



Ngāti Mutunga o Wharekauri Iwi Trust

MANDATE HUI 2013

Whakamaharatanga

27 August 2013

Purpose of Hui

To finalise a mandate from Ngāti Mutunga o
Wharekauri to negotiate:

*Proposed Settlement of the Ngāti Mutunga o
Wharekauri Iwi Historical Claims*

Hui Format

- 1. Historical Claim of Ngāti Mutunga o Wharekauri**
 - a) Ngāti Mutunga o Wharekauri Claim Overview
 - b) Waitangi Tribunal Findings
- 2. Mandate – What is It**
- 3. Ngāti Mutunga o Wharekauri Iwi Trust**
 - a) Mandate to Negotiate
 - b) Ngā Uri
- 4. Establish Mandate Group**
- 5. Next Steps**

1 - Historical Claim of Ngāti Mutunga o Wharekauri

Means claims both registered & unregistered relating to Crown breaches of our Treaty rights

Registered claims are:

Wai #	Claim Title	Claimant
Wai 64	Chatham Island Claims	Maui Solomon & Others
Wai 65	Chatham Island & Fisheries Claims	James Pohio & Others
Wai 54	Nga Iwi o Taranaki Claim	Makere Rangiatea Ralph Love & Others
Wai 181	Kekerione No 1 – Hospital Land Claim	Ngawata Eliza Page & Others
Wai 308	Rekohu Lands & Fisheries Claims	Gary Solomon & Others
Wai 417	Chatham Island Claim	Benjian Solomon & Others
Wai 480	Chatham & Auckland Island Claim	Albert Tuuta & Others

Other Claims

- Further claims may be added in following discussions with individual claimants, Waitangi Tribunal, and the Office of Treaty Settlements

Important Note:

Individual Claims still form part of the Ngāti Mutunga o Wharekauri settlement and must be settled to a Large Natural Grouping (LNG)

Claim Issues (Summarised)

TE WHAANGA LAGOON

The whole lagoon including:

- Water, fresh or otherwise
- Bed
- Fisheries
- Vegetation
- All animal life
- Organic and inorganic material
- Deposited matter
- Ngā Taonga katōa

Claim Issues (Summarised)

ACTS OF PARLIAMENT

- Land taken under the PWA (1908)
- Land designations
- Land alienation under the Local Bodies Act 1974
- Uneconomical Shares Maori Purpose Act 1968
- Leases on Foreshore and Seabed from Consolidated Harbours Act 1950
- Non-recognition of mineral rights in various mineral statutes
- Foreshore & Seabed Act 2004 (and subsequent Marine Coastal Area Act 2011)

Claim Issues (Summarised)

FISHING RIGHTS

- Neglect by allowing non-Maori limited commercial access to fishery by Fisheries Act 1877
- Neglect by allowing unlimited commercial access to fishery by Fisheries Act 1962 that were allowed to mature to a private property right via the Fisheries Act 1983
- 2004 Maori Fisheries Act (TBD)
- No recognition of Ngāti Mutunga rights to internal water ways and bodies
- No birding or sealing rights being allowed to Maori who exercised tino rangatiratanga over these activities until unilaterally extinguished through various conservation focused acts of parliament
- Denial of access to off-shore islands and reefs through various conservation focused acts of parliament

Claim Issues (Summarised)

KEKERIONE NO 62 & TE MAUTURUHIA NO 1 (23 ACRES)

- 75 members on block (likely larger now) – principle claimant Honey Thomas & Ngawhata Page
- Note land offered for private sale by Mitai for £400. But taken under PWA for £334 10S. Then Mitai paid rent on 19 acres of the 23 taken (4 used for hospital)
- Loss = no automatic offering of compulsory lease more appropriate to ToW. A breach of treaty to offer back at full market valuation.
- WT takes a 'special circumstance' view and suggests it be made across to descendants of Honey Thomas and Ngawhata Page to act as trustees for all descendants.

