required to ensure Ngāi Te Rangi was ready to engage in a meaningful way. The people decided that the meeting on 21 August 2017 with the Pare Hauraki Collective should not proceed until the Ngāi Te Rangi representatives had received input from their hapū communities.	
17 August 2017	Email from Charlie Tawhiao to Ken Mair, Minister Flavell, Minister Finlayson re delay to proposed Hauraki meeting scheduled for 21 August 2017	366-368
18 August 2017	Email from Joshua Gear to Ngāti Tara Tokanui attaching letter re protocol map	371-374
21 August 2017	Email from OTS to Joshua Gear re signing of Ngāti Tara Tokanui deed	375-377
23 August 2017	Email from Charlie Tawhiao to Ngāi Te Rangi Settlement Trust re meeting with Ken Mair and his follow-up meeting with Paul Majurey	378
24 August 2017	Email from Joshua Gear to Ngāti Tara Tokanui attaching letter re protocol map	379-383
28 August 2017	Letter from the Minister re overlapping claims for proposed protocol areas for Hauraki iwi and Ngāti Tara Tokanui	384-386
28 August 2017	Letter from Charlie Tawhiao to Minister re Ngāti Tara Tokanui settlement	381-382
28 August 2017	Letter to OTS re Ngāi Te Rangi progress towards tikanga resolution	383
29 August 2017	Email from OTS to Joshua Gear re Ngāti Tara Tokanui update, stating that the pencilled in date for signing will not proceed	387-389
30 August 2017	Memorandum of counsel filed advising the Waitangi Tribunal that (Wai 2616, #3.1.20): The Crown and Ngāi Te Rangi have met and are currently attempting to develop a tikanga process to resolve the issues with the Hauraki Collective Deed and individual settlements. Ngāi Te Rangi have advised the Crown that it is their expectation that the Crown does not sign the Hauraki Collective Deed, or individual deeds, while the issues remain unresolved	Wai 2616, #3.1.20
30 August 2017	Without prejudice settlement terms emailed from Hauraki Collective	390

30 August 2017	Email from Ken Mair att draft negotiations document	391-392
31 August 2017	Email from Ngāti Tara Tokanui re Area of Interest Protocol Map	393-397
31 August 2017	Email from Ngāti Pukenga to TMIC re Tauranga Moana tikanga process – next hui	398
01 September 2017	Letter to the Minister for Treaty of Waitangi Negotiations updating on progress with tikanga based discussions	399-404
01 September 2017	Email from Lil Anderson advising that no dates have been pencilled in to sign the Hauraki Collective Deed	405-407
01 September 2017	Email from Charlie Tawhiao to Ken Mair attaching Ngāi Te Rangi and Pare Hauraki Statement and letter to Minister re tikanga process	408-411
02 September 2017	Without prejudice NTR responds to Hauraki Collective by email	
03 September 2017	Without prejudice Hauraki Collective responds negatively to NTR terms of agreement by email	
03 September 2017	Email from Charlie Tawhiao to Ngāi Te Rangi Settlement Trust re Hauraki update	412
03 September 2017	Telephone from Ken Mair stating that if there is no agreement with the Hauraki Collective then the Minister for Treaty of Waitangi Negotiations will decide to sign the Hauraki Collective Deed on 06 September 2017	
04 September 2017	Internal Ngāi Te Rangi email attaching run sheet and panui for hui with Ngāti Porou ki Hauraki	413-415
06 September 2017	Ngāi Te Rangi meet with Ngāti Porou ki Hauraki at Otawhiwhi Marae to discuss overlapping claims	
06 September 2017	<p>Minister of Māori Development meets with Ngāi Te Rangi trustees and staff advising that he had heard that negotiations were at an end, and the Minister of Treaty of Waitangi Negotiations was prepared to sign off on 5 September 2017, but waited for outcome from Te Ururoa Flavell's report from this meeting.</p> <p>Minister of Māori Development advised that the Minister of Treaty of Waitangi Negotiations wants to sign prior to the election on 23 September 2017.</p> <p>Ngāi Te Rangi advised that they had not given up and were in the process of contacting the Hauraki representatives.</p>	
07 September 2017	Email from Ken Mair relaying OTS response to Ngāi Te Rangi allegations of lack of consultation on Hauraki Collective deed content.	416-421
08 September 2017	Email from Meremaihi Aloua attaching panui re hui with Northern hapū scheduled for 12 September 2017	422-425

08 September 2017	Emails between Ngāti Tara Tokanui and Ngāi Te rangi re Ngāi Tamawhariua ki Te Rereatukahia	426-444
08 September 2017	Letter to Minister re tikanga process	445
08 September 2017	Letter to OTS re Ngāti Tara Tokanui settlement	446
08 September 2017	Letter to OTS re Pare Hauraki Collective tikanga process	447
09 September 2017	The three Tauranga Moana iwi meet to agree the Tauranga Moana tikanga to attempt to agree with the Hauraki collective	
11 September 2017	Letter from TMIC to Minister re tikanga process to address Hauraki Iwi overlapping interests in Tauranga Moana	448-449
11 September 2017	Internal Ngāi Te Rangi email to the Board of trustees to update members of the disputed redress within the Hauraki Collective Deed	450-453
12 September 2017	Emails between Paora Stanley, Charlie Tawhiao and Minister Flavell re Hauraki Iwi Collective redress	456-463
12 September 2017	Email from Kimiora Rawiri attaching correspondence from Minister	464-465
12 September 2017	Letter from Minister acknowledging receipt of letter dated 11 September 2017	466
12 September 2017	Minister of Māori Development seeks time to present at the Ngāi Te Rangi Board of Trustees hui but is declined due to short notice, and time required by the trustees to consider all matters on the agenda. Invitation was extended to meet on Saturday	467
13 September 2017	Ngāi Te Rangi through Ken Mair attempt to establish next meeting with the Hauraki collective	472-473
13 September 2017	Paul Majurey, Hauraki Collective representative makes media release stating that he wants the Hauraki Deed signed off before the election. See: https://www.waateanews.com/waateanews/x_story_id/MTcyODY=/Settlement-gives-Maru-wide-footprint	
13 September 2017	Meeting with Minister of Māori Development and invitation extended again to present at the Tauranga Moana iwi hui at Hairini Marae	
13 September 2017	Email from the Hauraki Collective to Ken Mair responding advising that they are prepared to meet again after the Hauraki Collective deed of settlement is signed	472
14 September 2017	Internal Ngāi Te Rangi email with update on Hauraki Deed signing	474-476
14 September 2017	Email from Tessa Buchanan that once advice is put to the Minister from OTS it will take 1-2 weeks	481-486

14 September 2017	Letter from Doris Johnston outlining the Crown's position in regards to disputed Hauraki Collective redress. Advice that signing whenever that will be, will not impact on the ability to hold a tikanga process	477-480
15 September 2017	Letter to the Rt Hon Bill English acting Prime Minister appealing to him not to sign the Settlement until Tauranga and Hauraki agree, or the offending redress is removed	487-489
15 September 2017	Email confirmation from OTS that advice regarding whether or not to sign had not been put from OTS to the Minister.	481
16 September 2017	Tauranga Moana iwi hold Hui-ā-iwi to discuss tikanga process	460-461
18 September 2017	Letter from Minister to TMIC re signing of Pare Hauraki Collective Redress Deed – states that it will be for the new government to decide when to sign the deed after the election	496-497
18 September 2017	Letter to Minister confirming that Ngāi Te Rangi will stand down all protest action planned for the week	498
19 September 2017	Media: Tauranga Iwi Ngāi Te Rangi Get Assurances That No Sleight-of- Hand Deal with Hauraki Will Be Signed During The Election Process	507-508
20 September 2017	Memorandum of Counsel filed by the Crown opposing application for urgency (Wai 2616, #3.1.31)	Wai 2616, #3.1.31
06 October 2017	Letter from OTS advising Ngāi Tai ki Tamaki Taonga Tuturu and Primary Industries Protocol preliminary decisions and awaiting new government formation for final decisions	509
13 October 2017	Letter from Ngāi Te Rangi to OTS requesting further time to be able to engage with Hauraki iwi and advising all progress that has been made in the interim	510
16 October 2017	Letter to Paul Majurey with request to meet (attaches tikanga document)	511-513
17 October 2017	Email from Paul Majurey advising Hauraki would not engage in tikanga process until agreements reached	514-515
19 October 2017	Letter from OTS advising that the lead Crown Negotiator will advise Hauraki iwi of our desire to meet to discuss overlapping claims	516
25 October 2017	Hui with Ngāti Rahiri Tumutumu negotiator to discuss overlapping claims	
26 October 2017	Email from Ngāti Paoa confirming that they are not seeking redress in Tauranga Moana, they acknowledge that there is an overlap but that Tauranga interests are primary and we can work through issues with tikanga	517-521
30 October 2017	Email from Ngāi Te Rangi chair to Ngāti Paoa CEO acknowledging they are not seeking redress in Tauranga Moana	522
13 November 2017	Telephone from Rick Barker to advise that Ngāti Tara Tokanui representatives were feeling threatened and would like to meet at a neutral venue	

27 November 2017	Without prejudice meeting with OTS at Ngāi Te Rangī offices to discuss alternative redress options	
12 December 2017	Email to OTS with invitation to attend hui with Ngāti Paoa	523-525
14 December 2017	Media: Ngāti Paoa and Tauranga Iwi Sign a Mana Enhancing Declaration that Clarifies Rights Dispute in Tauranga Moana	526-527
16 December 2017	Tauranga Moana hui at Maungatapu Marae - Tatau Pounamu with Ngāti Paoa	
21 December 2017	First letter to Minister Little requesting a meeting	528
22 December 2017	Letter from Minister Parker stating that Bay of Plenty Regional Council must consult with TMIC, Ngāti Hinerangi and the Hauraki Collective	529-534
2018		
23 January 2018	Without prejudice meeting with OTS in Wellington to discuss alternative redress options	
24 January 2018	Email from Leah Campbell following meeting providing information on Conservation Framework	1-3
24 January 2018	Letter to Bay of Plenty Regional Council requesting information	4-5
26 January 2018	Letter from Bay of Plenty Regional Council to Minister Parker re consultation (with TMIC and Hauraki etc)	6-13
30 January 2018	Email from OTS advising that meeting time is available with the Minister on 14 or 15 March 2018	14-15
9 February 2018	Email from OTS re overlapping claims with Hako	16-19
14 February 2018	Telephone from OTS asking whether Ngāi Te Rangī was available to meet on 23 February 2018. Ngāi Te Rangī accept	20
15 February 2018	Letter to OTS to outline opposition to Ngāti Hako statutory acknowledgement	21
19 February 2018	Letter to Minister for Local Government regarding Minister for the Environment letter that advised Hauraki Collective should be consulted for Tauriko	22-23
20 February 2018	Memorandum of Counsel filed with update on Ngāi Te Rangī engagement with the Crown and Hauraki (Wai 2616, #3.1.24)	Wai 2616, #3.1.24
22 February 2018	Telephone to OTS to advise that Ngāi Te Rangī could not attend the meeting with the Minister on 23 February 2018 due to passing of Tauranga Rangatira.	
27 February 2018	Letter to the Minister formally advising why we could not attend the hui on the 23 rd . Advised that we would like to meet on our marae on the week of 12 March 2018	24
27 February 2018	OTS call to say that the Minister has time on 15 March 2018 in Hamilton	
1 March 2018	Letter to the Minister declining opportunity to meet, and preferring meeting at Whareroa Marae	25

