

Ngāti Mutunga o Wharekauri Iwi Trust

Purpose: Hui-ā-iwi

Venue: Commodore Hotel, 449 Memorial Ave, Christchurch

Date: Friday, 26 May 2017

Subject: Initial offer by the Crown to Ngāti Mutunga o Wharekauri

Attendees:

Vanya Daymond, Leo Tuuta, Lathen Johnson, Willie Fraser, Jill Winitana, Moana Winitana, Tia Winitana, Keith Tuuta, Carolyn Morris, Philip Jacobs, Sam Jacobs, India-Rose Aulavemai, Belinda Williamson, Philip Tuuta, Reuben Tuuta, John Wakefield, Maatakiwi Wakefield, Jamie-Lee Tuuta, Berni Aulavemai, Shelly Thomas, Jake Thomas, Ririkau Taute, O'Neill whānau, Raana Tuuta (Kaumātua), Lois Croon (Kaumātua), Tom McClurg (Lead negotiator), Hariroa Daymond (Negotiator), Geoff Mullen (Negotiator), Paula Page (Iwi Trust Co-Chair), John Kamo (Iwi Trust Co-Chair), Steve Tuuta (Iwi Trust trustee), Joseph Thomas Jnr (AHC), Gail Amaru (Iwi Trust GM), Miriama Patuwai (SGG), Tony Tumoana (Negotiations support).

Apologies:

Melodie Eruera-Fraser (Iwi Trust trustee), Monique Croon (Iwi Trust trustee), Mahara Gilsenan (Iwi Trust trustee), Iwiroa Wairua (Iwi Trust trustee), Phil Seymour (SGG Chair).

Hui:

The hui commenced with karakia at 7.45pm. The hui started late due to flight delays to the team travelling from Wellington.

John Kamo introduced the kaupapa for the hui – Initial offer by the Crown. Paula Page mihi to the attendees and to those that had previously undertaken the mahi that sees Ngāti Mutunga o Wharekauri (NMOW) in settlement negotiations with the Crown.

The hui was conducted in a relaxed manner and attendees were encouraged to ask questions or make comments as the presentation progressed.

Attendees were provided with copies of the PowerPoint presentation, the Special Factors papers, Summary of Special Factors, and a copy of the Crown's Initial Offer dated 28 April 2017.

The presentation agenda was:

- Settlement Aspirations
- Components of the Initial Crown Offer 28 April 2017
 - Covering letter content
 - Covering letter comments
- Schedule 1 Crown Apology redress
- Schedule 2 Cultural redress
 - Te Whaanga
 - Customary Fishing
 - Joint Planning Committee
 - Cultural Sites
 - Statutory Acknowledgements
 - Relationship Redress with Crown Agencies
 - Name Changes
 - Auckland Islands
- Schedule 3 Financial and Commercial redress
 - Financial Redress
 - Commercial Redress
- Unresolved Issues
- Unaddressed Issues
- Ngāti Mutunga o Wharekauri response?

Questions and Comments:

Tom McClurg spoke to the PowerPoint presentation on the Initial Offer by the Crown. His general comments included:

- the offer is an attempt to push NMOW into a crude timeframe that meet Crown deadlines pre-election;
- the proposed Agreement in Principle timeframe by the Crown is unrealistic and the negotiators response to the Crown is that it is an unachievable timeframe;
- the Initial Offer didn't address any of Ngāti Mutunga o Wharekauri (NMOW) 30 Special Factors;
- it is unusual for negotiations to address two iwi with 100% overlapping rohe. It creates unusual problems that the Crown hasn't addressed yet;
- the desire of NMOW to move forward in a negotiations environment where significant information is shared between parties;
- NMOW mana whenua remains an outstanding issue with the Crown;
- Schedule 1 acknowledges only a few of the problems the Crown has created on-island;
- Moriori settlement has already had its Special Factors acknowledged by the Crown and it forms part of the redress offered to it by the Crown;
- the establishment of a Management Arrangement with Moriori, NMOW, Chatham Islands Council (CIC), and Department of Conservation (DoC) requires initial funding;
- the development of new customary fishing regulations presents NMOW with a long-term opportunity;
- the offering of Wharekauri 106 raises concerns about what has been offered to Moriori in fee simple title;
- inclusion of Ministries of Education, Health, and Justice to the Relationship Agreements;
- seeking suggestions for replacement names;
- erecting a Pou on the Auckland Islands.

Can we ask questions as the presentation proceeds or would you prefer that the questions and comments were made at the end?

Tom McClurg: I think it's better that questions are asked in relation to the part of the presentation that is being discussed. We can discuss any other issues at the end of the presentation.

Tom McClurg then discussed NMOW settlement aspirations of acknowledging our tupuna and providing for our mokopuna.

Tom McClurg: In respect of NMOW settlement aspirations one of the aspirations for settlement which is in respect to the future of the Island. A successful outcome from the settlement sees a prosperous Chatham Islands community that can move past the decades of division.

What about those whānau living off-island?

Tom McClurg: I think that this aspiration applies to people off-island as well. The fact is that our NMOW identity can only be maintained if there is a community of people on Wharekauri who identify themselves as NMOW. So, if there is not a viable community of people on-island who identify themselves as NMOW in time we will lose that identity over time.

I completely agree and it's about our identity being lost off-island and how the settlement aspirations will deliver for the mokopuna.

Tom McClurg: Yes – the aspirations are to provide for all mokopuna and Wharekauri is the centre of NMOW identity. There is a third aspiration which is in respect of the NMOW history being told in a more balanced way. The settlement is an opportunity to contribute to our story, it is not as a complete history, but rather to the extent that we address history as part of the settlement. We will do this in an honest way and will not shy away from the bad things but we won't exaggerate things either. These are the three core ideas that we use to assess any offer that is made to us and whether it should be agreed to.

Tom McClurg: Regarding the Initial Offer the covering letter is a crude attempt by the Crown to push NMOW into a hasty timeframe to meet Crown pre-election deadlines. The proposed Agreement in Principle timeframe by the Crown is unrealistic and the negotiators response to the Crown is that it is unachievable. The Crown offer acknowledges there are unidentified unresolved issues to be addressed. There are also our Special Factors that have yet to be resolved and addressed by the Crown's offer. One of these is overlapping interests. It is unusual for negotiations to address two iwi with 100% overlapping rohe. This creates unusual problems that the Crown has yet to address.

The overlapping claims matters are a bigger issue than in other settlements. It seems obvious but if you want to resolve overlapping claims then you need to understand what the overlapping claims are. Currently we don't know what Moriori has been offered by the Crown. To address overlapping issues, we need to know what claims overlap and we also require a full understanding of what has been offered by the Crown to Moriori. The resolution of Overlapping claims requires information sharing. The Crown and Moriori are not keen on sharing this information with us. However, our view is that to move forward everyone has to put their cards on the table. This will allow us to resolve the issues and it also explains NMOW approach to sharing the Initial Offer on the Trust's website.

The second unresolved issue is mana whenua. Our position is that NMOW established mana whenua on Wharekauri through conquest in 1835 and has been maintained since then. It was recognised by the 1870 Native Land Court and has never been relinquished.

Are you going for just mana whenua or are you going for mana moana as well?

Tom McClurg: We have really only talked about mana whenua, but mana moana follows it.

I would include both as it is important to have this noted in any dealings with the Crown. I note in your document that refers to customary fishing and the 200-mile zone it is important that NMOW mana moana is noted in this space. It may have an impact on future fisheries dealings. I'd recommend that mana moana is used explicitly.

Tom McClurg: I think that is right. As you are probably aware mana whenua is an inflammatory topic and I don't think any group could claim mana moana without having mana whenua.

You'd be surprised.

It goes from boundary to boundary and it came up with Ngāi Tahu. It part of previous discussions and was agreed with on the previous Mutunga group.

Ki uta ki tai.

We can't afford to have it taken for granted that future Mutunga generations will automatically understand that we have mana moana. So, it is really important that it is noted in documents that we do. Secondly, it is important because at some point in the future the Crown will search for loop holes when it needs to something and we can't afford to expose our future generations to their dubious behaviours because we failed to deal with this. The wording needs to be explicit.

Tom McClurg: I think that's a fair point and I've noted it.

You need to ensure that the wording is in there and that it is not implied. This is to ensure that mana moana is explicitly noted for the mokopuna.