Note!

Internal conflict with this 'special case' and general crown principle of only settling with LNGs. Perhaps NM takes view that it supports what is in effect a contract matter between Mitai descendants and the crown so long as it's dealt with outside the settlement process??

Claim Issues (Summarised)

LAND TENURE

- **Individualised awards by Native Land Court**
 - **Application of the 10 owner rule**
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- An aerial photograph of a coastal area, likely in New Zealand, showing a house on a grassy slope overlooking the water. A small boat is visible in the water. The image is overlaid with a semi-transparent blue filter.

Claim Issues (Summarised)

OTHER MATTERS

- No electoral representation for Ngāti Mutunga until 1922
- The operation of Government policy that has deliberately excluded avenues for Ngāti Mutunga expression of tino rangatiratanga
- Allowing local body policy to deliberately exclude avenues for Ngāti Mutunga expression of tino rangatiratanga
- Allowing the inadequate provision of basic amenities such as sealed roads, street lighting, proper water reticulation, proper sewerage systems, appropriate power generation methods
- Not providing basic and essential services such as appropriate freight and transport services, integrated health care, secondary level schooling
- No provision for Ngāti Mutunga to devise and implement an economic development strategy

Waitangi Tribunal Findings

IN FAVOUR

1. The tenure reform brought about by the Native Land Court was contrary to the Treaty. Ngāti Mutunga o Wharekauri suffered prejudicial effects including:
 - Promoting individualism at the expense of whānau / hapū based tikanga
 - Undermining of economic power as a consequence of individualisation of land
 - Fragmentation of ownership and by definition the cultural fabric of Ngāti Mutunga o Wharekauri society
 - Application of the 10 owner rule creating a class of privileged Ngāti Mutunga at the expense of the broader Iwi society
 - Social division as a result of the implementation of the 10 owner rule
 - Accelerating migration from the island
 - Rendering land in to a 'mosaic of strips' creating: fragmented shares, uneconomic interests, useless partitions, exposure to public works act alienation.

Waitangi Tribunal Findings

IN FAVOUR

2. Continuing crown administration of the island led to the following findings:
 - Wrongful taking of land for public works (see WAI 181 claim – hospital block)
 - Housing provision as a result of the titling system was prejudiced.
3. The Tribunal recommended the Crown fund process to promote the development of a new Maori land law specific to Wharekauri.
4. The Tribunal also recommended that in light of the importance of fishing and the past history of mainland ‘plunder’ that a case may exist for enlarged subsistence marine reserves.

Waitangi Tribunal Findings

FINDINGS AGAINST THE CLAIM

The Tribunal rejected claims associated with the administrative reforms of the 1980s, and previous provision of services, noting that service provision was reasonable when economic realities were taken into account. The act of creating the Enterprise Trust was reasonable response by the Crown to the situation the Island found itself in.

The Tribunal found that the many heritage control issues raised by Ngāti Mutunga o Wharekauri had in fact been resolved through the process of time and ongoing consultation with Iwi and Crown agencies.

2 – Mandate: What is It?

Three Requirements to Enter Negotiations:

1. Large Natural Group
2. Well Founded Claims
3. *Mandate to Negotiate*



Mandate

Mandate is the:

Authority given by claimants to a group of representatives to negotiate a proposed settlement package with the Crown.

Mandate Scope

Mandate Scope is:

- *To negotiate a proposed settlement package only (including post settlement governance entity)*
- *Ngāti Mutunga o Wharekauri vote on whether or not they accept that settlement package (Ratification)*
- *Settlement relates to all Historical Claims of Ngāti Mutunga o Wharekauri*

Large Natural Grouping

- The Crown has a strong preference to settle comprehensively (in one hit so to speak) rather than in a piecemeal or ad-hoc manner.
- Accordingly, it looks to do this with 'large natural groups' rather than individual hapū or whānau.
- Ngāti Mutunga o Wharekauri will be the natural group the Crown will seek to deal with.