7 March 2018	Tribunal directs the Crown to provide an update on settlement negotiations, with specific regard to the signing of a Deed of Settlement and the introduction and enactment of settlement legislation (Wai 2616, #2.5.8)	Wai 2616, #2.5.8
8 March 2018	Letter to Minister Mahuta drawing attention to the Minister for the Environment's advice regarding consulting Hauraki Collective, and seeking opportunity to meet in Wellington	26-31
14 March 2018	Meeting with Minister Little at Whareroa Marae	
16 March 2018	Letter to the Minister following up on meeting at Whareroa Marae, and including handout that was presented at Whareroa	32-34
21 March 2018	Memorandum of Counsel filed by the Crown with update on settlement negotiations (Wai 2616, #3.1.25, #3.1.25(a))	Wai 2616, #3.1.25, #3.1.25(a)
4 April 2018	Letter to OTS re proposed protocol areas for iwi of Hauraki	35-36
5 April 2018	Letter to Minister Little asking when we might expect to receive a response to our proposal to have tikanga process before signing, or remove redress from Hauraki Deed	37
11 April 2018	Letter from Minister Little stating that he has made a preliminary decision to sign the Hauraki Deed. 21 Days to respond and provide new information	38-39
11 April 2018	Memorandum of Counsel filed by the Crown with further update on settlement negotiations (Wai 2616, #3.1.28, #3.1.28(a))	Wai 2616, #3.1.28, #3.1.28(a)
15 April 2018	Tauranga Hui a Moana to discuss the Minister's preliminary determination	
16 April 2018	Email to Hauraki Pakeke seeking a wananga to take place at Opureora Marae, Matakana Island on 21 April 2018 to discuss the overlapping claims issues	43-45
16 April 2018	Press Release: Minister in Rush to Sign Deal Before Hauraki Collective Collapses	40-41
17 April 2018	Email from Paul Majurey stating that the proposed wananga will have no impact on the preliminary decision to sign the Hauraki Deed	43
17 April 2018	Letter to Minister Little acknowledging preliminary determination, expressing disappointment and advising that a substantive response will follow by 2 May 2018	46
19 April 2018	Memorandum of Counsel filed reiterating Ngāi Te Rangī's position (Wai 2616, #3.1.27)	Wai 2616, #3.1.27
20 April 2018	Letter to OTS requesting information under the Official Information Act 1982	47
22 April 2018	Ngāti Paoa letter to Minister confirming support for a tikanga process to occur to resolve all issues	48-49
23 April 2018	Mita Ririnui met with the Minister to brief him on the tikanga process	
27 April 2018	Letter to Tamati Coffey addressing timing for a tikanga process to occur, and intentions to enter the tikanga process in good faith. Also seeking an assurance that the Minister would not sign the deed until Ngāi Te Rangī and Hauraki had completed tikanga process	50

27 April 2018	Email from OTS advising that the 21-day extension to respond to the Minister's letter dated 11 April has been extended until 18 May 2018	51
30 April 2018	Letter from OTS seeking an update on individual Hauraki iwi overlapping protocols and seeking to understand what Ngāi Te Rangi position is	70-71
30 April 2018	Letter from Iwi Working Group to Minister Little regarding reworking the Crown's overlapping claims policy (and email correspondence)	52-69
30 April 2018	Ngāi Te Rangi follow up with Tamati Coffey and were instructed to send letter (dated 27 April 2018) directly to Minister Little	
1 May 2018	Letter to Minister Little clarifying letter to Tamati Coffey and elaborating on the tikanga process. Request made to meet with Minister Little directly	72-73
2 May 2018	Letter from Minister Little acknowledging Ngāi Te Rangi letter and inviting Ngāi Te Rangi to meet with Rick Barker	74
3 May 2018	Media: Ko Te Tikanga Māori, he tapu – Tikanga is Sacred Says Kihi Ngatai	75-77
3 May 2018	Media: Tauranga Iwi Ngāi Te Rangi to Take Waitangi Tribunal Case Against Office of Treaty Settlements and Bureaucrats	78-79
4 May 2018	Iwi Working Party present proposed overlapping claims process to Ministers at Iwi Chairs Forum	80-106
4 May 2018	Memorandum of Counsel from the Crown Wai 2616 updating the Tribunal as to the Crown's extension of time to respond (Wai 2616, #3.1.30)	Wai 2616, #3.1.30
8 May 2018	Letter to Minister Little declining offer to meet with Rick Barker	107
9 May 2018	Letter to Willie Jackson acknowledging efforts of Māori MPs	108
10 May 2018	Letter from Minister in response to letter of 8 May 2018	109
13 May 2018	Media: Hikoi to Parliament Signals Forces Are Gathering Around Tikanga Issue	110-111
14 May 2018	Ngāi Te Rangi meeting with Minister Little	112-116
15 May 2018	Protest at Parliament	
16 May 2018	Email from OTS extending deadline to respond to Minister's letter to 25 May 2018	117-118
17 May 2018	Rangatira Kihi Ngatai meets with John Linstead and others regarding potential tikanga process (Pare Hauraki Kaumatua Kaunihera meeting with Ngāi Te Rangi)	
23 May 2018	Letter from Kihi Ngatai to Minister Little advising of meeting with John Linstead and Pare Hauraki Kaumatua Kaunihera upcoming hui on 30 May 2018 to discuss overlapping claims hui	119
25 May 2018	Minister Little contacts Kihi Ngatai by phone to advise that he will not decide to sign on 25 May and will await to see what comes of the Pare Hauraki Kaumatua Kaunihera	120, 123

25 May 2018	Ngāi Te Rangi email the Minister to query whether an extension has been granted in light of the Minister's phone call to Kihī Ngatai	120-122
25 May 2018	Ngāi Te Rangi email to the Minister advising that formal response to letter dated 11 April 2018 is ready, it can be provided on Monday 28 May, and await further instruction	125
28 May 2018	OTS emails stating that if the formal response is ready, they would be pleased to receive it	125
28 May 2018	Ngāi Te Rangi formal response to the Minister regarding letter dated 11 April 2018	128-135
29 May 2018	Letter from Kihī Ngatai to Minister Little thanking him and explaining expectations for hui with Pare Hauraki	136, 138-141
29 May 2018	Letter from Kihī Ngatai to Minister Mahuta thanking her and explaining expectations for hui with Pare Hauraki	137-141
4 June 2018	Media Release – Ngāi Te Rangi is Fighting Two Opponents, the visible and the invisible	142-143
6 June 2018	Letter from Minister Nanaia Mahuta inviting the Hauraki Collective and Tauranga Moana iwi to hui at Ngāti Haua marae	144-145
6 June 2018	Media Release – Ngāi Te Rangi Dawn Protest to Assert Ahi Kaa	146
7 June 2018	Letter to Nanaia Mahuta accepting her invitation for a hui at Ngāti Haua with Hauraki iwi	147
8 June 2018	Minister Mahuta hui is abandoned as Paul Majurey advises the Minister that they will not attend	
14 June 2018	Media release – Tauranga Iwi Protests Spread into the Hauraki Heartland	148
15 June 2018	Ngāi Te Rangi attend Pohara Marae to seek the King to facilitate a hui with Hauraki iwi	
18 June 2018	Letter from Charlie Tawhiao updating the Minister on attempts and progress towards meeting with the Hauraki Collective	149-150
19 June 2018	Media release – Assault on Kaumatua linked to Office of Treaty Settlements' Actions	151-152
20 June 2018	Letter from Minister Little advising that he has preliminary decided to withdraw the Statutory Acknowledgement for Ngāti Hako	153-154
11 July 2018	Media release - Collusion between Crown and Hauraki Collective claimed in Affidavit	155-156
20 July 2018	Memorandum-Directions encouraging parties to continue to engage in tikanga process (Wai 2616, #2.5.9)	Wai 2616, #2.5.9
26 July 2018	Memorandum of Counsel filed by the Crown with update on signing dates of Hauraki settlements (Wai 2616, #3.1.32)	Wai 2616, #3.1.32
26 July 2018	Email from Paul Majurey to Charlie Tawhiao re tikanga process	187-188
26 July 2018	Letter from Minister Little advising that he will sign the Pare Hauraki Collective Deed, noting the Fisheries Advisory Area, Conservation Framework Area, and Minerals Relationship Area have been redrawn to the confiscation line. The Tauranga Moana Framework provisions	157-162

	remain, but it is anticipated that it will be dealt with by tikanga process after signing. Agreements reached in 2012-14 will be maintained	
27 July 2018	Letter to Minister re Minister's decision regarding the Pare Hauraki Collective Redress Deed	163
29 July 2018	Media release – Ngāi Te Rangi Iwi Will Respond to Confiscation Attempt By Ardern Government After Careful Consideration	164
31 July 2018	Memorandum of Counsel seeking a determination of Ngāi Te Rangi's application for an urgent inquiry (Wai 2616, #3.1.34)	Wai 2616, #3.1.34
31 July 2018	Open letter to Prime Minister Jacinda Ardern	165-167
31 July 2018	Letter to OTS requesting information under the Official Information Act 1982	168
31 July 2018	Media release – Minister Little's Rush to Sign Highly Controversial Hauraki Settlement Causing Dissension Inside Labour and Showing Cracks in Government	169-170
1 August 2018	Letter from Minister Little regarding decision to sign Pare Hauraki Collective Redress Deed	171
2 August 2018	Letter to Minister Little regarding decision to sign Pare Hauraki Collective Redress Deed	172-173
2 August 2018	Crown and Hauraki iwi sign Pare Hauraki Collective Redress Deed	
7 August 2018	Memorandum-Directions appointing Tribunal panel – Judge Miharo Armstrong, Professor Rawinia Higgins, Associate Professor Tom Roa, David Cochrane (Wai 2616, #2.5.10)	Wai 2616, #2.5.10
9 August 2018	Memorandum of Counsel filed by the Crown regarding update to Tribunal panel (Wai 2616, #3.1.37)	Wai 2616, #3.1.37
10 August 2018	Memorandum-Directions accepting recusal of Associate Professor Tom Roa (Wai 2616, #2.5.11)	Wai 2616, #2.5.11
10 August 2018	Memorandum of Counsel opposing extension sought by Crown (Wai 2616, #3.1.38)	Wai 2616, #3.1.38
17 August 2018	Memorandum of Counsel filed by the Crown with update on Hauraki related claims (Wai 2616, #3.1.39)	Wai 2616, #3.1.39
20 August 2018	Media: Treaty process 'dirty deals, done dirt cheap' (Charlie Tawhiao interview on Māori TV). See: https://www.maoritelevision.com/news/politics/treaty-process-dirty-deals-done-dirt-cheap	
22 August 2018	Email to OTS seeking to review draft Hauraki Collective Settlement Bill	174-179
24 August 2018	Memorandum of Counsel responding to Crown's update on Hauraki related claims (Wai 2616, #3.1.40)	Wai 2616, #3.1.40
2 October 2018	Memorandum of Counsel seeking update from Tribunal on the timing of a determination of Ngāi Te Rangi's application (Wai 2616, #3.1.42)	Wai 2616, #3.1.42
23 October 2018	Letter to Ombudsman regarding request for information under the Official Information Act 1982	180-184

