

Ngāti Mutunga O Wharekauri



Negotiations Update
Initial Crown Offer
May 2017

Agenda



- Components of the Initial Crown Offer (28.4.17)
- Covering Letter (Timetable and Process)
- Schedule 1 (Provisional Acknowledgements)
- Schedule 2 (Cultural Redress)
- Schedule 3 (Financial and Commercial Redress)
- Unresolved Issues
- Unaddressed Issues
- Ngāti Mutunga o Wharekauri Response?

Settlement Aspirations



- Honour our Tipuna (uphold Ngāti Mutunga o Wharekauri mana)
- Provide for our Mokokopuna (a more prosperous and united Chathams community)
- Tell our story truthfully (a more balanced Chathams history)

Covering Letter: Content



Proposed Crown Timetable based on Election Date

- September 2017 General Election
- 15 August 2017 Latest Agreement in Principle (AIP) signing, 15 August 2017
- AIP requires overlapping claims to be resolved
- Officials require notification of iwi agreement to an AIP (including overlapping claims) by 9 June 2017
- Office of Treaty Settlements request a 'formal response' to the initial offer by 16 May 2017
- Unresolved Issues (acknowledged but not identified)
- Unaddressed Issues (not acknowledged – all special factors!)

Covering Letter: Comments



Proposed Crown Timetable based on Election Date is Unachievable

- Resolution of overlapping claims requires information sharing of what has been offered to both iwi
- Mana whenua issue is critical and Crown have sought to deny this issue
- 30 special factors must be addressed prior to the AIP
- Even the 16 May 'formal response' requires hui a iwi that cannot be completed by then
- Issues that have been a problem since 1842 need to be resolved properly. September 2017 is an arbitrary deadline especially as Crown engagement with our big issues to date has been minimal.

Schedule One



Crown Apology Redress

- Tangata Whenua
- The Ten Owner Rule
- Native Land Laws
- Compulsory Acquisition of Uneconomic Interests

These are generic issues with 'boilerplate' language:
superficial and disappointing

Schedule Two



Cultural redress

- Te Whānga
- Customary Fishing
- Joint Planning Committee
- Cultural Sites
- Statutory Acknowledgements
- Relationship Redress with Crown Agencies
- Name Changes
- Auckland Islands

Te Whānga



- As discussed, 50:50 fee simple ownership as tenants in common of the bed of the lagoon (possibly includes air space but not the water itself)
- Wharekauri marginal strips included
- Establishment of a Management Arrangement with Moriori, Ngāti Mutunga o Wharekauri, Council and DoC representation
- Likely to be modelled on a simplified version of arrangements over Te Waihora (no mention Crown funding in the initial offer)

Customary Fishing



- As per discussions, MPI will draft new Customary Fishing Regulations for Wharekauri
- Kaitiaki appointed by PSGEs individually
- All Kaitiaki co-ordinate authorisation ‘policies’
- A Kaitiaki can authorise customary fishing by members of either iwi and residents
- Existing rahui areas to be reviewed, re-assessed and managed under bylaws recommended by PSGEs
- Ministry of Primary Industries Protocol requires integration of this new arrangement with the recreational and commercial regimes to “give better effect to the Crown’s Fisheries Settlement Obligations”

Resource Management Act



- As discussed, Joint Planning Committee to be established comprising 50% Council Representation, 25% Ngāti Mutunga o Wharekauri and 25% Moriori.
- Council has final say but other examples eg. Wellington RC have adopted the Plans drawn up by Committees without change
- No mention of possible Crown funding for Committee structure in the initial offer

Other Cultural Sites

- Wharekauri 106 (unfenced urupa site – not asked for)
- Tikitiki Hill properties (really commercial rather than customary)
- Tikitiki Hill Reserve (not asked for)
- Owenga school site (originally commercial is being claimed by Moriori as customary redress)

The uninvited offer of 106 is probably used by the Crown to ‘justify’ similar offers by a process we have objected to

Statutory Acknowledgements

- Marginal strips
- Conservation areas
- Coastal Statutory acknowledgement

These acknowledgements mean that the PSGE would have to be consulted about management changes considered for these areas. In many cases this should happen any way – but doesn't

Relationship Redress



- Relationship agreements with DoC, MPI, MBIE (Crown Minerals), Culture & Heritage, DIA (Te Papa)

These agreements usually do not go beyond the legal obligations these organisations have to Ngāti Mutunga o Wharekauri but at least summarise what these obligations are.

Name Changes



- Opportunity to submit suggested name changes to the NZ Geographic Board Ngā Pou Taunaha o Aotearoa

Blind Jim's and Mt Chudleigh raised but no agreement over the replacement names. Other suggestions for name changes???

Auckland Islands



- Opportunity to erect a Pou to commemorate Ngāti Mutunga o Wharekauri occupation (subject to discussions with Ngai Tahu)

As discussed. Ngai Tahu ‘discussions’ should not comprise a veto.