Furthermore, the Crown hasn't acknowledged our Special Factors - we have identified 30 Special Factors and there may be more - and this discussion has yet to commence. If the legitimacy of the Special Factors is acknowledged then that will have an impact on our settlement redress. In contrast Moriori have already argued their Special Factors with the Crown in 2007 as it would have formed part of the previous offer that they received and their discussion point will be that the Crown hasn't given them sufficient weight. So relatively we are in a good negotiations position as we enter Special Factors discussions with the Crown. We also need to consider that we have been waiting 170 years for a settlement so we don't need to be panicked into reaching an agreement with the Crown because it meets their timetable.

Schedule 1 includes acknowledgments from the Crown that are generally feeble. They acknowledge NMOW as tangata whenua - underwhelming. It sets out the 10-owner rule, impact of the Native Land Laws, and the compulsory acquisition of uneconomic lands. The wording used in Schedule 1 is standard template wording. Even the Waitangi Tribunal noted that the impact of the 10-owner rule and the Native Land Laws was unusually severe on NMOW. This requires an acknowledgment that is above the norm.

There is a relationship between the acknowledgments in Schedule 1 and the redress that it offers in Schedules 2 and 3. The redress offered is small but they have acknowledged very little compared to what we consider needs to be acknowledged. When these acknowledgements are added to our 30 Special Factors then there should be a corresponding change to the offer. If this occurs, it will be unavoidable that they will need to go back to Cabinet to re-visit their negotiating scope.

Schedule 2 deals with cultural redress. It starts with the matters that we have been discussing and then becomes more interesting. Regarding Te Whaanga lagoon the Crown has offered 50/50 ownership as tenants-in-common to NMOW and Moriori over the bed of the lagoon. The offer also includes the airspace above the lagoon, the airspace in which the water column sits but not the water itself. Personally, I think it is a good thing not to own water as it is a slightly unruly thing that can take on a life of its own and create damage that we might otherwise end up being liable for. I feel this offer is a very solid foundation of the assertion of control over the lagoon and what happens in it.

It is associated with the establishment of a management arrangement where NMOW and Moriori would have equal rights along with the CIC and DoC will be represented on that management body. This is because they have particular functions and activities that is associated with the management of the lagoon. This is what we have been discussing with the Crown.

What about the marginal strips?

Tom McClurg: When Landcorp sold off Wharekauri Station various areas were set aside as Reserves and Wahi Tapu. Strips between Wharekauri Station and the lagoon were surveyed off and set aside as marginal strips. These were claimed by Moriori to assume 100% ownership. We have opposed exclusive ownership of the marginal strips by the lagoon and the sea. The 20-meter marginal strip between the Waitangi side of Blind Jim's and the Taupeka side of the lagoon has for this purpose been included in the bed of the lagoon

At what point do you define where the 20-meter strip begins and ends. Do waters levels have any impact on these measurements?

Tom McClurg: They are measured in a way that is not effected by water levels. Sometimes when the water is low there will be a gap between the marginal strip and the water. At other times, the water will sit over the marginal strip and into freehold land. Despite changes to water levels the marginal strips will remain. At the point where the road runs close to the lagoon, public access will be retained. So, there is merit in having marginal strips to ensure that public access to the lagoon is maintained. If it helps I can show you a map.

That would be good.

Tom McClurg: Explains the map.

Who is paying for the management?

Tom McClurg: There has been some loose talk by the Crown regarding initial funding but there is nothing in the Initial Offer and we will revisit that point. Essentially the costs of running this programme will fall on NMOW and Moriori. By involving CIC and DoC in the management of the lagoon we can access those sources of funding as well. This is a long-term arrangement where this entity will lead the work on repairing the ecological state of the lagoon. That is like a 100-year project.

Question unintelligible

Tom McClurg: We know. There are other arrangements such as those involving Lake Wairarapa. Once you have an entity it becomes a focus of funding from NGO groups and International entities that want environmental projects carried out. We are not expecting to be able to fund anything that would improve the lagoon but already there is an application to Te Wai Māori Trust by Hokotehi, which should involve NMOW, to take a look at what is required.

There have been numerous difficulties Ngāi Tahu has faced with the management of Te Waihora and having been involved with this work I can assure you that there have been numerous difficulties with gaining and maintaining funding interest in this project. It is very difficult to gain funding for projects like you are talking about.

Can I add a couple of things? In terms of the transfer of fee simple title. The document says that the title with transfer as fee simple as tenants. The question is who does the ownership rest with. The answer is that the ownership will rest with the Crown and we will only be tenants.

Tom McClurg: No – the document says fee-simple ownership as tenants in common.

As tenants in common law in joint share with Moriori – it says nothing about ownership mentioned in there. Again, there is an assumption because if it was ownership they would say that the ownership of the bed of the lagoon would be transferred. This is what they did to Ngāi Tahu with Waihora and here they are saying that it is being transferred as tenants. So, the question of ownership has to be asked who does it rest with and obviously that will be with the Crown.

Tom McClurg: That's wrong.

Well we will beg to differ on that one and I'll move down to the other bit of your paper.

Tom McClurg: Just before you do that you should allow me to answer your question. Fee-simple is the highest form of private property ownership of land in New Zealand and that is what is being offered on the lagoon. The reason why the tenants in common is referred to in the document is that there are two parties to the fee-simple ownership – Moriori and NMOW. What tenants in common refers to in the document is the NMOW and Moriori ownership is indivisible and completely merged over every inch of the lagoon. This is what tenants in common means in this context. It is not Crown ownership in which we have some subsidiary interest, it is fee-simple ownership with two parties. Tenants in common is similar to matrimonial property where the interests of the two are completely indivisible. That what is what that means.

Why does that not state that in the redress in Schedule 2? This is the offer from the Crown and it doesn't state simple ownership.

Tom McClurg: It does.

It says the Crown offers to transfer the fee-simple of the bed of Te Whaanga lagoon as tenants in common as in equal shares.

Tom McClurg: You are focussing on the word tenant instead of considering it in its context of tenants in common.

But it's all one sentence – Te Whaanga as tenants in common with Moriori subject to the following conditions.

Tom McClurg: Tenants in common is a one phrase word. I can get the verification of tenants in common for you if that helps.

That would be appreciated.

Tom McClurg: But what I can assure is that fee-simple ownership is being offered to the two iwi and the two iwi as fee-simple owners will have indivisible 50/50 share of that ownership.

Then why are they calling us tenants – I can't understand why they would say this? But that is fine and I will look forward to receiving your reply.

Tom McClurg: Do you know about tenancy in common?

I get your point - it's a statutory interpretation which can be misconstrued. The language in the offer isn't clear meaning that the statutory interpretation can be read in various ways.

Tom McClurg: Reads from the document. The Crown offers to transfer the fee-simple of the bed of Te Whaanga lagoon as tenants in common in equal shares with Moriori subject to the following conditions.

But your reading it as though it's got commas in it and there are none in it.

Tom McClurg: I'm reading it because I understand what this means.

You understand but later on down the road my interpretation of it is that it can be misconstrued.

Tom McClurg: If you only want to identify the word tenant and ask the question the tenant of whom then that is where you run off the rails.

Exactly.

Tom McClurg: But you have to consider the whole thing including what tenants in common means in context and as a construct.

But there have been other cases like that where the ownership does not lie with the iwi and they are tenants and they are responsible for the management of the waterway itself. This brings me to my third point which is the concern for our family regarding this management arrangement is that the CIC will have the power of veto.

Tom McClurg: No that's not true and I am unsure where you get that from.

Because of the voting structure that is in place and it similar to the Iwi Trust where you have two trustees.

Tom McClurg: No, there is no voting structure in place for this entity, you seemed to have jumped to the Planning Committee which is to do with the RMA and in that case the structure is 50/25/25. That is not the structure for the Te Whaanga management arrangement.

How much power will these guys have, how much power will NMOW have amongst these four, how much weight will be given to NMOW aspirations by this committee?

Tom McClurg: We have 50% say and Moriori will have 50% say. The CIC and DoC are represented on that management committee because of their respective interests and functions in the lagoon. At the moment, it is the CIC that opens the lagoon

How can you have 50/50 and have CIC and DoC on the committee.

Tom McClurg: They are there as representatives, they are not there as owners. NMOW and Moriori are the owners, they are there as representatives because they have interests in the lagoon.

Do they have voting power?

Tom McClurg: No and I am unsure where you got that idea from.

My concern is that they will override the iwi voice – I have seen this happen previously – regardless of the issue. DoC carries a lot of weight.

Tom McClurg: I've seen things like that too but the difference here is that the bed of the lagoon will be owned by the two iwi which as a starting point will see the owners call the tune.

As Jamie Lee referred to previously, the Te Waihora model may not be the best model for us to follow.

Tom McClurg: We agree. We have looked at the Te Waihora model and are dismayed at how costly and cumbersome it is.