25 October 2018	Media release – Urgent Need for Independent Investigation of Hauraki Collective and Marutuahu Settlements	185-186
9 November 2018	Tribunal grants six of the applications for an urgent hearing (Wai 2616, Wai 2653, Wai 2666, Wai 2678, Wai 2735, Wai 2754) (Wai 2616, #2.5.16)	Wai 2616, #2.5.16
12 December 2018	New Record of Inquiry established (Wai 2840 – Hauraki Overlapping Claims Inquiry) – the six granted applications are consolidated (Wai 2840, #2.5.1)	Wai 2840, #2.5.1
21 December 2018	Crown discovery released	
18 January 2019	Tribunal issues its Statement of Issues (Wai 2840, #1.4.1)	Wai 2840, #1.4.1

IN THE WAITANGI TRIBUNAL

**WAI 2840
WAI 2616**

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of the Hauraki Overlapping Claims Inquiry (Wai 2840)

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress (Wai 2616)

FOURTH BRIEF OF EVIDENCE OF CHARLIE TAWHIAO

Dated this 18th day of February 2019

RECEIVED
Waitangi Tribunal
18 Feb 2019
Ministry of Justice WELLINGTON



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MAY IT PLEASE THE TRIBUNAL:

Introduction

1. My name is Charlie Tawhiao and I am the Chairman of the Ngāi Te Rangī Settlement Trust.
2. I have provided the following evidence in this inquiry:
 - (a) Wai 2616, #A3, *Brief of Evidence of Charlie Tawhiao* [14 March 2017];
 - (b) Wai 2616, #A8, *Second Brief of Evidence of Charlie Tawhiao* [20 September 2017]; and
 - (c) Wai 2616, #A10, *Third Brief of Evidence of Charlie Tawhiao* [24 August 2018].
3. I provide this fourth brief of evidence to update the Tribunal on key events that have taken place since March 2017 (when Ngāi Te Rangī's application for urgency was filed).¹
4. My evidence is set out as follows:
 - (a) Minister Little comes to Tauranga;
 - (b) The redress offered to Hauraki undermines our mana moana and rangatiratanga;
 - (c) The tikanga process never happened;
 - (d) A lack of transparency;
 - (e) The signing of the Hauraki Deed;
 - (f) Disruption and division;
 - (g) Our relationship with the Crown; and

¹ Wai 2840, #1.4.1, *Hauraki Overlapping Claims Inquiry Tribunal Statement of Issues* [18 January 2019], at [6].

(h) Concluding remarks.

Minister Little comes to Tauranga

5. At our invitation, on 14 March 2018, Minister Little came to meet with us at Whareroa.² We gave him a summary of the issues, provided him with some documentation, and asked what he thought he could do to help us.
6. Minister Little said that he heard our concerns and agreed that it made sense to park the redress in issue and proceed with the settlements until the issues were resolved. We felt like the meeting was positive and constructive. We certainly thought that positive dialogue between us and the Minister was established and that we would hear from him again.
7. We followed up with written correspondence on 16 March 2018 and 5 April 2018.³ We were surprised when we received a response from the Minister on 11 April 2018, which said (among other things) that he did not think it was reasonable to delay the signing of the Pare Hauraki Collective Redress Deed (“Hauraki Deed” / “the Deed”) any further.⁴
8. It felt like he was saying he did not care what happened at Whareroa, the Crown was going to go ahead without resolving the issues. I can only think he had a briefing from someone who said he cannot back down. It came as quite a shock because it was so different from what we felt at Whareroa. After his 11 April letter we were not encouraged that the issues could be resolved.

² Wai 2840, ROI TBC, *Fourth Brief of Evidence of Huhana Rolleston* [18 February 2019], Appendix A (“Appendix A”) at 16.

³ Wai 2840, ROI TBC, *Fourth Brief of Evidence of Huhana Rolleston* [18 February 2019], Appendix B2 (“Appendix B2”), at 32-34, 37.

⁴ *Appendix B2*, above n 3, at 37.

The redress offered to Hauraki undermines our mana moana and rangatiratanga

9. The minimising of our issues by the Crown is frustrating because we know that the allocation of redress to Hauraki in our rohe will have a permanent effect on us.
10. The Crown continuously says that we must uphold previous agreements. We are being brow beaten into holding on to an agreement on the basis that it is bad form to go back on them. This ignores that the Crown breached the conditions of the agreements when it allocated further Tauranga Moana based redress to Hauraki without our knowledge or agreement. These breaches arise from the inclusion of new redress that we never agreed to.
11. We were being told, not asked, that these additional matters were to be provided to Hauraki despite their overlapping nature, which has not been properly addressed, and despite our legitimate claim that the redress undermines our mana whenua.
12. I question what the Crown has done to fix the subsequent problems it has created? It has simply decided on its own accord what changes it would and would not make in terms of the redress. The Crown introduced those changes without any discussion with us.
13. The fundamental issue is that the Crown is offering redress to Hauraki (as confirmed in the Hauraki Deed), that effectively gives Hauraki mana whenua rights, particularly in terms of the Resource Management Act 1991.
14. It is more than just a transfer of wealth and resources, it is the creation of legal rights that did not previously exist and there is no basis for them having those rights. The strongest argument the Crown provides is that it says we agreed to the redress, but again those previous agreements were conditional and those conditions have been breached.
15. In our view, the Crown is doing its best to avoid any conversation about the justification for the overlapping redress. Not only has it never

properly had the conversation with us, it limits our ability to have the conversation between iwi by not allowing us to conduct a process in accordance with tikanga to address the issues.

16. The Tauranga Moana Framework (“TMF”) remains a critical issue. Tauranga Moana is central to all three iwi. For us to not actually be able to accomplish the TMF is devastating. The whole reason we could live with our settlement was because of the TMF.
17. For us, it was always about the harbour first, the moana. In order for us to be able to influence the health of the harbour, we saw co-management within the context of the treaty relationship as the way forward. It was viewed as an innovative piece of redress. In terms of the council, they saw the benefits of the TMF for themselves – for example, funding to support the administration of the new governance group tasked with implementing the strategic plan.
18. The fact that we have to settle for less because of the way the redress is framed in the Hauraki Deed, means that the integrity of the settlement is undermined.
19. We think we have also been clear that the issue is not about us not being able to share the harbour with others, it is about how another iwi can be attributed mana whenua without interests that would justify their inclusion and participation.
20. The fundamental issue is the provision by the Crown of mana whenua interests for Hauraki. Allowing Hauraki to extend their authority and decision-making over the harbour has been a consequence of this fundamental error by the Crown.
21. The argument from Minister Finlayson was that Hauraki are entitled to a seat on the TMF because it was promised that Hauraki would get no more or less than Tauranga Moana, which means that they are entitled to the same or relative redress.

22. The current Government has essentially maintained the prior Government's position in the way the TMF provision is currently framed in the Hauraki Deed.
23. The issue for us is that agreeing to the TMF would require us to accept the argument that Hauraki has an interest in Tauranga Moana that would enable it to be present in environmental management in our rohe. This, along with the allocation of other redress, has created a situation for us where previous agreements are no longer viable. We need to step back and look at the basis for considering a TMF that includes Hauraki at all.

The tikanga process never happened

24. We first sought a tikanga process at a hui with the Crown and Hauraki on 4 April 2017.⁵ I was always of the view that the tikanga process would be successful without Crown involvement. In our view, everything had to be out in the open and we had to talk through all the issues.
25. The tikanga process was about having a conversation, whereby Hauraki could tell us how they have mana whenua rights in Tauranga Moana and explain how it happened. In the tikanga process we could examine all issues, including the division caused between our iwi and seek to rebuild the damaged relationships.
26. Every time we got close to reaching an agreement about entering a tikanga process, the Crown got involved and set conditions, or signalled it would sign the Deed, which disincentivised the tikanga discussions. I can only assume that it was the Crown's indifference to tikanga Maori that was the reason it did not create a fair pathway for us to engage.
27. There have been a number of incorrect assumptions by the Crown regarding the tikanga process. For instance, at a meeting with the Minister in May 2018, the Minister said that the tikanga process had

⁵ Wai 2840, ROI TBC, *Fourth Brief of Evidence of Huhana Rolleston* [18 February 2019], [93] – [96], and Appendix B1, at 49-50.

failed and that he needed to make a decision on whether to sign the Hauraki Deed. We told him that the tikanga process did not fail, it just never got off the ground.⁶

28. Conversely, when the Minister notified us via the letter of his intention to sign the Deed, he said that he understood there was an agreement that parties would engage in tikanga discussions regarding the TMF following the signing.⁷ I am not aware of a tikanga process for the TMF alone ever being agreed.
29. We saw the new Government as a way of cancelling out the Crown's previously disruptive influence. We thought it would allow us to resolve the issues by providing the space to do so.
30. I think Minister Finlayson got it but ignored it. I think Minister Little is struggling with the idea that rangatiratanga exists. I do not think he understands just how much of an affront all of this is and how much it impacts the mana of Ngāi Te Rangi.
31. When we went to Wellington to protest at Parliament in May 2018, the Minister invited us to meet the evening before for 30 minutes.⁸ He said that if other information comes to bear, then the redress can be changed. When pushed on the point that signing the Deed was bad faith to us and that it would entrench the issues, he said changes could be made to the Deed even after it was signed, and that that often happens.
32. We acknowledge that the Minister has a responsibility to ensure that Hauraki receives appropriate redress, but we do not believe that our rangatiratanga should be compromised to serve that purpose. That is a Crown need, and that is a Crown error.

⁶ See: Wai 2840, ROI TBC, *Fourth Brief of Evidence of Huhana Rolleston* [1 February 2019], at [114] – [117].

⁷ *Appendix A*, 26 July 2018.

⁸ See: Wai 2840, ROI TBC, *Fourth Brief of Evidence of Huhana Rolleston* [18 February 2019], at [93].

33. The Minister talks very strongly about the tikanga process and does not realise that the environment that he has created makes it unlikely that tikanga can be pursued.
34. The arguments advanced by the Crown to justify the redress allocated to Hauraki have been weak and unconvincing. It cites the Waitangi Tribunal findings and it stops there. The Crown says, "but you signed" and previously agreed to the allocations. These are the primary things that the Crown keeps coming back to. The Crown fails to acknowledge that it has breached the conditions upon which those agreements were made. It makes no sense that we should have to uphold that agreement while the Crown does nothing to resolve our concerns.