Schedule Three

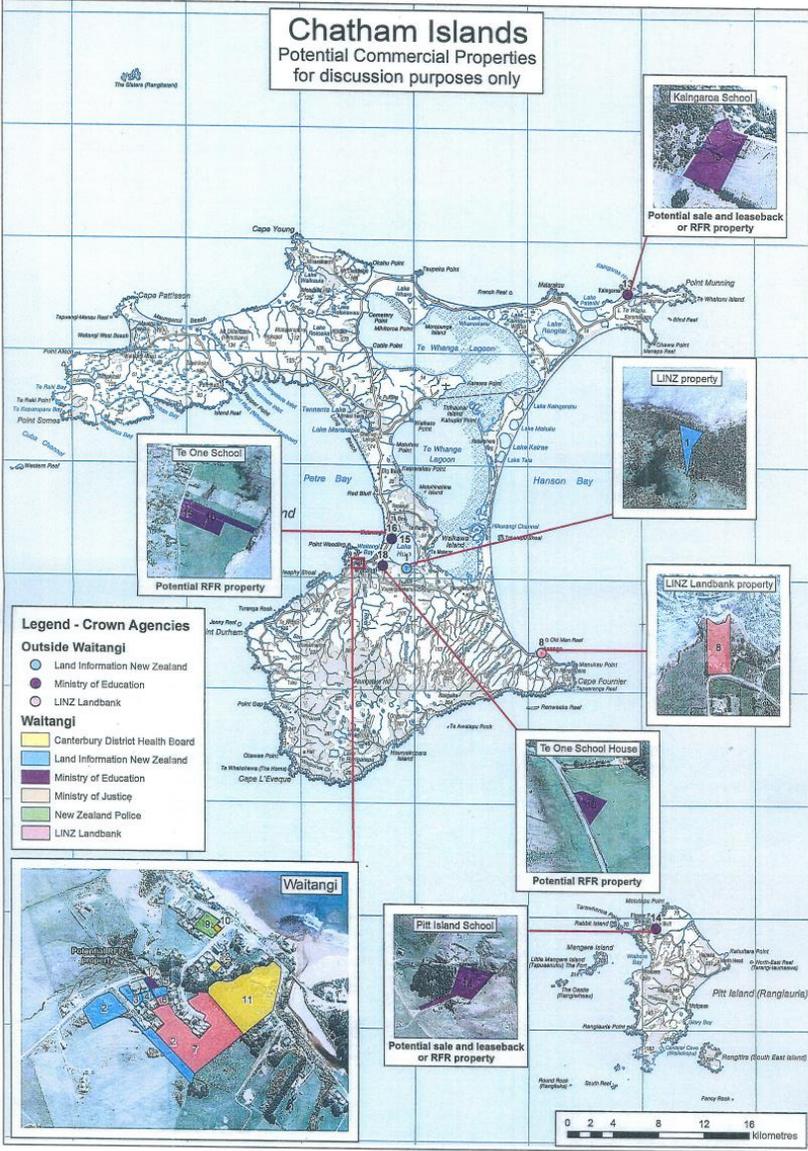


Financial Redress

- \$9 million.

As expected but associated with very limited acknowledgements (Schedule 1). Includes no recognition of annexation, other special factors, cultural revitalisation redress, allowance for the very limited availability of commercial land redress or RFR value on Chatham Islands

Commercial Redress



Schedule Three



Commercial Redress

- Sale of Properties to the Chatham Island Housing Trust should not be counted as Treaty Settlement Redress – it is a community arrangement
- 2 school sites (land only) on Pitt Island and Kaingaroa - low value
- RFR shared with Moriori over other Crown properties currently not surplus to requirements

We await information on the offer back process used on the Hospital Block – probably should be re-run. No formal notice from the Canterbury District Health Board that they wish to retain all other land currently held by them.

Unresolved issues



Mana whenua status

- Recognition of Ngāti Mutunga o Wharekauri mana whenua is a critical settlement factor that was affirmed at the 6 April meeting.
- Crown now seek to downplay this factor.
- The way mana whenua is treated is fundamental to the framework for the possible resolution of overlapping claims
- Ngāti Mutunga o Wharekauri position is that a Treaty Settlement is based upon the text of the Treaty and Crown promises to Maori to secure and guarantee what was 'theirs' as at 1842.

The Crown are trying to avoid both a careful historical analysis of the Article rights secured by the Treaty of Waitangi examination and the application of the 1840 (1842) rule. This approach cannot deliver a settlement consistent with our aspirations.

Unaddressed issues

Mana whenua status

- 30 Special Factors (see Special factors Summary Paper and Special factors Papers 1, 2, 3.)
- Annexation is a huge and unique special factor that places our settlement in a class of its own.
- Raupatu is a very big factor
- Cultural Revitalisation to compensate for Crown policies to destroy, deny, ignore Ngāti Mutunga o Wharekauri identity and cultural fabric.

All of these matters need detailed discussion and negotiation of appropriate redress before any AIP could be drafted. The Crown has shown a marked reluctance to engage on any of these subjects as shown by its initial offer to us.

Response to the Initial Offer



- Ngāti Mutunga o Wharekauri wish to continue development of an AIP with the Crown but a timeline working back from a September 2017 General Election is unachievable
- The next phase of negotiations will require an ‘open book’ approach in order to achieve the resolution of unresolved overlapping claims with Moriori.
- An AIP requires proper negotiations about all of our Special Factors
- Mana whenua is remains a critical factor
- Any counter-offer from Ngāti Mutunga o Wharekauri could only be prepared in the light of comprehensive discussions and negotiations of all outstanding unresolved and unaddressed issues with the Crown

Questions and Comments



- Additional aspirations?
- Additional values to be recognised and protected?
- Additional special factors?