Exactly and it works in conjunction with Environment Canterbury (ECan). Where does the regional council on-island sit with this?

Tom McClurg: The CIC is a unitary council meaning it has the functions of a district and regional council, so it is the equivalent of ECan. CIC will get assistance from ECan when it is doing RMA activities but in that sense ECan is on-island as a contractor to CIC.

The key here is getting clarification to the 50/50 fee-simple issues because that clarifies the issues around future management. Demonstration 50/50 ownership will underline who has the power in management of the lagoon.

Tom McClurg: That's right and I have absolutely no doubt under this offer who will be the owner – two iwi equally.

You are aware of the area around Blind Jims[?] – I raised personally [unintelligible] I'm not concerned with ownership so long as the lagoon is being looked after. We can plant trees and it is possible to do this. It is about looking after the health and welfare of the Island.

Tom McClurg: I've seen the work that is going on there and it is really quiet inspiring. There are some relatively easy gains to be made. A lot of people have told us going around that the CIC makes the decisions and they would prefer that the two iwi should make those decisions. Quite a few people say that the lagoon should be allowed to follow its own patterns and it will open to the sea naturally. Some people consider allowing the lagoon to operate that way would lead to a healthier environment. Those types of discussions will be what happens in the early days under the new management arrangement. It means that NMOW will have a significant influence on the lagoon very quickly if this arrangement is put in place which we don't have at the moment. I think it's a 100-year task to bring the lagoon back to a condition that we could consider as acceptable. It will be a massive effort by a lot of people over a long time. But through the settlement we can be placed at the centre of the lagoon's restoration and the planning of it. This is quite a good thing to have extracted from the Crown because in 1940 they denied that the lagoon could be owned as it was an arm of the sea, so this is a significant u-turn by the Crown.

Harioa Daymond: I hear what two attendees are saying about be careful about the conditions surrounding the ownership of the Lagoon. I appreciated what they are saying because we have to be very careful how we word the final negotiation paper with the Crown. I also believe that we need to look at the ownership of Te Whaanga as it has been let loose for too long and nothing has improved in its conditions; and where Crown has owned the lakes they are polluted – now we are being left as iwi to clean up their mess. We need to be careful in the management process and there needs to be some contribution from the Crown. We have asked for this but they have ignored us to date.

Tom McClurg: Our view is that the lagoon is in a degraded state and the responsibility can be laid with the Crown, if NMOW is going to restore it over a long time then the best they can do is to provide some initial funding. That is our approach.

Just going back to CIC and DoC being involved in the process as well as advisory bodies – with the CIC being the CIC and DoC being DoC and the 50/50 ownership model and all of a sudden, these two might conspire. At the end of the day you might own land but if you want to do something then you have to obtain permission. If you want to do something with the lake, you have to gain permission – they are still going to have the final say over the management plan you may want to and we will still have to pay for it. While you might have a grand plan to restore the thing but you are still going to have to pay for it. The Crown is saying we are going to give you your lake back but you are going to pay for it.

Tom McClurg: It is true that as owners we are going to be responsible for raising the money one way or another to restore the lake. What you are saying is not actually true – there are a lot of things that you can do as a land owner that does not require Council permission every time you want to do something. There are certain things that require Council approval and there are other things that do not due to ownership rights. The first thing to secure if you want rights over activities in the lagoon is to secure the ownership of the lagoon and that is the process that we are going through here. It is not true that once you secure the ownership then you can't do things as a right.

I wasn't saying that and I think that you've misconstrued some of things that I have said. If you want to set up certain types of businesses or activities that you may wish to set up but you must follow the guidelines of DoC so that you are preserving the environment. There is a structure to maintain the environment and we will then have to fund and pay for the way it is laid out by DoC, no matter what the restrictions are.

Tom McClurg: Once again that is not actually right. There are some things that we will get to around land that are covered in the DoC estate. Even though the Crown is offering ownership to one or both iwi, it comes with a caveat of reserve status and has to be managed as a reserve. Te Whaanga is not a reserve, it doesn't come to us as a reserve, it comes to us with an uncertain status. It is not right what you are saying that DoC will have control over Te Whaanga.

[unintelligible]

So Taia is going to go back to Moriori – [unintelligible] is part of the settlement that is going back to Moriori?

Tom McClurg: We are trying to find out about the status of Taia. What we have discovered during the course of the settlement is that there are existing Crown offers to the Hokotehi Moriori Trust to transfer fee-simple title over the Glory block on Pitt Island and the Taia block – both about 1200 hectares. We have objected to that happening on the grounds that those are both areas of land in Crown ownership and on the face of it they should be available to Treaty settlements. We have stated we have an interest in both of those areas of land.

As a result of those objections the Crown has dropped the idea of transferring Glory block to Hokotehi. I suspect they will offer bits here and there around it but we don't know what is in the Moriori offer.

I was in DoC when Taia was bought and it was bought for the purpose of using it as the Moriori settlement.

Tom McClurg: It wasn't actually, it was bought by an environmental fund for environment reasons. Moriori put forward an argument that they should be the group that managed it because of their cultural associations to the block through tree carvings and other historical sites. We have objected to that and we have asked DoC to tell us where that process is up to because we consider it should not be transferred to Hokotehi. We have been waiting since February for a response from DoC and in its absence, we have elevated it to the Ombudsman and following up with correspondence. There is an ominous silence so I suspect they are trying to ram through the transfer of Taia prior to the settlement but all I can say is that we are doing our best to find out what is going on so we can protect our rights.

That is what I was told by my boss at DoC and I refused to fence it.

Tom McClurg: There is no question that Hokotehi want to own Taia and the Crown had offered them the ownership of it in the past outside the context of the settlement.

And I couldn't understand why the Māori side of DoC was biased in favour of Moriori.

Tom McClurg: It wasn't the Māori side of DoC or DoC that purchased the block, it was a separate environment fund that provided the funds to buy it.

Back then they got \$25 million through the back door and you wouldn't know where it came from.

Tom McClurg: Having bought it, Taia is currently being managed by DoC and the discussion is between DoC and Hokotehi to transfer the title to Hokotehi. We are objecting to that.

You mentioned that they had a claim on the Glory block – can you elaborate on that.

Tom McClurg: The Glory block, which includes the area that is grazed was made available under lease to Pitt Islanders. Hokotehi have sought the fee-simple ownership of the block and have done this outside of the Treaty claim. The process starts back to 2004 with a Heads-of-Agreement being signed with the Crown in 2007 to transfer the 1200 hectares to Hokotehi. The transfer hasn't happened. We objected to the proposal and they have dropped the idea of transferring the whole amount. As it stands the current arrangement will remain in place including the grazing. The NMOW position is there is nothing wrong with what is happening there at present and just leave it alone.

The second part of the customary redress reflects what we have been talking about up until now. Ministry for Primary Industries (MPI) will draft a new set of customary fishing regulations for Wharekauri. Our current fishing regulations are the same as the South Island. The new regulations will see kaitiaki appointed by the respective PSGEs to co-ordinate policies around authorisations – identifying in what areas fishing would be allowed, rules around these areas that they wish to impose, and kaitiaki would be able to authorise customary fishing by allowing the permission to people to fish as customary fishermen. There are existing rāhui areas around the Island but the boundaries are inaccurate and in many cases, they are located in places are inaccessible for customary fishing. We have sought for them to be reviewed to find out the state of them, what is in them, and following this review a second set of rāhui areas would be re-established and they would be customary fishing areas. Presently they are non-commercial fishing areas. MPI has recognised that if we

had our own customised set of customary fishing regime, its advantages outweigh the current regime. This is an important entry way for us to influence commercial and recreational fishing regimes on-island. The outcome from this is that we would establish a new customary fishing regime and then integrate its operation with commercial and recreational fishing regimes on-island.

In relation to MPI drafting the new customary fishing regulations, is there a provision for NMOW and Moriori to draft their own provisions?

Geoff Mullen: That is exactly what we have got in mind.

We should be very wary of MPI.

Geoff Mullen: Agreed and we will.

Tom McClurg: To be fair in this instance, MPI has been very open and are running with any ideas that the two iwi can agree with.

Geoff Mullen: We also want to include those tikanga values and rāhui recognised in statute so they are enforceable. That is the biggest step that we can take from this process.

What is the purpose of [unintelligible] in relation to the customary fishing – is that when the Minister wants to see it?

Geoff Mullen: No - it's about what's in those areas now and is it more effective of the community if they are shifted elsewhere.

Tom McClurg: This is one area where MPI and the local on-island compliance officer, Jamie, can work together with local divers to assess and survey the health of these areas.