A lack of transparency

35. The Crown has not dealt with us and the issues we have raised in an open and forthright manner. The reluctance of the Crown to engage transparently has been frustrating for us.
36. It has only been through subsequent, and inconsiderate actions of the Crown when the Crown provided redress to Hauraki in Tauranga Moana without our knowledge, that the full extent of the issues gradually became known to us. For example, knowing that the Crown was not forthcoming with information, our staff regularly checked the Office of Treaty Settlements website for anything new. It was only because of this exercise that we came across the Hauraki Deeds of Settlement that were initialled without notice to us.
37. The thing that has been obvious to me is the constant shifting by the Crown. The reasons for their actions and decisions throughout this whole process have been inconsistent.
38. In my view, there are no principles in the way the Crown deals with us, we are given false hope only to have the Crown renege on statements. The Crown does not always respond to our questions or requests, it feels like the Crown just makes it up as it goes. There is no consistency, other than doing whatever it takes to get the Hauraki settlement through.

The signing of the Deed

39. In the past two years, we have not been able to resolve our issues with the iwi of Hauraki and despite a number of attempts a tikanga process has not taken place. During that time, we have met with the Crown (including Minister Flavell and Minister Little) on several occasions, all to no avail.⁹ Many of these meetings are discussed in the evidence of Huhana Rolleston, so I will not repeat those details here.
40. The day the letter was sent to us notifying an intention to sign,¹⁰ the Minister rang. He said he was ringing to let me know that he was going to sign the Hauraki Deed on 2 August. I thanked him for letting us know; he called me, and I acknowledged his call, if the lack of an angry outburst was interpreted as acceptance he was mistaken.
41. We immediately made plans to march on Parliament again to protest the signing.
42. Ultimately, the Crown signed the Hauraki Deed, despite our concerns and in the face of our opposition. It was a very emotional day to say the least, which was televised for the nation to bear witness; it actually felt like the Crown was stripping our mana and rangatiratanga away from us.
43. On 20 August 2018, I discussed the effect of the signing in an interview on Maori TV, where I described it as a 'dirty deal, done dirt cheap'.¹¹ I maintain the views expressed there today. The Crown's overlapping claims processes have left us battered and bruised.

Disruption and division

44. Since the signing, disruption and division between Hauraki iwi and Tauranga Moana iwi has been exacerbated, and our relationship with the Crown is precarious. We are at our wits end and we feel

⁹ For instance, see: Wai 2840, *Fourth Brief of Evidence of Huhana Rolleston* [18 February 2019], at [45], [56], [65], [72], [90] – [94], [97], [102], [114].

¹⁰ *Appendix B2*, above n 3, at 157-162.

¹¹ Maori Television website, *Treaty process 'dirty deals, done dirt cheap'* [20 August 2018], sourced 26 January 2019 < <https://www.maoritelevision.com/news/politics/treaty-process-dirty-deals-done-dirt-cheap> >

traumatised by this whole experience; it is incredibly hurtful for our people.

45. There is no disagreement amongst us; Hauraki does not have mana whenua in Tauranga Moana. The bigger point is not whether we agree, it is the discontent that the issues have created despite our best efforts to hold it together.
46. When I see Maori protesting, it is almost always because they are defending their mana, and it is something that Crown agencies have great difficulty accepting. I am just thankful that we have not turned on ourselves, and that we have been civil between iwi.
47. I have seen it on a number of occasions, where the Crown has made throwaway comments saying that the only group with a problem is Ngāi Te Rangi. For example, just prior to the 2017 election, Minister Finlayson addressed a letter to the Chairs of the Tauranga Moana iwi and the Hauraki Collective advising that Ngāti Ranginui and Ngāti Pukenga would honour previous agreements with the Crown and Hauraki, but that Ngāi Te Rangi would not.¹² This implied that it was the fault of Ngāi Te Rangi that the Hauraki Collective settlement could not be concluded.
48. I cannot help but feel that this was a deliberate strategy on the part of the Crown to alienate our iwi as rebels.

Our relationship with the Crown

49. The concern I have is that we are all buying in to this idea that settlements are simply contractual arrangements where we agree to the extinguishment of rights in return for some resources. Removing the grievance is important but restoring the relationship with the Crown is most important.
50. Our relationship with the Crown is significantly worse than it was before we embarked on the settlement process. Prior to settlement, we had little faith and confidence in the Crown but recognised that they were

¹² *Appendix B1*, above n 5, at 496-497.

at least trying to make things right. In respect of this episode, our relationship with the Crown is now non-existent.

51. The worst damage done by the Crown throughout this process is the explicit way in which it has gone about undermining and negating our rangatiratanga. The Crown, by allocating redress to Hauraki in our rohe, is even refusing to acknowledge that this rangatiratanga is valid. It is treating rangatiratanga like it is some mythical idea that has been resurrected.
52. At a personal level, what the Crown is saying to us is that we do not exist. It is the most offensive thing that this whole episode has created and why there has been such a strong and passionate response from our people. It is an extremely offensive act.
53. At a national level, it is just one more step along the way of extinguishment of te ao Māori; another gain for assimilation. Assimilation is the extinguishment of us and how we see ourselves. It is a dire situation.
54. If we cannot bring about a change in Crown behaviour through this process, then I have great fears for te ao Māori. The consequences are significant.
55. If the Crown succeeds and these issues go unaddressed, the Crown can arbitrarily redefine our historical landscapes and identity at will. That is a huge affront to our rangatiratanga.

Concluding remarks

56. From tamariki mokopuna to our old people, there is no doubt that everybody is committed to making sure that the Crown does the right thing.
57. I only have to go outside and talk to any Ngāi Te Rangi person and I know we are doing the right thing.

58. We have no choice but to make a stand to protect our right to define ourselves, our iwi mana, our rangatiratanga. *E kore e ngaro, he kakano i ruia mai i Rangiatea.*

DATED this 18th day of February 2019



Charlie Tawhiao

IN THE WAITANGI TRIBUNAL

**WAI 2840
WAI 2616**

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of the Hauraki Overlapping Claims Inquiry (Wai 2840)

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress (Wai 2616)

BRIEF OF EVIDENCE OF PAORA STANLEY

Dated this 18th day of February 2019

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Ministry of Justice WELLINGTON



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MAY IT PLEASE THE TRIBUNAL:

Introduction

1. My name is Paora Stanley. I am Ngāi Te Rangi.
2. I am the Chief Executive Officer of the Ngāi Te Rangi Settlement Trust.
3. I provide this brief of evidence in support of Ngāi Te Rangi's claim that the Crown has acted inconsistently with Te Tiriti o Waitangi during its settlement negotiations with the Iwi of Hauraki.
4. This brief of evidence discusses matters which have impacted Ngāi Te Rangi from the time of the Crown's decision to sign the Pare Hauraki Collective Redress Deed ("the Hauraki Deed" / "the Deed") on 2 August 2018 to today. The Fourth Brief of Evidence of Huhana Rolleston provides some more of the detail around the events referred to in my brief.

Settlement journey

5. Our journey through negotiations, and more specifically our experience of the Crown's practices and policies in relation to overlapping claims, has been fraught and difficult. We have tried to work with the Crown and overlapping groups, but it is hard when the Crown picks a horse and backs it all the way, and that horse is not you.
6. It felt as if the previous and current governments would sacrifice the rights of Ngāi Te Rangi in order to settle with the iwi of Hauraki.
7. In allowing the Hauraki settlement to proceed in the manner it did and in the face of our opposition, we feel the Crown prioritised the rights and interests of the Hauraki collective over us. Their negotiators and key people had the audience of the Crown. We did not realise the extent of it at the time, but we were on the backfoot.
8. When we felt like the Hauraki negotiations were beginning to encroach on us, we did our best to pull everything back into line. As is detailed in Huhana Rolleston's brief of evidence, we wrote letters and held hui

– initially numerous government officials were engaging with us, including the Minister for Treaty of Waitangi Negotiations. Many things were said by the Crown between 2017 and 2018, but actually very little changed. Our attempts to show that things were not right fell on unwilling ears. It was frustrating.

9. This lack of meaningful change resulted in us withdrawing all redress in our rohe and delaying our own settlement as we sought a resolution to the outstanding issues, one pathway being an urgent inquiry with the Waitangi Tribunal.
10. A variety of people, including kuia and kaumatua and tribal leaders within the Hauraki collective, have been reaching out to us since we began our challenge to the redress offered to Hauraki. The resulting conversations around overlapping interests have been tentative and non-committal, but they have taken place, nonetheless. It remains difficult to make effect any meaningful change while the Crown wields the control and power over the process. The balance of power needs to shift back to the iwi concerned for there to be any element of fairness across all interested groups.

Crown communication

11. In our experience the Crown would say one thing on one day, then the opposite a few days later. There were many instances of this on the ground. Ministers and officials would say, “we hear you, we feel your pain”, but their formal response later showed they did not hear us at all. Just one example is the meeting between Ngai Te Rangi and the Minister at Whareroa in March 2018. We were given the impression that as a result of that meeting the Minister had heard what Ngai Te Rangi were saying about the need for a tikanga process and we were hopeful as a result that finally there might be progress. We waited for a formal response to that effect, yet in the Crown’s next letter to us a few weeks later in April 2018, the Minister advised that he had made a preliminary decision to sign the Deed. That was not our understanding at all, and it was so disappointing for us to hear that from the Minister.

12. Our relationship with the Crown throughout the period following the filing of our urgency application seemed uncertain and unpredictable, and we had little or no trust in them. We sought undertakings from the Crown, but they were evaded or simply broken.
13. The Crown made us feel like we were hauhau or rebels for protecting our own lands and mana.
14. You only have to look at some of the videos taken on the day of the Hauraki Deed signing at Parliament and see how the officials treated our kaumātua to understand how out of hand it became. For the Crown's part, it was a display of disrespect and loss of control.
15. I believe the Crown would have preferred us to go quietly into the night rather than vocalising and publicising our discontent. This makes sense to me given the other issues the Crown was dealing with in Tamaki. It did not want to expose itself or shed more light on the fact that it was having trouble with a number of iwi groups.
16. By 2017 other iwi came out in support of us and to express their own concerns. Together were able to bring clarity and unity to groups who had similar issues. As a consequence, other iwi found that they were not alone, and we started coming together and sharing our experiences with the Crown processes, which were quite similar.

The tikanga process

17. We had been told by the incoming government in 2017 that the government acknowledged the importance of tikanga and would allow for a process to take place, but they then dismissed it when that approach no longer suited their own interests.
18. The Crown says it does not get involved in tikanga – and then prescribes when the tikanga process can take place and what it will include. The Crown sought to predetermine the conversation between iwi by prescribing which redress issues should be up for discussion in the tikanga process.

19. The Crown made us feel like we were being uncompromising and difficult for insisting that the tikanga process needed to take place. It seems the Crown does not understand or acknowledge that Ngāi Te Rangi are one of the groups most heavily affected by the decision to offer Hauraki redress in Tauranga Moana and we have to act to defend our mana whenua.
20. I guess we got our hopes up that the Crown would allow for a tikanga process because the Minister himself said that it was possible for the redress to change before the Deed was signed. Ultimately the Crown reached the conclusion that it was not prejudicial for the tikanga process to take place after signing the Deed, a position we completely disagree with.