3 - Ngāti Mutunga o Wharekauri Iwi Trust

Mandate to Negotiate:

- Established 2004 as Mandated Iwi Organisation for Wharekauri
 - 7.1.1 of the Trust Deed Provides the Iwi Trust:
 - Will make and pursue the settlement of claims on behalf and for the benefit of Ngāti Mutunga o Wharekauri under the provisions of the Treaty of Waitangi Act 1975*

Ngāti Mutunga o Wharekauri Iwi Trust

Why the Iwi Trust?

- The Iwi Trust is well positioned to be the mandated body:
 - Acted as the representative body and authorised voice to deal with Wharekauri iwi issues
 - Well known within Wharekauri Iwi, Aotearoa Whanui and nationally
 - Track record of success
 - Clear efficiency gains from using existing infrastructure and administrative support

Ngāti Mutunga o Wharekauri Iwi Trust

Trustees Position:

- Want to provide leadership for Ngāti Mutunga o Wharekauri Iwi
- Strong message from all Ngāti Mutunga o Wharekauri to settle and move forward
- Trustees are certain they can:
 - Lead & work with an Iwi team (Mandate Group)
 - Attract relevant skill and expertise
 - Attract appropriate resources
 - Leverage strategic relationships
 - Manage the process effectively and efficiently
 - Honour the mandate of the Iwi

Ngāti Mutunga o Wharekauri Iwi Trust

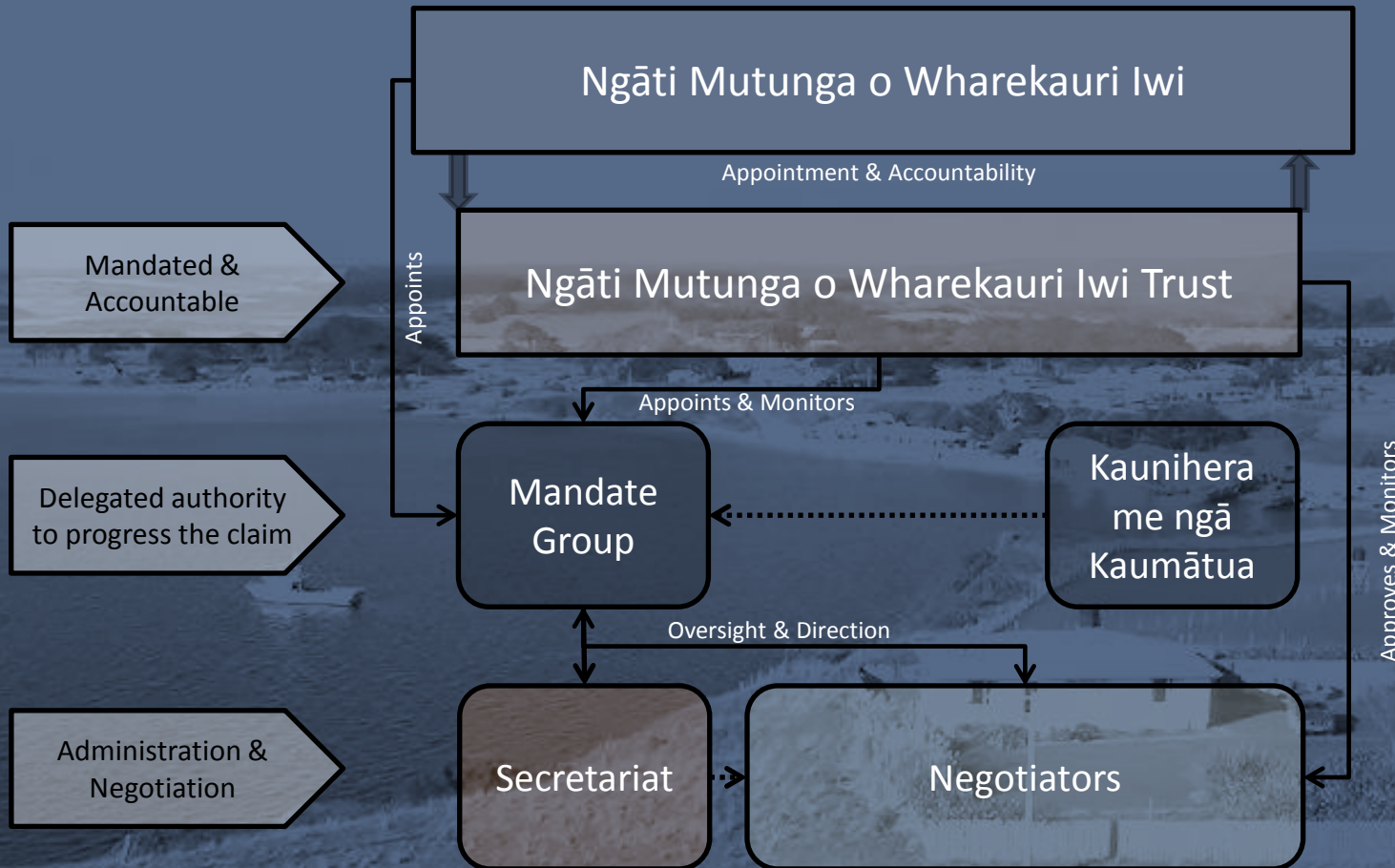
Settlement Vision:

To create a strategic and durable settlement for all Ngāti Mutunga o Wharekauri.

- Ensure that the iwi achieves:
 - A comprehensive and robust settlement of historical Ngāti Mutunga o Wharekauri claims;
 - A settlement within as short a time as possible and consistent with the first objective
 - A settlement that provides appropriate recognition and redress

4 – Mandate Group

Mandate Structure:



Mandate Group

Communication:

- **Trust Meetings**
 - Monthly
- **Reporting to Ngāti Mutunga o Wharekauri**
 - ✓ AGM
 - ✓ Minimum four monthly Hui-a-Iwi to report on issues, including:
 - Deed of Mandate and mandating process
 - Agreement in Principle
 - Proposed Settlement Package (including post settlement governance entity)
 - Other matters of importance
 - ✓ Pānui / Website / E-mail
- **Trustee Decisions by majority, or consensus if possible**
- **Mandate Group**
 - ✓ Responsible for day to day conduct of negotiations
 - ✓ Iwi & Trustees to appoint Group who will operate in accordance with Mandate Charter
- **Negotiators**
 - ✓ Mandate Group to make recommendations to Trustees on appointment of Negotiators
 - ✓ Trustees to make appointment
 - ✓ Negotiators responsible to Trustees under oversight of Mandate Group

Mandate Group

Competencies:

Mandate Group:

- Experience with Claims
- Credibility & Integrity
- Understanding of Ngāti Mutunga history
- Understanding of claim history
- Understanding of the Crown
- Understanding of the settlement process
- Strong relationship & communication skills
- Strategic thinking & critical analysis
- Ability to travel and attend hui
- Ability to think creatively and contribute positively to korero
- Knowledge of Ngāti Mutungatanga

Negotiators:

- Crown negotiating experience
- Track record of success
- Proven negotiation skills
- Strong Wellington networks
- Strong Iwi networks
- Willingness to learn Ngāti Mutungatanga
- “Poker face”
- Preference for majority Ngāti Mutunga o Wharekauri uri to be negotiators
- Ahakoa te aha – at least one negotiator will be a Ngāti Mutunga islander

5 - Next Steps

- **Agree the Ngāti Mutunga o Wharekauri Iwi Trust will progress our claim**
- **Appoint your mandate representatives**
- **Await AGM for resolution to be put to you for vote**
- **Note that the vote will be by postal ballot of all our Iwi**