There is also funding available through Otago University - you might want to tap into that one. They are known for doing sea-based surveys and have done them throughout the South Island for iwi.

We surveyed that lagoon when we first started.

Tom McClurg: We are not talking about the lagoon rather we are discussing 13 areas of coastline around Wharekauri and Pitt. MPI have offered to include this in its operational budget in the coming years. This represents a good little win for us. There will be a different regime for Te Whaanga.

Te Whaanga will come under DoC?

Tom McClurg: No - it will come under the management structure 50/50 NMOW and Moriori

So MPI looks after the water space because that is one of the tricks that happened with Te Waihora that Ngāi Tahu owned the bed, DoC owned Patiki, ECan owned the water and air space above it, and no-one wants to own the pollution that has gone into it. But Ngāi Tahu and the community are required to clean it up.

Because you are kaitiaki

Tom McClurg: MPI runs the fishery except the whitebait, eels, and flounder. At present, there is no commercial fishing in Te Whaanga.

Regarding the MPI funding for research or survey work, the critical thing is to ensure that they don't actually control that work because they have a track record of getting things wrong. Is there going to be a mechanism that allows NMOW and Moriori control from Wharekauri to ensure that the correct location and the right people are involved to ensure that the right outcomes. Sometimes these surveys can get out of control with people getting paid but the results not being produced.

Tom McClurg: Yes – we have seen that in the paua fishery. Mark Geytenbeek is driving this along with his off-sider Matt and Jamie, the local fisheries officer, and they will work together with local divers. It is a practical survey that should provide practical results that will identify the appropriate customary fishing areas.

Geoff Mullen: The decision on the customary fishing areas will be made on-island.

Tom McClurg: It is actually one area in the settlement where there is a positive attitude from both iwi to the outcome.

Historically, the CIC has been unsympathetic to iwi needs. Under the RMA, the CIC will be required to get on board with the two iwi. There will be a joint regional planning committee where there will be a 50% CIC representation and 25%/25% split of NMOW and Moriori representation and it will be responsible for drafting the regional plan. The committee will also be required engage on other matters as well. The examples that we have seen from Lake Wairarapa involved seven iwi members being involved in their planning committee. The committee seems to work quite well and while the Council has the right to reject the recommendations of the committee, it tends to adopt whatever the planning committee proposed. If we can get that to happen it would be a radical shift to what currently happens on the Chathams.

That was going to be my question, that will only work, and I don't live down there and haven't been back for ages, so how well do NMOW and Moriori get on with the CIC and how does CIC get on with the two groups. If there isn't a good relationship between the groups then it ends up being a bun fight.

Geoff Mullen: The CIC has a realisation under the RMA and national policy statements that they have an obligation that they have to work with Māori.

It doesn't mean to say that they don't have a red-neck.

They are bound by RMA regulations and the rest of it in Treaty settlements yet they still play [the middle against the sides]?

Matakiwi, it's a very good question and the CIC will have a lot of learning to do and a change in attitude and approach around its engagement.

It's a new dawn isn't it. It's an opportunity for fresh re-engagement between CIC, NMOW, and Moriori. And if everybody enters it with the approach that it is a new dawn and doesn't bring that baggage with them, then it is good.

It's also an opportunity for iwi to awahi them through that process and it will take some strong leadership to make this happen.

Just regarding the submission and the RMA processes, you describe yourself as [unintelligible?] I think that we are quite different to Wairarapa as NMOW and Moriori are quite separate in terms of their identities. One thing when I have had to stand up and represent the Iwi at hui, I always describe us as a joint Treaty partner with the Crown; on the joint committee will we be saying we are joint Treaty partners, plus this other group

over here that is a Treaty partner with 50/50 representation, it actually means that we have only got 25% of this partnership. How do I strengthen my Treaty partnership because I only have 25% in this relationship?

Tom McClurg: The first thing to note is we are a Treaty partner with the Crown not with CIC.

I am talking the Crown but I am talking about processes.

Tom McClurg: I don't think that it is an arithmetic process. The fact is that there are two iwi with overlapping interests on Wharekauri. The RMA is one of those things that people are forced to step back and consider what does the health of the Island as an environmental entity for the sake of the people who live here, require in these sorts of decisions. You have to approach those sorts of things with your values, but despite different histories, when it comes to those sorts of decisions there are common values between NMOW and Moriori which override our differences.

Let's focus on the RMA. In the RMA when you have competing mana whenua and entities the process is to go back to the Māori Land Court (MLC) to identify the entity who holds the mana. That is the process – what will happen if we have competing views in a RMA process, NMOW and Moriori have different histories and values, the process through legislation says that you must go back to the MLC. What will the MLC say who has mana whenua over the Island? Would they probably say us?

Tom McClurg: They would wriggle mightily to avoid making any decisions on mana whenua.

But the process is to go back to the MLC and that's what the legislation says.

Tom McClurg: My personal view is that we have mana whenua over the Island and Moriori do not but I don't think that it is the starting point for this process for the joint committee.

I'm talking about the settlement as a whole and we can talk about the joint committee. What I am saying is that everyone has their values, the law is not black and white, and no one is right or wrong, but my point is when they go back to those records and consider the history, who are they going to say is the holder of mana whenua in terms of the RMA decision making process – because they will go back to those records because they have to?

Tom McClurg: I don't know the answer to that and nobody does really. I think that it would be quite a dangerous thing to go back to the MLC.

The legislation says that and as a decision maker in the RMA I would be required to follow the process. They'd still be required to return to the MLC for a decision.

Tom McClurg: That's right and as you have referred to Courts are a bit of a lottery.

I didn't say that Courts are a bit of a lottery and I don't want anyone to quote me on that [laughs].

Tom McClurg: Well there are grey areas. I don't think that it is a good idea to take the mana whenua question and place it in the hands of the MLC. We should continue to assert it in the settlement process and disagree with anything that contradicts us holding mana whenua. But to put mana whenua in front of an entity like MLC there is something fundamentally wrong with that process.

I'm not sure if there is because the MLC has the records of our land and what has happened to it over time and they hold our whakapapa. Whether people think it is right or wrong, well that's just the way it is and my

concern here is how do we describe ourselves when we have issues like that. The decision makers will have to go back to the MLC – are you aware of all of the histories and are they making it into the negotiations. You can have all the names in the settlement and all of your wishes and dreams...

Tom McClurg: I'm uncertain of the context of this. For us to go the MLC is it in terms of the RMA or are you saying that we should go to the MLC now and put that question in front of them?

I don't know – as a negotiator what would you say as you are leading this.

Tom McClurg: I would say I would go nowhere near the MLC to discuss this issue.

How you looked at the MLC records?

Tom McClurg: Yes, I have looked at the 1870 NLC but I don't think the MLC in 2017 will necessarily give you the crisp answer that the NLC of 1870 provided when it applied the land laws to identify who held mana whenua. This is because we are living in a murkier situation. My view is black and white on the subject and it's we hold mana whenua. I do not trust the MLC to be of the same mind.

I think we have gotten into a trap which was not my point, but I respect your views, I also respect the law [unintelligible]

Tom McClurg: I am still un-clear what you want me to do.

Excuse me, and sorry to interrupt Jaime-Lee, but if we can get back to point 1 – if the three parties realise that we are all wanting the same thing which is a healthy environment for the people that live on the Islands regardless of their customary backgrounds, or if we have a whakapapa link back to the Islands then we all want the same positive thing, then with the greatest respect to everyone in the room, it's time for us to get over ourselves and start working together. NMOW and Moriori can only be effective if they work together. If we fight amongst ourselves then the CIC will just sit there and let it happen and will rule through a divide and conquer strategy. I think that at the end of the day, even though we are coming at it from different perspectives, we all want the same thing which is a sustainable future for the Islands. That is where am I am coming from.

Tom McClurg: I think that is a great perspective to come from. I also don't agree that there are these great conflicts, Jamie-Lee.

I wasn't talking about a conflict, I was talking about a RMA process and terms of how we describe ourselves as a Treaty partner.

Tom McClurg: Even under a RMA process I'm not sure where that would arise because those things are looking at environmental protection matters and health and well-being issues.

We were just trying to highlight a worst possible case scenario and sometimes it does happen. So long as we stay with a positive frame of mind and remain positive about our collective future, and for me particularly for the Island community. I've never lived on-island but this is for my whānau that do, it's about ensuring their futures are bright down there. If it comes to a time when I want to go back then there is something there for us. We want to avoid moving up here and sending our kids to high school. Our kids don't have to stay up here to find work or gain a higher education – you should be able to do that on-island. Presently they can't do that – I know I'm preaching to the choir.