The new Government

21. Lately, our relationship with the Crown has been strange. It feels like we have fallen out of favour. We talk past each other and there is an air of mistrust. As a result, there is nothing close to a partnership relationship between us.
22. Back in 2017 we anticipated that things would improve with the change of government. When the Minister came to Whareroa, Dr Hauata Palmer stood up and explained to him who we were.
23. There were acknowledgements from both sides, but today we are left feeling as though the Minister does not fully understand us and our issues. We feel like we are low on the agenda and there is little incentive or desire for the Crown to listen to us.
24. Despite all of this, we have plans for how we will rebuild our relationship with the Crown and the iwi of Hauraki. We do not want it to stay like this forever but so much of that depends now on what the Crown does to resolve the situation it has created. We understand it is a long-term game, but at the end of it, we want it to be as amicable as possible. However, before that is possible, these issues need to be resolved and we are not able to do this without the assistance of the Tribunal.

Concluding remarks

25. We refer to this dispute as a thousand-year war or resistance because we envisage this being a multi-generational battle which will carry on for as long as it takes to achieve resolution. Meanwhile however the struggle undermines our culture, our tikanga, and our faith in a government that is meant to be working with us to protect our lands and our mana.
26. It is intense, and it is emotional, as you would expect in a situation where so much is at stake for us.
27. I think there are several solutions to remedy the situation with the Hauraki settlement. One is that the Crown should stop interfering and let us resolve it in a tikanga process that is not defined by the Crown.
28. We hope that from the Tribunal process we will be able to resolve our outstanding issues and move forward. Our people are ready to move into the future, to do that we the Crown's commitment to allow for the proper resolution of the issues.

DATED this 18th day of February 2019



Paora Stanley

IN THE WAITANGI TRIBUNAL

**WAI 2840
WAI 2616**

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of the Hauraki Overlapping Claims Inquiry (Wai 2840)

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress (Wai 2616)

FIFTH BRIEF OF EVIDENCE OF CHARLIE TAWHIAO

Dated this 29th day of March 2019

RECEIVED
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29 Mar 2019
Ministry of Justice WELLINGTON



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MAY IT PLEASE THE TRIBUNAL

Introduction

1. My name is Charlie Tawhiao.
2. I am the Chairperson of the Ngāi Te Rangi Settlement Trust.
3. I have read the evidence filed on behalf of the Crown and interested parties for the Hauraki Overlapping Claims Inquiry.
4. I provide this fifth brief of evidence in response to the evidence of:
 - (a) Christopher Finlayson (#A57);¹
 - (b) Michael Dreaver (#A45);² and
 - (c) Walter Ngamane (#A47).³

Christopher Finlayson (#A57)

5. At paragraph 18, Mr Finlayson says:⁴

Ngai Te Rangi now say they negotiated these agreements only because they were being pressured into achieving a timely settlement of their historical claims. I reject this claim [...]

6. He goes on at paragraphs 20-21:⁵

It is my understanding that Tauranga Moana and Hauraki iwi concluded agreements amongst themselves on the broad terms of the other redress. I fail to understand how agreements reached between iwi can be said to demonstrate failures in the Crown's processes or duress by the Crown. I signed Ngai Te Rangi's deed of settlement in Tauranga on 14 December 2013 as part of a four-day Ngai Te Rangi festival to celebrate the signing.

Ngai Te Rangi claim these agreements were subject to further conditions. This appears to be a recent development. There was no conditionality associated with any of the agreements reached at that time. The redress offered to Hauraki iwi was a recognition that they do have interests in the Te Puna-Katikati

¹ Wai 2840, #A57, *Brief of Evidence of Christopher Francis Finlayson* [26 March 2019].

² Wai 2840, #A45, *Brief of Evidence of Michael Dreaver* [8 March 2019].

³ Wai 2840, #A47, *Brief of Evidence of Walter Ngakoma Ngamane* [13 March 2019].

⁴ Wai 2840, #A57, above n 1, at [8].

⁵ At [20] – [21].

area of Tauranga Moana. The redress was offered *only* in relation to those interests. We did not at any point contemplate going beyond those interests.

7. The context is important in relation to these comments. We acknowledge that a process was undertaken, and agreements were made at the time referred to by Mr Finlayson; however, this was on the basis that:⁶
 - (a) We would achieve a timely settlement; and
 - (b) No further redress would be offered without engagement and consent.
8. Neither of these things have occurred.
9. In relation to the comment that “redress was offered only in relation to Hauraki’s interests”, and that “the Crown did not contemplate going beyond those interests” is interesting. That may have been the case at the time referred to by Mr Finlayson, but since then, the Crown has provided Hauraki with redress that goes beyond what was agreed and granted to them.⁷ That is really the crux of our claim and the reason we are seeking the Tribunal’s assistance.

Michael Dreaver (#A45)

Hauraki redress in Tauranga Moana

10. At paragraph 110 of Mr Dreaver’s evidence he says, “[t]heir [Hauraki’s] redress in the Tauranga Moana area is extremely modest by contrast with the redress for Tauranga iwi.”⁸
11. The suggestion that the redress provided to Hauraki is “extremely modest” is an opinion, and one we do not agree with.
12. When the redress provided undermines Ngāi Te Rangi’s rangatiratanga by elevating an outside iwi to a status akin to mana

⁶ Wai 2840, #A5, *Brief of Evidence of Huhana Rolleston* [14 March 2017], at [27].

⁷ For instance, see: Wai 2840, #A1, *Brief of Evidence of Dr Hauata Palmer* 14 March 2017], at [42] – [44]; Wai 2840, #A5, above n 6, at [13].

⁸ Wai 2840, #A45, above n 2, at [110].

whenua within the rohe of Tauranga Moana, that redress cannot be described as “extremely modest”.⁹

13. There is no contrast between Hauraki and the iwi of Tauranga Moana. The redress we are seeking is predicated on our occupation from 1840 through to the present day and evinced in the rich history of our people and their association to places of significance within the rohe of Tauranga Moana.
14. Mr Dreaver goes on to say, “[b]ut they [Hauraki] are supported by history when they claim interests into the Tauranga Moana district.”¹⁰
15. What we have come to understand is that these statements, or justifications, are generally a reference to the Waitangi Tribunal’s *Tauranga Moana Report* of 2004, whereby the conclusion was reached that Marutūahu had customary interests in parts of the inquiry district,¹¹ specifically the Katikati and Te Puna blocks.¹²
16. What is not mentioned, is that the Tribunal also found that the principal iwi of the area were Ngāti Ranginui, Ngāi Te Rangī, Ngāti Pukenga, and Waitaha.¹³
17. Marutūahu and Hauraki were not included in that list.
18. This is important because the issue we have is that the redress offered to Hauraki affords them the opportunity to participate and have the same level of influence as those of us identified as holding mana whenua in Tauranga Moana.
19. We have acknowledged on previous occasions, and continue to do so now, the history we have with neighbouring hapu and iwi, including Hauraki.

⁹ See: Wai 2840, #A1, above n 7, at [48]; Wai 2840, #A28, *Fourth Brief of Evidence of Huhana Rolleston* [18 February 2019], at [152] – [154]; and, Wai 2840, #3.1.1, *Memorandum of Counsel* [14 March 2017], at [26].

¹⁰ Wai 2840, #A45, above n 2, at [110].

¹¹ Waitangi Tribunal, *Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims* (Wai 215, August 2004), at 47.

¹² At 199.

¹³ At 47.

20. What we do not acknowledge, or accept, is that their interests are such that warrants redress that, for all intents and purposes, enables them to exercise mana whenua in our rohe.

Tikanga

21. At paragraph 209 of his evidence, Mr Dreaver identifies distinct features that cause him concern in relation to our challenges to the Crown's practices and policies in respect of Hauraki. He says:¹⁴

The recent introduction by some settled iwi of the concept of a 'tikanga' process to resolve disputes over shared interests. While on its face, this may sound difficult to dispute, in the context of the Hauraki iwi negotiations:

209.1 the settled iwi expect, and have received a level of support, engagement and process from Hauraki iwi that they did not follow themselves when they negotiated their own settlements;

209.2 the settled iwi seem to want to determine what is 'tika' in terms of process and what is not; and

209.3 tikanga seems to at times be code for 'the right of settled iwi to determine whether the Crown provides redress at all'.

22. The use of 'tikanga' to resolve disputes between iwi is not a recent introduction. It is, and has always been, the foundation we rely on to inform discussion and seek agreement over various matters.
23. We have always attempted to ensure the presence of tikanga throughout our settlement journey. Huhana Rolleston talks about the recent tikanga-based resolutions reached with Ngāti Paoa in her brief of evidence.¹⁵
24. Another good example of a tikanga-led outcome was our hui with Ngāti Hinerangi in relation to redress in Tauranga Moana. The Crown did not participate in this discussion. Ngāti Hinerangi advised that they did not want redress in our rohe because they acknowledged our mana

¹⁴ Wai 2840, #A45, above n 2, at [209].

¹⁵ Wai 2840, #A28, above n 9, at [89].

whenua and sought only to confirm our strong historical and cultural association.

25. In a context like settlement, we have found there is a tension between the Crown's objectives and timeframes around milestones, and our desire to be led by tikanga. In many ways, we are forced to fit within the confines of the Crown's practices and policies. As we have come to see, they do not necessarily sit side-by-side, but our role as the governing body of our iwi is to uphold our tikanga as much as possible.
26. My understanding of the Crown's overlapping claims policy is that it prefers claimant groups to establish a process whereby interests can be discussed and then determined by agreement.
27. That is the very thing we are trying to achieve, a tikanga-led process, whereby we can meet with Hauraki on a level playing field to resolve the outstanding issues. The Crown has a role to play in that by providing the appropriate space for this to occur.
28. The suggestion that our request for a tikanga process is convoluted in the manner suggested by Mr Dreaver is misconceived and, in fact, a reflection of the continued undermining of our capacity to resolve issues iwi-to-iwi without Crown involvement.

Walter Ngamane (#A47)

29. At paragraph 32, Mr Ngamane says:¹⁶

On 17 August 2017, Mr Tawhiao advised Mr Mair that the 21 August hui would not proceed on the basis the Tauranga Iwi needed more time to talk among themselves on a tikanga process. To use that didn't ring true – **this was the process they had been calling for all year long and had just been participating in.**

30. I have addressed the matter of the tikanga process in previous evidence;¹⁷ however, I think it is important to reiterate again that the tikanga process did not happen.

¹⁶ Wai 2840, #A47, above n 3, at [32] (Emphasis added).

¹⁷ Wai 2840, #A29, *Fourth Brief of Evidence of Charlie Tawhiao* [18 February 2019], at

31. The meetings held between Hauraki and Tauranga Moana were to determine whether a tikanga process could occur, and if so, what the parameters of that process would be.
32. We were unable to reach agreement because the Crown either continued to get involved and set conditions, or signalled it would sign the Deed, which disincentivised the pursuit of tikanga resolutions.

DATED this 29th day of March 2019



Charlie Tawhiao

IN THE WAITANGI TRIBUNAL

**WAI 2840
WAI 2616**

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of the Hauraki Overlapping Claims Inquiry (Wai 2840)

A N D

IN THE MATTER of an application by Charlie Tawhiao on behalf of the Ngāi Te Rangi Settlement Trust for an urgent inquiry into the Crown's settlement negotiations policy and practice concerning Hauraki redress (Wai 2616)

FIFTH BRIEF OF EVIDENCE OF HUHANA ROLLESTON

Dated this 29th day of March 2019

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MAY IT PLEASE THE TRIBUNAL

Introduction

1. My name is Huhana Rolleston.
2. I am the Operations Manager for the Ngāi Te Rangi Settlement Trust.
3. I have read the evidence filed on behalf of the Crown and interested parties for the Hauraki Overlapping Claims Inquiry.
4. I provide this fifth brief of evidence in response to the evidence of:
 - (a) Leah Campbell (#A48);¹ and
 - (b) Lillian Anderson (#A40).²

Leah Campbell (#A48)

Tauranga Moana in the Pare Hauraki Collective Redress Deed

5. At paragraph 193, Ms Campbell says:³

Clause 22 of the Pare Hauraki Collective Redress Deed preserves the ability of Pare Hauraki iwi to participate in the Tauranga Moana Framework (TMF) or any alternate natural resource arrangement for Tauranga Moana that may be negotiated. It is consistent with the September 2014 Crown offer to Pare Hauraki Iwi to participate in the fifth seat of the Tauranga Moana Governance Group (TMGG) (together with any other iwi with recognised interests) per the Crown's commitment to the Tribunal in October 2012 that the TMF "will not prevent Hauraki iwi and the Crown negotiating no less favourable co-governance arrangements with local government **in their areas of customary interests** than provided to TMIC." [emphasis added].

6. The Crown's commitment to the Tribunal in 2012 ("2012 commitment") is the centre of the Crown's justification for its recent decisions around the Tauranga Moana Framework ("TMF"), the fifth seat, and the preservation clause in the Hauraki Collective deed.

¹ Wai 2840, #A48, *Brief of Evidence of Susan Kiri Leah Campbell* [14 March 2019].

² Wai 2840, #A40, *Brief of Evidence of Lillian Marie Anderson* [8 March 2019].

³ Wai 2840, #A48, above n 1, at [193] (Emphasis added).

7. I note that the 2012 commitment was agreed between the Crown and Hauraki. The Tauranga Moana Iwi Collective (“TMIC”) were not a party to that agreement.⁴ In my view, the iwi that make up TMIC will be prejudiced and will suffer the consequences of the Crown’s decision to enter a negotiated agreement if the issues remain unresolved.
8. Issues have arisen where Hauraki seek to permanently occupy the fifth seat on the Tauranga Moana Governance Group (“TMGG”), which could lead to them having influence over the entire Tauranga Moana catchment. We have never accepted that Hauraki have a right to that level of participation and influence, and that goes to the core of our dispute.
9. The consequence of signing Hauraki’s Collective deed with this clause in it means that any tikanga process is compromised because the parameters of the outcome have been pre-determined by the Crown.
10. The way I see it, it is a win-win situation for Hauraki because they retain the right to negotiate “no less favourable co-governance arrangements with local government in their areas of customary interests than provided to TMIC” in any alternative as well. Essentially, Hauraki now have the ability to determine the scope of its participation on the TMF or otherwise, and it appears to be the same level as Ngāi Te Rangi, which is historically and culturally incorrect.

Initialling the Hauraki Collective Deed

11. At paragraph 197, Ms Campbell says:⁵

Since October 2016 I had discussed with other officials that TMIC needed to be informed of the proposed Tauranga Moana drafting in the Pare Hauraki Collective Redress Deed. On 15 December 2016, I had cause to question whether TMIC had in fact been advised. I was advised: “TMIC are aware that we are hoping to initial HC, MC and a couple of individual deeds before Christmas. This is why they are desperate to receive the redress lists. I haven’t shared the working with them around

⁴ Wai 2840, #A40, above n 2, at [84].

⁵ Wai 2840, #A48, above n 1, at [197].

preserving Hauraki interests in the TM, simply told them that this is what we are doing.”

12. Ngāi Te Rangi were not informed nor aware of the proposed drafting in the Hauraki Collective Deed, or the initialling, until we received the Crown’s email on 20 December 2016,⁶ two days prior to the initialling.
13. I have mentioned in previous evidence that we requested updates on Hauraki’s redress for the most part of 2016⁷ because we were aware from 2013 letters that there was redress in the pipeline that we were concerned about and not engaged on.⁸ It is important to highlight that the 2013 letters lacked information to ascertain overlaps, and fell well short of what the Crown would later refer to as a consultation process where it omitted key details and made it difficult for us to assess the implications of the redress being offered.
14. Our opposition to Hauraki receiving TMF redress was well known by the Crown by December 2016, the hard part for us was that we had no idea what the redress was. For the Crown to progress with initialling this redress with only two days’ notice was bad faith by the Crown and it required us to move to a new level of opposition to protect Ngāi Te Rangi mana and rangatiratanga.
15. At paragraph 207, Ms Campbell says:⁹

[T]he proposed redress for Hauraki iwi had been provided to Ngai Te Rangi as they were available – for the first time on 18 October 2013, a second time on 21 October 2013 (as some of the documents in the 18 October email look blank), a third time on 29 September 2016, and a fourth time on 3 February 2017. This was in addition to the summary list provided to Ngai Te Rangi in December 2016.

⁶ Wai 2840, #A3, *Brief of Evidence of Charlie Tawhiao* [14 March 2017], at [17]-[18].

⁷ Wai 2840, #A5(a), *Index and Appendices to Brief of Evidence of Huhana Rolleston* [6 July 2017], Appendix H at 250, 309; and, Wai 2840, #A5(a), *Index and Appendices to Brief of Evidence of Huhana Rolleston* [6 July 2017], Appendix G, at 2.

⁸ Wai 2840, #A5(a), *Index and Appendices to Brief of Evidence of Huhana Rolleston* [6 July 2017], Appendix H, at 1-4, 5-34.

⁹ Wai 2840, #A48, above n 1, at [207].

16. I note that the proposed Hauraki redress provided to us in September 2016 was the same as 2013. It was not updated. We did not believe that the redress had not progressed over that three-year period.
17. When we received the summary list in December 2016, we saw that the redress had progressed. There were two key items of concern:¹⁰
 - (a) The Tauranga Moana Framework drafting which included statements that were completely inaccurate and unjustified; and
 - (b) The MPI protocol and a coastal statutory acknowledgement that encompassed Ngāi Te Rangi heartlands, including Matakana Island and Mauao.
18. I note that we were not engaged in that process and, from our perspective, the Crown was filtering information which created uncertainty and a lack of trust in the Crown.

Work continues to try and progress the Hauraki and Tauranga Moana settlements

19. At paragraph 225, Ms Campbell discusses the Crown's formal response to concerns raised by Ngāi Te Rangi, dated 7 March 2017:¹¹

The letter emphasised that redress is not based on determining who has mana whenua, but on assessing the "historical interests of the settling groups, groups yet to settle, groups with overlapping interests and all other relevant factors including the fiscal and political parameters for achieving Treaty settlement". The letter addressed the Crown's assessment of Hauraki interests in Tauranga Moana and its approach to overlapping claims. The letter advised that the Minister had agreed to allow two to four years for Tauranga Moana iwi and the Hauraki Collective to discuss how the TMF could be enhanced through governance and management arrangements. The Minister had not agreed to link these timeframes to the wider Hauraki overlapping claims timeframes nor agree to defer initialling and signing the Hauraki collective and individual deeds.

¹⁰ Wai 2840, #A3, above n 6, at [19].

¹¹ On 3 March 2017, we raised issues with respect to the overlapping interests and offending redress within the Hauraki Collective deed that impacted on the mana of Ngai Te Rangi.

20. The letter, and this type of response, is a good example of the way in which the Crown failed to adequately provide us with pathways to resolve our issues. Here, and throughout our settlement journey in more recent times, the Crown has focussed on justifying its decisions, rather than genuinely listening to our concerns. It has chosen to overlook or minimise the issues, instead of laying them all out for review and committing to exploring avenues that would protect Ngāi Te Rangi.
21. From our perspective, the Crown's approach was not even-handed and required unreasonable compromise by Ngāi Te Rangi and increased uncertainty and risk to our mana and rangatiratanga.
22. We believe that if the Crown took the time to look at the redress offered to Hauraki in its entirety and understood what we are saying about their ability to exercise rangatiratanga like the iwi of Tauranga Moana, then it would see that our actions and issues are not unreasonable, nor unfounded. It is in this space that we can look to change the discourse to appropriate solutions. This is what we seek.

Minerals Relationship Agreement engagement

23. At paragraph 295, Ms Campbell says:¹²

On 18 June, OTS wrote to the Hauraki Collective, informing them that overlapping groups had raised concerns with the Minerals Relationship Agreement in the deed. Officials acknowledged that not including this agreement in overlapping claims discussions had been an oversight.

24. At no point did the Crown acknowledge this oversight to us. The first notification we received from the Crown regarding this redress item was the Crown's final letter, dated 26 July 2018, outlining the amendments to be made to the signing version of the Collective Deed.¹³ It shows that the Crown was not keeping on top of its own

¹² Wai 2840, #A48, above n 1, at [295].

¹³ Wai 2840, #A28(c), *Appendix C to Brief of Evidence of Huhana Rolleston – 2018 Document Bank* [18 February 2019], at 157-162.

policy by ensuring overlapping claims processes were implemented and followed through.

25. I have further concerns when I read Crown documents that show the Crown has failed on more than one occasion to uphold its overlapping policy standards (an example is **attached** as **Appendix A**):

... [t]he Crown didn't do all the overlapping claims work it needed to, as early as it should have done, and that has certainly made things harder. For example, certain items were added to the deed around the time of initialling, that didn't go through a full overlapping claims process.

Conservation Framework area

26. At paragraph 397, Ms Campbell discusses agreements reached between TMIC and the Hauraki Collective in relation to a **Conservation Management Plan** ("CMP") for the Kaimai Mamaku Conservation Park.¹⁴

27. Further down at paragraph 399, Ms Campbell says:¹⁵

Overlapping claims engagement was not undertaken again in relation to the **conservation framework** area because the redress initially abutted the comparable TMIC redress (Te Kupenga), and because the Hauraki Collective and TMIC had agreed that their conservation framework areas would be abutting.

28. It appears Ms Campbell has confused the CMP and Conservation Framework (known as Te Kupenga) by suggesting that the overlapping claims process run in 2012 for the CMP, somehow covered the Conservation Framework too.

29. To be clear, the CMP and Conservation Framework are not the same. We negotiated the CMP as a distinct item within our bundle of rights under the Conservation Act. It is confined to an area in the north.

30. The Conservation Framework, on the other hand, governs the entire rohe. It is broader and includes engagement processes, functions and

¹⁴Wai 2840, #A48, above n 1, at [397].

¹⁵ At [399].

rights independent of the CMP. In practical terms, it means Hauraki can exercise rights within our rohe.