Tom McClurg: I think that the reality it's not just trying to get over ourselves, it's also about 30-40 years of divisive history that has negatively impacted NMOW. There are a lot of things that have happened in this process that has created enormous difficulties and there are a lot of things that can go wrong even when you have a good opportunity. One of our counterparts is Tom Lanauze who is a negotiator for Moriori. While we are negotiators for two separate iwi, Tom and I are closely related and I can sit down to discuss these matters with him and intuitively we have a lot of values in common. I think that is a useful starting point and the art of this is to try and emphasis the things that unite us rather than the things that divide us. I'm never going to back away from our mana whenua status because that is honouring our tūpuna. The practicalities of the process are that if you are always going to be driving into the face of somebody and you are not going to have a very good relationship with them. I think that is the line that we are trying to walk.

You have to remember that when the Rūnanga was set up none of this bullshit existed. The Crown wanted to divide and conquer, so it was the Government stuffed all of this up, not once but twice, and now we have to fix up their mess. The first one was making Te Whaanga lagoon part of the sea because they wanted their hands on it and it's there for DoC. It is nothing to do with being part of the sea and they had to make it part of the sea. So, all of this started from the Government and it's up to us to bring it all back together to the way it originally it was. None of us were split, Moriori, Māori, all of us were always one until the Government divided us. Now they are pushing to close it so they can win. That is who our enemy is and now they are pushing it because they can see that it is the right time to close it so we get absolutely stuff all out of it. It's up to us to tell them to go and get stuffed and take our time to fix it properly.

Tom McClurg: That's our approach in a nutshell.

Steve Tuuta: In respect to Maui – what does he say about us?

Tom McClurg: He still goes around saying the same old crap about us. He says we disrespect them, look down on them, and don't want to work with them. But his views are not the views of Moriori generally.

Steve Tuuta: How do we counter that when it comes to the crunch?

Tom McClurg: We should avoid falling into the trap of making what he says we do true. We shouldn't go around disparaging Moriori but we should show that we are willing to work constructively with other people. We should treat other people with respect even when they have different histories and ideas to our own. We should simply out dignify them.

And no one should...

John Kamo: Kia ora Tom – on that point you are dead right. We are going to carry on doing what we have always done to Moriori, which is awhi them and support them. When we did the statue of old Tommy Solomon who was there at the front? It was our people Ngāti Mutunga. We didn't turn an eye, we were all there. We did the mahi and we are still doing it today.

Tom McClurg: Who was out the back – Raana [laughs]

John Kamo: If we turn around and start doing what they are doing we will lower ourselves and that's not what I'm about. I am not in that frame of mind to lower myself to the people of his tupuna. Why would I do that? We can't change what has happened. We will carry on and continue to awhi them. Hopefully their people that support what they are doing, sorry the people supporting Hokotehi will someday come around and override

what is happening there. What they do is what they do and we can't turn around and go back and fight them the same way we did because I don't believe that is the right step for our people. Kia ora.

Harioa Daymond: I think that it is good that we are hearing what everyone has to say because I don't believe there has been enough of it along the way. We have to be honest with ourselves. We can't say that we are supporting the mana whenua when we are not there supporting and promoting Mutunga. I don't say this to put anybody down but I ask you to look inside and consider how much of your energy you are putting into Mutunga. We are at a stage now where we need everybody to be in there and supporting this kaupapa. There may be things that you don't agree with and we have to accept that but we want the best for our people and we may have to leave some things behind. As I say it is good to hear more comments from people regardless if they are positive or negative because we still need to get them out. We all need to ask ourselves the question what am I contributing to Mutunga. I get embarrassed at home when we have a Mutunga pōwhiri and there is only three or four of us there. Where are the rest – it's not up to me, or to you either, to say to the others you need to come along. If they want to be Mutunga they should be there. It is the same for here, we don't want to come here and tell you what to do – you have to decide as a group how you want to live in this part of the country and how you want to work together. These are the areas that we need to focus on. I have also been listening to comments from members who have read the Special Factors papers as a background to this presentation. There have been a lot of comments in support of the papers and these include things like this is the first time we have heard this part of our history and how thrilled they have been to have it in this form. Some of them don't agree with all of it but the general direction of where it seems to be moving is receiving positive comments and feedback.

Tom McClurg: I think there are examples where we have agreed to work equally with Moriori. When we make that offer we consider that it is an appropriate expression of mana whenua. This expression is not a recognition that Moriori are the same as us and have the same rights but it does, as Johnny says, it comes from a core where because you do have that mana, then you have responsibilities to go with it – manaakitanga, awhitanga as examples, and that is what is our minds when we are entering into these arrangements. It is an expression of our Ngāti Mutungatanga tuturu. It is not a defensive position where we are forced to do it because another group has the same interests that we have. I don't think the Crown understands this, when you are dealing with a negotiator like Fran Wilde, she doesn't really have that cultural perspective and doesn't get some of these issues very well. That is another reason that we need to take the time to work through these issues.

Tom it's all well and good being friends with Moriori but what I don't want to see is Moriori getting an \$8 million marae, a farm, and an 18 million dollar pay out and we get nothing by comparison – I don't want to see that happening.

Tom McClurg: I agree. To explain my view of it the essence of the Moriori claim is about breaches of Article 3 rights which are about their state of subjugation by NMOW at 1842. Their claim is that the Crown didn't move quickly enough to relieve them from this state.

They should write their own bloody history.

Tom McClurg: The point that I made in the 3rd Special Factors paper is that in 1840 there were a lot of Māori being held as slaves throughout New Zealand. They began to be released in the mid-1840s as Christianity took hold through the influence of missionaries amongst the various tribes. If the Crown is going to say that slavery is an issue for Moriori then to be consistent it needs to say that slavery was an issue throughout New Zealand at that time. Even Mutunga can make claims to being subjugated in the Waikato and weren't released until the

mid-1840s. Why are Moriori special in this context – where is our settlement in this context and what about other Māori who also suffered slavery. In our claim, we have some great arguments around our Special Factors, which the Crown has tried to side-line to reach a settlement. My view is that comparatively we are bigger, we are more numerous and we have Article 2 elements to our claim, which are very significant. In saying that though, that is an analysis of the Treaty of Waitangi that is at odds with our story. For 30 years people have been fed this emotional story of how wicked we are and how bad Moriori had it and shouldn't something be done for the poor Moriori.

That is the same as the Government bringing Moriori in to scrub us and I think that it is our time.

Tom McClurg: The problem that they have, and the problem that Eddie Durie had when he wrote the *Rekohu Report*, is that he can't square those recommendations against the Treaty of Waitangi. What we did in 1835 has no impact of the Crown's obligations under the Treaty which came into effect in 1842. Feeling sorry for what happened in 1835 doesn't lead you to any resolution under the Treaty and the Crown does not want to think about that. But we have to stick firmly to the Treaty and 1842 and stick to our guns on mana whenua and see where we get to.

As far as I can tell this sort of stuff is nothing.

Tom McClurg: Other cultural sites have been an issue. We said to the Crown from the very first meeting that we had mana whenua over the entire Island and we had a cultural interest in every square inch of it. It is therefore wrong for the Crown to give away fee-simple interests in land that we have mana whenua over and cultural interests in every square inch of it. You would be creating a new grievance by doing that. That fell on deaf ears. They have since taken on board our views to a certain extent and did offer Moriori a fraction of what they intended to offer originally, which is one of the reasons why Maui is hopping mad about the initial offer.

The cultural sites we have been offered are Area 106. Refers to map. It is a tiny little urupā and we didn't ask for it to be transferred to us. We aren't really certain regarding all of the people who are buried there. There seems to be a mixture of people buried in it including whalers and Moriori.

There seems to be [Unintelligible]

Tom McClurg: The reason why it seems to have been offered to us is that it is a pretext to offer fee-simple title to Moriori - a thing that we have said don't do. We don't know what has been offered to them.

We actually have ownership of that urupā

Tom McClurg: The one that you know of? This is the one that is not far from Wharekauri Station yards. There is a discussion regarding location in reference to the map.

There are properties on Tikitiki hill that they have offered to us. Lists properties.

Is that the one they can't fix because it is full of asbestos?

Tom McClurg: Yes

Is that why they are giving it back to us [laughs]- good old Crown.

Tom McClurg: The two iwi have been offered equal shares in those properties.

So do we have to clean it all up?

Geoff Mullen: Tom and I went up there and they have made a start on it.

What about the old TV station?

Tom McClurg: Interestingly that is not included in the Crown's offer. For any of these lands or properties to be offered they have to be surplus to their requirements. The area above the Tikitiki hill road have cultural values. In our view the reserve should stay as a scenic reserve. We feel that there are some cultural values attached to this land but that it could continue to be appropriately managed by DoC. We have been offered a small amount of redress here but the other Tikitiki properties don't have any significant cultural values.

Do the Special Factors come under the cultural sites?

Tom McClurg: Special Factors can lead to both cultural and commercial redress. In most cases Special Factors are most likely to lead to financial redress and in our case, that is mainly due to hardly any land being available for redress purposes on-island.

Tom McClurg: The post settlement governance entity will be the new NMOW organisation that accepts the settlement redress on behalf of NMOW.

There are various statutory acknowledgements that can be had and these should enhance the relationship that the PSGE will have with the Crown.

Who is the PSGE?

Tom McClurg: The Post Settlement Governance Entity is the NMOW organisation that is established to receive and manage the settlement redress.

Also, we are offered a range of relationship agreements with Crown agencies – they tend to take a lot of work to negotiate - and people have asked that the Ministries of Education, Health, and Justice to be included. The reality of these relationships with any of the Crown agencies is they will only provide the services they are obliged to provide.

We also have the opportunity to submit suggested name changes to the NZ Geographic Board. People have told us that they want new Māori names for Blind Jims and Mt Chudleigh. There haven't been any suggestions to what the replacement names should be and we are open to suggestions.

Has any research been done around the names of those original areas?

Lois Croon: We can't find any Moriori or Māori to come up with a common name for these places.

Tom McClurg: I have noticed on old maps of Wharekauri that every nook and cranny has a Māori name and I am certain that a lot of those names have been lost over time at least in terms of common usage.

I can come up with them [refers to map] – its Waipapa all of them right along there

It's a matter of putting it on your to do list and if anyone can provide us with any further information it would be appreciated.

There are names there

Tom McClurg: we know there are names. It's probably the sort of thing that would be best dealt with at a wānanga, so we can refer to the map and discuss the names that we know relate to the map and that we want officially recognised. This is more than what we do as an iwi, it's about approaching the NZ Geographic Board so that the name can be officially on the record. One of their rules is that they will only accept two different names.

Well they are all full of tūtae. Mt Chudleigh was named after Edward Chudleigh

And he didn't own it, he actually stole it.

And there are numerous names right through there such as Waipapa and Waimahana – there are numerous names.

Tom McClurg: Yes, there are – but according to the NZ Geographic Board you couldn't have a Māori name, a Moriori name, and a Pākeha name for the same site. Whether we can get them to change this because of the nature of the relationships on the Chathams that is something we will need to find out.

We should just use our names.

There is a meaning to Taumaha and the lands there and it reflects an event that has taken place and there is a kōrero attached to that event.

Tom McClurg: I feel a bit ambivalent about this process. It's very controlling and you have to go through a lot of hoops to get anywhere with the process. And there is a lot to do as a negotiator. But if someone came up with fifty names I'd run with it to the NZ Geographic Board and see where we got to with it – I'd be very happy.

Ka aroha e hoa [laughs]

Sounds like you Willy

Tom McClurg: He's just put his hand up big time to help us with this mahi.

Another thing is that we did succeed in getting that area of Auckland Island recognised in the Initial Offer by the Crown. The only thing that we have really asked for is an acknowledgement of NMOW presence. Originally the Crown was saying that it would have to engage with Ngāi Tahu as an overlapping claim, this has since been watered down to subject to discussions with Ngāi Tahu. My perspective is that regardless of what happens in those discussions with Ngāi Tahu we would still want to put a pou up.

That's all tūtae I've already had a row with Maui Solomon over this stuff.

Tom McClurg: At some point there will be some argy bargy with Ngāi Tahu over this matter but the agenda that we are pursuing is about commemorating our presence in the Auckland Islands. It is not about taking anything from Ngāi Tahu that belongs with them.

Question about the amount of redress [unintelligible]

Tom McClurg: The Crown has offered us \$9 million dollars which is feeble but it is also pretty much as expected. The reason I say that is that at the beginning of the process I bumped into Fran Wilde in town and she intimated that we had to reconcile ourselves to a settlement was less than \$10 million dollars. I said to her that I wasn't at all reconciled to that figure. I think that what happens at the start of these processes is that

they go to Cabinet with a figure that is approved. I'm sure this is the budget figure that has been approved. They have blundered by offering most of their budget while considering only a small number of our issues.

Tom I'm going to be honest with you – I think that offer is crap. The Crown has offered \$56 million dollars for sorting out Christchurch Cathedral. So if they can do that for a ramshackle building that should have been knocked down seven years ago, why the hell are they just offering us just \$9 million dollars?

Tom McClurg: I agree.

The thing that really annoys me as NMOW is that following the settlement they are going to expect us to use that \$9 million dollars for everything. I wouldn't get too excited about the right of first refusal because most of the putea will go on those properties if we decide to buy them and they will be at market rates – that lot don't do mates rates.

Tom McClurg: The value of the right of first refusal on the Wharekauri are low because the value of the property is low.

Exactly – and still \$9 million dollars doesn't go a hell of a long way.

\$9 million dollars – can't even get a wharf [general laughter]

Tom McClurg: Yes, and my point is that the value of the right of first refusal is low and the cash offer is higher and the \$56 million dollars still has a Cabinet approval. So what I am saying is that there was a Cabinet approval for \$9-10 million dollars and they have offered that and they haven't got anywhere. So they have to go back to Cabinet for approval if they want to increase the offer – that is the process. It is not a matter of twisting the arm of Fran Wilde.

I'm fully aware of that and I've been through the settlement process with Ngāi Tahu. This is why I am asking about this because 20 years on from the Ngāi Tahu settlement, a lot of the things NMOW is facing and I am trying to highlight the potential pitfalls around things like the right of first refusal. It's an absolute joke and it is usually for land that we don't want or if it is land you want, regardless of whether the prices are low down on-island it will be offered back at market rates.

I am concerned that the \$9 million dollars amounts to very little when considering the broader needs of NMOW. We have immediate needs with our whānau right now off-island as well as on-island such as trying to be supported to gain a good education. I can't see how \$9 million dollars will sustain the broader NMOW whānau when there are so many needs to be met. I can't see how this offer will sustain future NMOW generations. I don't think that this offer truly considers the unique circumstances of NMOW. Whānau having to leave the island to be educated, our generation wanting to network with whānau and the inherent difficulties we face with this. So things like whakapapa is extremely important. While we must have a settlement we also need a structure that recognises all of us and whakapapa regardless of where we reside so that we are a healthy and prosperous iwi that is sustained into the future. This is my whakaaro.

Tom McClurg: I think that everyone here agrees with what you say. The \$9 million dollars is woeful and doesn't address any of our Special Factors which we have raised. There is nothing in the offer like the \$6 million dollars that Moriori received for cultural revitalisation from outside of the settlement. By comparison there are 750 of them and 1800 of us and while our cultural revitalisation needs may be similar they should be driven by per capita needs. The argument that we have about cultural revitalisation goes back to the Special Factors papers which address the fact that from 1900 onwards the Crown pretended there were no Māori on the Chathams.

So, this meant that Wharekauri received no support from the Crown for supporting Māori development programmes that were happening in parallel in New Zealand until 1962-63 when the total government expenditure by the Department of Māori Affairs on Wharekauri was £42. In the Special Factors papers that discuss Health and Education right there is the discussion about cultural revitalisation. So on top of the \$9 million dollars we need to have a decent amount of funding for cultural revitalisation. We also need funding and redress to recognise the other Special Factors that we have suffered through our history. The harm that arises from the fact that we are the only place in New Zealand that was subject to annexation. This is a significant Special Factor. People on Wharekauri still did have land interests in Taranaki and they were subject to raupatu. The Crown hates this idea that we can raise the raupatu argument.

What's that?

Tom McClurg: In 1865, all of the traditional Ngāti Mutunga lands in Taranaki were confiscated on the basis that Ngāti Mutunga were in rebellion against the Crown in the first Taranaki war that started in 1861.

Annexation is based on what in particular – annexation from...?