31. An overlapping claims process was never undertaken for the Conservation Framework.

Lillian Anderson (#A40)

32. At paragraph 109, Ms Anderson refers to a letter from TMIC to the Minister, dated 23 August 2014, accepting the proposal for a fifth seat on the TMGG, including conditions for the acceptance, which were:¹⁶

That the fifth iwi seat will only take effect if the Crown recognises that another iwi has interests in the Tauranga Moana catchment following an overlapping claims process, in which the Tauranga Moana iwi will be entitled to participate. If the fifth iwi seat does take effect, it will only be occupied when the TMGG considers matters relating to the area in which other iwi share interests with the three Tauranga iwi. As set out in your letter dated 31 July 2014, in relation to Hauraki iwi this would be limited to parts of the Katikati and Te Puna blocks, at the north-western end of Tauranga Moana.

33. At paragraph 142, following over two years of discussions in respect of the fifth seat between the Crown, Hauraki and TMIC, Ms Anderson talks about a letter from TMIC, dated 3 November 2016:¹⁷

In an apparent shift from their earlier acceptance in August 2014 of Hauraki participation in the TMGG, TMIC now set out their opposition to the basis on which the Crown agreed Hauraki had sufficient interests to participate in the TMF. The letter stated:

In relation to the Tauranga Moana framework, our position is that iwi representation at a governance level is for iwi who hold and exercise mana moana, that is Ngai Te Rangī, Ngati Ranginui and Ngati Pukenga. We do not accept that any other iwi have interests that warrant a right to a seat on the Tauranga Moana Governance Group.

34. I note the suggestion that there was an unexpected shift in relation to TMIC's acceptance, and then opposition, to the fifth seat.

¹⁶ Wai 2840, #A40, above n 2, at [109].

¹⁷ At [142].

35. Ms Anderson does not correctly contextualise the change in our position. TMIC accepted the fifth seat on the TMF in 2014, it did not confirm the permanent participation of Hauraki in that seat.¹⁸ The seat was conditional, and those conditions were not kept.¹⁹
36. As mentioned throughout Ngāi Te Rangi's evidence, we raised our concerns in relation to the nature and extent of Hauraki's redress in the rohe of Ngāi Te Rangi but were not afforded a process to resolve them.²⁰

DATED this 29th day of March 2019



Huhana Rolleston

¹⁸ Wai 2840, #A5(a), *Index and Appendices to Brief of Evidence of Huhana Rolleston* [6 July 2017], Appendix H, at 44-45.

¹⁹ Wai 2840, #A29, *Brief of Evidence of Charlie Tawhiao* [18 February 2019], at [9]-[23].

²⁰ See for example, Wai 2840, #A28(b), *Appendix B – 2017 Document Bank*, at 9-16.

1 Apr 2019

Ministry of Justice
WELLINGTON

"A"

Hauraki Comms and media appendixes (unsent)

Developed for the signing of the Deed

7 December 2018

Appendix 1: Backpockets

Appendix 2 High profile redress backpockets

Appendix 3: Treaty fact sheet

Appendix 2: Back pockets

Pare Hauraki Collective Redress Deed Backpockets: Overlapping claims information

The following points have been prepared to inform media questions following your decision to sign the Pare Hauraki Collective Redress Deed.

Information about the settlement generally

Information about Tauranga iwi

Issue	Key points
Questions about whether the overlapping claims process was good enough	<ul style="list-style-type: none"> - I'm satisfied that redress in the Hauraki Collective Redress Deed is commensurate with their interests. - To have opposition from some overlapping groups isn't unusual in Treaty settlements. As Minister, I have to make a decision based on what is fair and durable. <p><i>If needed</i></p> <ul style="list-style-type: none"> - The Crown didn't do all the overlapping claims work it needed to, as early as it should have done, and that has certainly made things harder. For example, certain items were added to the deed around the time of the initialling, that didn't go through a full overlapping claims process. - The overlapping claims work is now done to my satisfaction.
Questions about changes made to the initialled deed	<ul style="list-style-type: none"> - I set 4 conditions which Pare Hauraki needed to agree to for the deed to be signed – changes to the boundaries of 3 relationship redress areas and re-wording of the text regarding natural resources redress over Tauranga Moana. - Pare Hauraki had already agreed to change to the boundaries of the fisheries advisory committee and conservation framework areas, but I was asking Pare Hauraki to agree to move the boundaries further and also change the minerals relationship area. - The changes are about responding to feedback we've received as part of the overlapping claims process since the deed was initialled. - These changes are what has allowed me to sign the Deed.
Questions about potential legal challenges	<ul style="list-style-type: none"> - That's always a possibility, and no doubt the Waitangi Tribunal or another court would take seriously any proceedings that are brought forward. - As the Minister for Treaty Negotiations, I need to move forward with settlements where we've reached agreement – but of course I'm mindful of potential litigation and the Crown will engage with that as and when it needs to. - Treaty settlements have often resulted in litigation, sometimes this is inevitable – especially where things are hotly contested like they are here.

<p>Questions as to the reasoning behind intention to sign the Deed</p>	<ul style="list-style-type: none"> - I wrote to Tauranga Moana iwi on 11 April relaying my intention to sign the Pare Hauraki Collective Redress Deed (the Deed). I had come to that decision because: <ul style="list-style-type: none"> o Redress offers to Iwi of Hauraki were made based on the Waitangi Tribunal’s 2004 findings confirming Iwi of Hauraki interests in Tauranga Moana, particularly the Te Puna Katikati blocks; o the redress was the subject of overlapping claims consultation from 2011 onwards and agreements were reached that included Ngāi Te Rangi; and o in fairness to the Hauraki Collective and honouring agreements, the Minister does not consider it reasonable to further delay in the signing of the Deed.
<p>Questions as to whether there was any notice period or consultation</p>	<ul style="list-style-type: none"> - As part of my 11 April letter, I asked Ngāi Te Rangi (and other overlapping iwi), to provide me with any additional information by 25 May, for my consideration before making my decision. This date was twice extended, first from the 2nd of May, and then from the 18th of May. - I considered all responses received carefully, however on balance, I believe signing the Deed is the right way forward.
<p>Questions surrounding Tikanga based resolution process</p>	<ul style="list-style-type: none"> - The interpretation from Ngāi Te Rangi is the Crown is asserting who has mana whenua by not abiding by tikanga processes. - Tikanga based process have always been an option for overlapping claims - the conversations for the 2012-2014 agreements were tikanga based. They did not involve the Crown and were run by iwi coming to agreements between themselves. - The Crown is conscious of the implementation of tikanga, and encourages those conversations between iwi. It is not the Crown's place to be involved with this process or how it operates.
<p>Objections by Tauranga Moana Iwi Collective</p>	<ul style="list-style-type: none"> - All 3 members of the Tauranga Moana Iwi Collective (Ngāti Pūkenga, Ngāti Ranginui and Ngāi Te Rangi) (TMIC) have objections to signing the Deed (see below). - Between 2012 and 2014, TMIC and Iwi of Hauraki agreed in writing certain redress items in the area where their interests overlap.
<p>Objections by Ngāti Ranginui</p>	<ul style="list-style-type: none"> - They have stood by the 2012-2014 agreements but also support a tikanga process. They withdrew support for their Bill due to the proposed redress for the Collective within Tauranga. Their Bill remains stalled.
<p>Objections by Ngāti Pūkenga</p>	<ul style="list-style-type: none"> - Their concerns are based around resource consent on Matakana Island and who must be consulted. However, the Collective have no redress related to that location (<i>publicly stated by HC</i>).

Objections by Ngāi Te Rangi	<ul style="list-style-type: none"> - Extensive efforts have been undertaken to reach resolution between the Hauraki Collective and Ngāi Te Rangi, including the appointment of an independent facilitator. - During that process, all Hauraki redress in the Tauranga area that was not previously agreed was either removed, reduced or agreed to be included in a tikanga-based resolution process. - Ngāi Te Rangi nonetheless maintain they object to all Hauraki redress in their area of interest, an area the Tribunal has confirmed other iwi have interests in.
Questions about Protests by Ngai Te Rangi	<ul style="list-style-type: none"> - Ngāi Te Rangi led a hikoi, on 15 May, in excess of 300 people at Parliament. They were supported by their iwi and supplemented by the supreme Court hearing for Ngāti Whātua Ōrākei regarding overlapping claims. - Kaumatua and MP's spoke to the current situation. - Ngāi Te Rangi held a further protest on 6 June at Athenree forest border, was attended by around 200 people, from multiple iwi, and was covered by media. - The Crown takes these protests very seriously. I understand that the Crown may not have handled the situation well or that they are not happy with the outcome and I respect their right to peacefully protest. <i>[However, it is important that we engage with Ngai Te Rangi in a legitimised process to have these conversations which I believe my officials and I have done.]</i>
Questions about Press release from Ngāi Te Rangi, 05/06/2018 (after appearance on "Marae")	<ul style="list-style-type: none"> - This statement outlined the tikanga process (see above) and alleged lobbyists were pushing the Deed, who had no connection to the Māori culture. Ngāi Te Rangi re-emphasised the point they will continue to fight unless the mana whenua of Ngāi Te Rangi was left intact. - This is not the case, the Deed has been in negotiation for the last 9 years, it is the culmination of hard work by Crown officials and the negotiators of the Collective. This press release was not responded to by officials.
Questions about what happens next for Tauranga iwi	<ul style="list-style-type: none"> - Tauranga iwi have legislation before Parliament to finalise their settlements. Ngati Pukenga has finalised their settlement, but both Ngai Te Rangi and Ngati Ranginui have bills stalled in Parliament as they have withdrawn support for them. - All three of these iwi were reliant on the 2012-2014 agreements to progress their own settlements. This allowed Ngai Te Rangi to sig their deed of settlement in December 2013 and to receive most of their settlement on account. - I hope the new conditions for signing will allow Tauranga Moana Iwi to continue with their own individual settlements.
<u>Tauranga iwi: Paeroa Hospital</u>	
Questions about Paeroa Hospital	<ul style="list-style-type: none"> - The old Paeroa Hospital is a Crown property, held by Land Information New

	<p>Zealand (LINZ) - you'd have to talk to LINZ about how they're looking after that property.</p> <ul style="list-style-type: none"> - It is included redress for three iwi (Tamatara, Hako, Tara Tokonui) in the Collective, to transfer as vacant possession upon settlement.
Questions about Office of Treaty Settlements Bias (Paeroa Hospital)	<p>We have responded to media inquiries regarding this matter.</p> <ul style="list-style-type: none"> - I expect officials to be impartial in their work and I'm confident that they are. If there are accusations of impartiality I would expect my officials to take that seriously.
Questions about Occupiers (Paeroa Hospital)	<ul style="list-style-type: none"> - The hospital had been illegally occupied since 2004. The Crown was aware of this occupation, but did not sanction this. There was an agreement between iwi and the occupiers that they will not have to until a certain date due to personal circumstances. Given events on the land, an eviction notice was issued to all parties on the land. The iwi then gave licenses for some people to remain on the land for a limited time.
Questions about Kaumatua assault (Paeroa Hospital)	<ul style="list-style-type: none"> - During the occupation incident on 15 June, it is purported by Ngai Te Rangi that a Tauranga kaumatua was assaulted by members from the Collective. As yet we have no further information about this incident and nothing has been filed with the police regarding this assault.