Tom McClurg: In 1842, the situation was that post-conquest NMOW had sovereignty over the island. We continued to exercise that sovereignty through the 1850s because Archibald Shand, the first Crown official, arrived in 1855 in a role as tax collector. NMOW ignored him if it was fundamentally appropriate to ignore him. The way we lost sovereignty wasn't the process that the rest of New Zealand went through, which was an arrangement under the Treaty of Waitangi, that people can see the exchange or agreement between Māori and the Crown. We never got the chance to consider that transaction of rights and obligations, it was forced upon us, through the stroke of a pen and an adjustment to a map and suddenly we were subject to British rule. The way British rule was exercised through the 19th century was one that was very careless of our welfare and interests. And from 1900 onwards the way in which Crown rule was exercised was to ignore that Māori were even present on Wharekauri. It's only when you get to the 1980s and 1990s that Moriori are rediscovered, which is an apt title in some ways, because it was around about that time that the Crown rediscovered that there were Māori on Wharekauri and started to introduce policies that were Maori on the Chatham Islands and started to introduce policies that were consistent with that knowledge. We have a fantastic history that should be converted into arguments about redress, compensation and cultural revitalisation that we even yet begun to negotiate yet with the Crown.

A question in regard to the terms of \$9 million dollars has any thought been given by the Iwi Trust to how much will be invested given the immediate needs that exist on-island now versus planning for the future?

Tom McClurg: The short answer is no. It's been interesting attending all of the hui that we have held, nobody has talked to us about money or how much money we should receive. This is completely different from Moriori who, as Maui has told me, discussed at hui that they should receive anywhere between \$50-70 million. In contrast, no NMOW people have said to us we should have X amount of dollars. Everyone is very quick to say \$9 million dollars – tell the Crown to jam it. Nobody has yet told us what the right figure is. All I can say is we have some very powerful argument that could move our redress above \$9 million dollars but how far is difficult to say because there is no connection between the two.

I'm not actually looking for a figure, I'm saying that whatever the figure is the Iwi Trust and Negotiators need to keep in mind the need for inter-generational investment and growing the wealth. There is a need for investment and there will be a period when there is minimal return to NMOW beneficiaries and whānau need

to be aware of that. It took Ngāi Tahu ten years to produce a return to its beneficiaries and that was from a \$170 million settlement.

Tom McClurg: We already have those policies in place with the AHC, which has an arrangement with the Iwi Trust where it is running various programmes and in recent years they have started to slowly expand those. As they rollout these programmes we transfer more funds across from the AHC to support these initiatives. There is a balance between the two. One being a ratio of 40% distribution and 60% re-investment. If you get below 50/50 then you struggle because you get below the rates of return on your investments. The skill is to keep expanding the value of your assets because most Iwi have growing populations due to the high fertility rates of the Maori population. So, I am not expecting things to change a lot in that equilibrium but what happens is that you are able to support a lot more programmes like Te Reo and other activities. Our people talk about wanting a marae and those types of things will suddenly come up and the challenge will be not to go overboard on those so that they are not maintainable in to the future.

Tom -I propose that we should settle for stuff that we don't have to invest. Why the hell are we investing our own money and you should go for as much as you can get.

Tom McClurg: Yes – I think the thing about the Chathams is ...

We have got really good arguments supporting what I am saying.

Tom McClurg: It is a settlement that is likely to be dominated by cash, which we will be free to invest however we choose. The reason for this is because the rights of first refusal options on the Chathams are not worth very much at all. You have a small Iwi in Auckland that had a settlement of \$8-10 million but the rights of first refusal options that they had over lands was something like \$56 million. So, for us, there just isn't a lot the Crown can offer to us. The Fisheries Settlement is full and final and there seems to be [unintelligible]

It just seems that it is convenient for the Crown [unintelligible] and that is horse-shit. It should be how we originally had it. It used to be set out for Te Whaanga around what you could take and when you could take it.

Tom McClurg: But that's what the Crown does in Treaty Settlements.

Yeah well stuff the Crown

Tom McClurg: It ties up it up in a big bow and presents it to as some sort of gift that we should be grateful for.

Yeah that's right and once again they shag us up the arse. [Laughter]. That's all we have ever taken from them ever since the Chathams was there. They should give us the relocation money back.

Tom McClurg: I think if you look through the sorts of things we have agreed to, I think you will see that we have been quite free and open with that information. There is no reason why Te Whaanga should be a millstone around our necks. It is a very important thing for the Island in the long-term that it is managed well and...

It's not a hard thing - it's not even an argument

Tom McClurg: At the moment it's ours [Te Whaanga] but at any moment we don't have any say over how the lagoon is managed.

Stuff them. We've open this lake by ourselves with a gumboot.

Tom McClurg: I agree with you. As Negotiators we are recognise that we don't want to take on any more encumbrances that we can't support. The fact is that if you want to say that we have mana whenua then there are responsibilities that come with that reality – either formally or informally. Even if you want to act as an owner it is still expensive to do that. This allows us a much greater level of influence on process over the Island than we have today.

What I remember is that when you bought land you bought it from the boundary to the middle of the lake. To us the [unintelligible] has got no issue at all. As far as I know those landowners still own to the middle of the lake. Because they took it as a conquest they are returning just the lagoon [check]. Stuff them – it's always belonged to us.

Tom McClurg: By and large the land titles do not go into the lake as the marginal strips are surveyed around them.

It was word of mouth back in them days.

Tom McClurg: So the commercial redress outside of the cash will not have us drinking champagne or smoking cigars. There are two school sites and land only on Pitt Island and at Kaingaroa. They are sold by the Ministry of Education to us and the Ministry leases it back and pays a 6% rental. It is still worth having but it is affirming that the Crown doesn't have a lot of land value that it can offer. We are not talking about downtown Auckland or Christchurch. The rights of first refusal that Ngāi Tahu got were really valuable there is nothing remotely like that on-island.

What happens to the farms that were given to the return servicemen?

Tom McClurg: They are privately owned land. The only Crown land is pretty much all of the DoC estate and then there are the odd little bits that are held by Government Departments that were taken under the Public Works Act (PWA) and the Hospital Block is the example of that. Initially they said that the Hospital Block was available as a potential settlement asset that the two iwi could argue over. But when we looked at the file the Block has to be offered back to the successors of the original owner -the person it was bought off originally.

I thought that land was gifted.

Tom McClurg: The Crown said that they went through that process and the successors weren't interested in buying it. When we talk to people that are part of the successors they have no recollection of having received such an offer from the Crown. We have said [to the Crown] tell us exactly what the process was that you ran because there is a chance that you might have to run it again. If the process was run again today there is a very high chance that the successors will say that they will buy that land and it will become unavailable as a settlement asset. They haven't told us, even though we have been asking for months now, what the process that Land Information New Zealand went through to offer land back. My best guess is that the Block will not end up as a settlement asset.

I originally thought that land was gifted back.

Tom McClurg: It was purchased under the PWA circa 1928.

Is there a receipt to prove that they actually purchased it is there?

Tom McClurg: There is. There is a comprehensive report on the history of the Block that is available.

Can you get hold of that receipt for us to view?

Tom McClurg: I've never seen a receipt of the transaction. I've seen a comprehensive report...

The report says there was no receipt and that is also according to the people involved. There is no prove of the transaction.

Tom McClurg: I think that is a difficult thing to prove one way or another.

I thought that it was gifted to the Hospital. It was a [unintelligible] and it was gifted by Mitai.

Tom McClurg: It was purchased, it wasn't gifted.

Alright then find the receipt.

Tom McClurg: he would have the receipt. To my knowledge he never argued that it wasn't sold. The question was – was the land sold under duress under the PWA, which requires that the land be offered back to the successors; or was it sold voluntarily.

Given by the owner.

Tom McClurg: Our understanding is that it was taken under the PWA.

It wasn't taken it was given.

Yes because [unintelligible] the paddock was given to the Hospital for milking purposes.

Do you know if you are saying the bloody truth?

Are you saying that the land was sold?

Tom McClurg: Strictly speaking it was taken by the Government. But when they take it compulsory under the PWA, they pay the owner.

An acorn?

Tom McClurg: No, it is supposed to be at fair market value at the time. The fact is that he didn't sell it willingly, they forced him to sell it.

Paula Page: There is documentation of the transaction.

Where?

Paula Page: It is in the Waitangi Tribunal reports and that [unintelligible]. There was a general discussion involving several speakers talking at once.

Tom McClurg: In terms of the unresolved issues the big ones are really over the relative status of the TOW and where we are hold the line that we have mana whenua and Moriori do not. At a meeting that we had on 6 April 2017, the Crown agreed that NMOW did have mana whenua. They then realised the day after that what this meant and they have since tried to skirt around this matter, that it was a misunderstanding, and they didn't mean to say this. Without a view on mana whenua I don't see how you can carry out any Treaty analysis It is unclear why the Crown would award this to us. The Crown has yet to fully understand the Treaty relationship on-island and who it was with, and what was secured under that Treaty relationship.