Information about other overlapping claims

Issue	Key points
What are the objections by Waikato-Tainui	<ul style="list-style-type: none"> - Waikato-Tainui oppose redress offered to the Hauraki Collective within their raupatu area. - Waikato-Tainui oppose these redress items as they feel the redress undermines their own raupatu redress, and not all Hauraki iwi have an interest in the raupatu area to warrant the redress given. - I advised Waikato Tainui on [date] that: <ul style="list-style-type: none"> o Raupatu rivers redress should be honoured has been agreed to by Waikato-Tainui, Hauraki iwi and the Crown; o the Crown has made final decisions in respect right of refusal redress, and it is not prepared to consider any change; and o conservation redress does not affect the rights and interests of Waikato-Tainui.

<p>What are the objections by Ngātiwai</p>	<ul style="list-style-type: none"> - Ngātiwai have filed an application for urgency with the Waitangi Tribunal opposing primarily the Fisheries Deed over Quota Right of First Refusal area. - Ngātiwai object to the area’s northern extent to Te Arai Point, near Mangawhai, and want it shifted some 30 kilometres south to Takatu Point, adjacent to Kawau Island. - This redress area has been offered to reflect the coastline agreements reached between the iwi under the Maori Fisheries Act 2004.
<p>What are the objections by Ngāti Whātua Ōrākei</p>	<ul style="list-style-type: none"> - Ngāti Whātua Ōrākei oppose the Collectives interests as far as these relate to central Auckland. - Ngāti Whātua Ōrākei settled their claim in 2012 (Ngāti Whātua Ōrākei Claims Settlement Act 2012). - Ngāti Whātua Ōrākei recently had their Supreme Court hearing relating to overlapping claims with the Marutūāhu Collective. The claims were similar to Ngāi Tai Rangī, about the Crown ignoring tikanga in the settlement process.
<p>Objections by Ngāti Porou ki Hauraki</p>	<ul style="list-style-type: none"> - Ngāti Porou ki Hauraki have sought an urgency claim in the Waitangi Tribunal. While there are some elements that are related to the signing of the Deed, we consider this claim to relate to their individual deed of settlement, and will not affect the signing of the Deed.

Appendix 2: High-profile redress back pockets

Pare Hauraki Collective Redress Deed Backpockets: High-profile redress

The following points have been prepared to inform media questions following your announcement of the signing of the Pare Hauraki Collective Redress Deed (the Deed).

High profile redress

Issue	Key points
Te Aroha Tūpuna Maunga	<ul style="list-style-type: none"> - 1000 hectares of Te Aroha maunga, including the summit, will be vested Pare Hauraki Collective Cultural Entity (the Collective Cultural Entity). - The land is currently part of the Kaimai Mamaku Forest Park. It will be re-classified as a local purpose reserve to be managed the Collective Cultural Entity. - A Waitangi Tribunal inquiry into the process for negotiating this redress found that there had been no breach of the Treaty by the Crown. - Appropriate shared redress as significant to all iwi across the region.
Moehau Tūpuna Maunga	<ul style="list-style-type: none"> - 1000 hectares of Moehau maunga will be vested in the Collective Cultural Entity. - This land includes part of the Coromandel Forest Park and part of the Moehau Ecological Area. It will be re-classified as a local purpose reserve to be managed by the Collective Cultural Entity. The site will also be removed from the Hauraki Gulf Marine Park. - Ngā Tihi o Moehau, which is a private Maori land block near the summit of Moehau, is not included in the redress. - The 1000 hectares to be vested, plus an additional 2600 hectares of surrounding public conservation land, will be administered by the Moehau Tupuna Maunga Board. This is a co-governance arrangement between the Iwi of Hauraki and the Department of Conservation.
Tauranga Moana	<ul style="list-style-type: none"> - The Crown has agreed the Iwi of Hauraki have interests in Tauranga Moana and will be able to participate in any governance and management arrangements for Tauranga Moana negotiated between the Crown and relevant iwi. - Iwi of Hauraki and the Crown have agreed that redress in relation to Tauranga Harbour will be addressed as soon as practicable.
Waihou, Piako and Coromandel catchments	<ul style="list-style-type: none"> - The Pare Hauraki Collective Redress Deed of Settlement (the Deed) provides for the establishment of the Waihou, Piako, Coromandel Catchment Authority and a sub-committee for the upper catchments of the Waihou and Piako Rivers. - The Waihou, Piako, Coromandel Catchment Authority will develop a plan for the management of the catchments. The Waihou and Piako sub-committee will develop content for consideration by the Authority. - Waikato Regional Council will provide administration and technical support to the Waihou, Piako, Coromandel Catchment Authority and will receive a \$500,000 contribution towards the cost of supporting Waihou, Piako, Coromandel Catchment Authority in developing its plan. - The Waikato Regional Council may in future incorporate relevant parts of the Authority's plan as part of the regional policy statement. - If the plan is not incorporated then local authorities will be required to

	recognise and provide for the Authority's plan in the context of preparing and reviewing statutory planning documents and in resource consent decision-making.
Mangatangi, Mangatawhiri and Whangamarino catchments	<ul style="list-style-type: none"> - The Deed provides for the establishment of the Upper Mangatangi and Mangatawhiri Catchment Authority to provide co-governance, oversight and direction for the taonga that is the waterways of the Upper Mangatangi Stream and Mangatawhiri River catchments. - Waikato Regional Council will provide administration and technical support to the Upper Mangatangi and Mangatawhiri Catchment Authority and will receive a \$300,000 contribution towards the cost of supporting the Upper Mangatangi and Mangatawhiri Catchment Authority in developing its plan.
<i>Redress included in the Deed: Objections by Ngāi Te Rangi</i>	<ul style="list-style-type: none"> - The Pare Hauraki Collective Redress Deed does not include cultural redress over Tauranga Moana. Agreement on the Tauranga Moana Framework (TMF) has not been able to be reached and the Crown, TMIC and the Collective have agreed to allow further time for further iwi discussions as part of a tikanga-based resolution process. - The redress items in the Pare Hauraki Collective Redress Deed subject to previous agreements now being objected to by Ngāi Te Rangi are: <ul style="list-style-type: none"> o Commercial redress: <ul style="list-style-type: none"> ▪ 4 commercial properties in the Te Puna Katikati area; ▪ 6 right of first refusal properties in the Te Puna Katikati area (27 provided to Tauranga Moana iwi); and ▪ 60% of Athenree Crown Forest Licensed land (the 40% balance provided to Tauranga Moana iwi); o Cultural redress: - Statutory acknowledgement over the Kaimai Mamaku range (also provided to Tauranga Moana iwi).
<i>Fisheries:</i>	<ul style="list-style-type: none"> - Ngāi Te Rangi also oppose the Hauraki Collective fisheries advisory committee and conservation framework areas. These areas do not extend into the Te Puna Katikati blocks but there is a small overlap with the Ngāi Te Rangi area of interest to the north those blocks. - moved to Waiooro stream.
<i>Conservation Area</i>	- unchanged
<i>Mineral Area</i>	- changed to conservation area

Appendix 3: Treaty Fact sheet

Treaty settlements

Treaty settlements are negotiated between the Crown and iwi

Treaty settlements provide redress for prejudice arising from the Crown's actions and omissions in its relationship with the settling iwi. Redress is not full compensation. It is a symbol of the Crown's commitment to a continuing relationship and to provide a foundation for iwi members' futures.

Redress comes in 3 broad categories:

1. Crown apology - an historical account with Crown acknowledgements and an apology;
2. Cultural redress - to recognise the traditional, historical, cultural and spiritual association of the iwi with places and sites owned by the Crown; and
3. Financial and Commercial redress - to recognise the economic loss suffered by the iwi arising from breaches by the Crown of its Treaty obligations.

Finalised settlement redress becomes public when deeds are initialled

The initialling of a deed of settlement signals the end of negotiations. It is an important step in the journey towards settling the historical claims of iwi.

Until deeds are initialled, the iwi and the Crown are still in negotiation. Detail about the settlement is yet to be finalised and is therefore confidential.

The initialled deed of settlement is subject to a vote (ratification) by members of the iwi. If the deed is ratified, the deed will be signed by the Crown and the iwi. The Crown will then introduce legislation to Parliament to give effect to the settlement.

Settlements are published at www.govt.nz/treaty-settlement-documents/

Each individual and collective settlement has a unique page on the website. When deeds are initialled they will be published here alongside a short summary that gives an overview of the redress.

Partnerships with local authorities are often part of redress

Some settlements provide for iwi to have a role in the governance/management of natural resources in partnership with local authorities. This is part of cultural redress and is aimed at giving effect to iwi aspirations over the governance/management of natural resources, balanced with the roles and responsibilities of local authorities.

In many cases, the Minister for Treaty of Waitangi Negotiations will write to local authorities formally advising them of matters of particular importance to the iwi. The Minister may also write letters of introduction to local authorities encouraging them to develop stronger relationships with the iwi.

In some cases iwi may be involved in decisions about public reserve land

Where iwi have strong associations with an area of public reserve land, such as DOC or council park land, then arrangements are sometimes made for local authorities and iwi to work together on decision-making about management of these areas.

Arrangements for reserves can include encumbrances requiring protection of public access, any conservation values, and third-party interests.

Crown-owned land can also be transferred to iwi

Ownership of land is a common priority for iwi and Crown land is often transferred to iwi as part of a settlement. This can include public conservation land being transferred to iwi ownership, normally with the rights and protections of the reserve intact.

Existing rights are protected

Private land is not available for use in settlements. Private land will only be considered if the private land owner offers it for transfer to iwi.

Reserves may have a change in ownership and management after settlement. Any existing third-party rights over Crown-owned land will normally be guaranteed on the same terms as now. Existing public access will normally be preserved.

Hauraki Collective

Iwi of Hauraki negotiations

In 2009, the Hauraki Collective was formed for the purpose of settling cultural and commercial redress where iwi have shared interests.

The 12 Iwi of Hauraki involved in these settlements are:

- Hako
- Ngāi Tai ki Tāmaki
- Ngāti Hei
- Ngāti Maru
- Ngāti Paoa
- Ngāti Porou ki Hauraki
- Ngāti Pūkenga
- Ngāti Rahiri
- Ngāti Tamaterā
- Ngāti Tara Tokanui
- Ngaati Whanaunga
- Te Patukirikiri

The Pare Hauraki Collective Redress Deed of Settlement was initialled by the Minister for Treaty of Waitangi Negotiations and the Hauraki Collective in December 2016.

Each Iwi of Hauraki will receive its own settlement

Iwi of Hauraki also have individual settlements. These settlements provide redress exclusively for those iwi, and settle all their historical Treaty claims.

Ngāti Pūkenga are post settlement individual deed blah blah blha and Ngāi Tai ki Tāmaki have their respective Claims Settlement Bill going through Parliament. The remaining iwi, except for Hako and Ngāti Porou ki Hauraki who are still negotiating, have either initialled or signed their respective deed of settlement.

Redress Area

The Pare Hauraki redress area is the Hauraki and Coromandel Peninsula, as well as overlapping/shared kinship areas with Waikato-Tainui and Te Puna Katikati blocks in the Northern Bay of Plenty.

Many of the redress site provided for in the Collective and individual deeds of settlement are of high public interest.