Understanding what lands, forests and fisheries are being secured through the Treaty has to be clearly understood before Article Two of the Treaty makes any sense. It doesn't seem that you can side step mana whenua without side stepping things that are fundamental to the heart of the Treaty relationship. We are holding firm to the view that NMOW has mana whenua. That is necessary and is the framework of the Treaty relationship since 1842. It determines what the promises that were made under this relationship and is the benchmark on whether those promises were kept. It is bizarre that here we are in a Treaty settlement negotiation and the Crown doesn't want to talk to us about the treaty relationship that we are engaged in. that is the craziness of the Moriori story which is not based on the Treaty. Michael King's book doesn't mention the Treaty once. It's is a story that is not of the Treaty but it is a story that the Crown wants to give compensation to.

[unintelligible] relationship between the mana whenua and the return of the assets [unintelligible]. It seems odd that the term mana moana isn't referred to [unintelligible]. Mana whenua as it is now is tied down by the RMA and the way it is applied by the Council. It is hard for me to understand how the lake bed is managed especially as it is full of minerals, especially ones that the State want to own.

Tom McClurg: I think the minerals matter is another issue but the fact is that if you own the lake bed then you are in position where you can negotiate over its use. In terms of mana moana I am happy to include this as part of the settlement discussions alongside mana whenua. But it is a mistake to think that mana whenua is nailed down and recognised by the Crown on the Island because it is not.

When I talk about a Māori perspective from a Māori world and relate it to mana moana that is everything above, and that involves the fisheries and all that sort of thing. When it comes to Hine mana it refers to the minerals rights below the surface.

Tom McClurg: I am happy to add all of these concepts to our discussions with the Crown.

The problem again is that it is a concept that we as Māori understand but it is not a concept that Pākehā understand. That is why Ngāi Tahu put mana moana in their settlement legislation. I remember talking to Trevor Howse, who just passed recently and was one of the chief negotiators for the mahinga kai settlement for Ngāi Tahu, was that one of things was to ensure to include mana moana so that it is in law. Once this goes to a third reading it becomes law as a settlement Act and then the Crown has no way of renegeing. If it is not included in the Act then they have every right to renege. You could say that it is implied in the settlement, you can say the same about tino rangatiratanga rights in Article Two but then it got misinterpreted as something else. Make sure it is in there.

Tom McClurg: I think that is a good point and I am going to do that. What we are up against here is that Eddie Durie report, and the last time I checked he was a Māori.

It doesn't matter that he wrote the report... A number of speakers discussed this point.

Tom McClurg: He wrote in the *Rekohu Report* that mana whenua is an unhelpful concept. He tried to attack it as being a 19th century invention and that it was not a Māori concept. He recommended in the *Rekohu Report* that Crown remove all references to the phrase mana whenua in every single statute in New Zealand. He didn't say...

Steve Tuuta: He did it for Rangitane, his own tribe.

Tom McClurg: Mercifully that hasn't happened. It is not accepted that mana whenua is a 19th century invention that can be removed whenever it suits.

I acknowledge that but until we can find a better term otherwise the Crown will improvise and we will be required to accept that understanding. At the end of the day this whole thing is a Pākeha construct. The idea of trust for treaty settlements and to have a mandate that recognise Iwi values, it is just the goalposts being continually shifted and we always have to adjust to the way the game is played.

On that point, for the rest of our time here as NMOW our children and mokopuna, you will have to protect this settlement, you'll have to protect the legislation, you'll have to protect the responsibilities to the Iwi for ever and ever. That is what every other Iwi is doing and you must take notice of what you are doing.

Tom McClurg: I think you need to be clear what you are asking of us as negotiators because at the moment the Crown is refusing to engage with us about mana whenua at all and the dilemma that is going to hit us is that at some point if we get to agreement we might be able to extract a lot more redress out of them but they will say that we don't recognise that you have mana whenua. What do we do then?

Tell them to stick it.

That's the \$200 question.

Tom McClurg: It could be the \$30 million question.

They could still do that to us. They could deal with Moriori and then come back to us and say sorry NMOW but you missed the boat. It doesn't matter whether you consulted or didn't consult, you missed out and they will give us nothing more.

Tom McClurg: The thing is it is not about the size of the offer at that point, it is how important the acknowledgment of our mana whenua is in the settlement is to us. I've always thought that it is a make or break issue but I need to know that everybody else supports this position.

Absolutely.

It needs to be acknowledged adequately and appropriately that ensures our mana is intact. Before you agree to any settlement and they will add it as part of the settlement, as they did for Ngāi Tahu.

Tom McClurg: We've said that mana whenua is a critical settlement factor for us and we have been consistent on this point with the Crown. At the moment we haven't won that point and the Crown hate that idea. As soon as they concede that with us then it has massive implication for what they can offer Moriori under their settlement. So if they can fudge mana whenua they can follow their instincts, which is to give Moriori a larger settlement than perhaps the Treaty might really allow. That is the real, tough, frontline of this negotiation, which is around mana whenua and the crucial recognition of its status or what wording and so on is going to satisfy us and allow us to say that we have been acknowledged in a way that we should be.

I find it is interesting that the Crown would go down that path of not recognising NMOW as mana whenua considering that although Moriori remained on the Islands the so called conquering iwi remained there. Part of the argument between Ngāti Toa and Ngāi Tahu over the northern boundaries was that although Ngāti Toa came down and kicked butt, they never stayed.

Tom McClurg: Yes, that's right and I can tell you that there were similar issues between Waikato and Taranaki so we've been through all of that and it has been covered in our Special Factors papers. But the Crown just say that it is an unhelpful concept, rather than a fundamental necessary concept in our view.

It's a necessary concept for the Crown because it has always a fundamental concept for NMOW.

Tom McClurg: Mana whenua is the key unresolved issue in settlement negotiations. We have 30 unaddressed issues which are in our Special Factors summary paper. I'm not saying that 30 is the definitive number. There are a number of issues in these Special Factors that are unique to us and we are going to push the Crown to settle these. For example the Chathams is the only place where annexation occurred in New Zealand. Therefore we should avoid getting stuck trying to benchmark our settlement against other settlements with a different annexation process. Also, we brought up the raupatu of our Taranaki interests. The people who identified as NMOW in the census weren't counted in the base factors in the Taranaki settlement. My view is that it is clear from the actions of people over time, which accounts for two ship loads of people returning to Taranaki to defend their interests in the Compensation Court in 1869 because they believed that they had land rights there that they wanted to protect and wanted returned to them. The fact that they were appearing before the Compensation Court showed that they were victims of raupatu. I think that is a big factor as well. How this is going to be resolved is anyone's guess but the thing is we need to get the Crown to take the time to work through these things with the care that they deserve. The response we have given to the Crown in our last meeting on-island was their timetable is unachievable to negotiate the resolution of overlapping claims with Moriori. We want proper negotiations about our Special Factors and that mana whenua is critical to us. It is inappropriate to begin discussing a counter offer until those matters are resolved. We are here to take on board any additional aspirations that people have. On-island people have asked for more MOUs with different Government Departments, which we have agreed to follow up. We've taken on board the mana moana point that has been raised here today.

Can't you take on board the MOUs outside of the settlement or do you have to be in negotiations? I would have thought the overarching Treaty relationship would have overridden the need for specific MOUs and the settlement would ensconce this.

Tom McClurg: I do feel that they try to bog you down in detail because you are having to deal with a lot of Government Departments quibbling over details. This a tactic the Crown uses to distract and overwhelm iwi in negotiation teams.

Geoff Mullen: Generally, it's more for their Departments so that they can tick a box. There is no set procedure that comes out of it.

And you can negotiate these details afterwards and it's about developing and maintaining relationships in politics.

Tom McClurg: Mana whenua is one of the crucial things that need to be part of these discussions.

In regard to the Cultural Revitalisation matter, have you also noted that because there is a large number of NMOW that live in New Zealand and that a lot of us don't even know each other, [unintelligible] is my guide when it comes to Chatham Islanders because most of them I don't know or only meet them when I was little. This is an experience that is also shared by my cousins and that has a real big impact on a lot of us – that loss of cultural identity that means we are disenfranchised from our whenua. This has occurred not from choice but from economic needs that forced our parents to move to New Zealand and remain here.

Organise a Chatham island picnic then.

Tom McClurg: That is exactly the sort of thing that we have tried to include in the Special Factors papers and join those dots. So what happened, particularly the 1900 Native Land Court decisions which is when the customary land arrangement formally commenced and saw everything broken down and individualised into small blocks many of which were uneconomic. This is what caused a lot of people to have to pursue a livelihood off-island. This happened to other Iwi where they had to leave customary land to go to the nearest town. But at least there was a still connection and the ability to maintain relationships with whānaunga. When you have to go from Wharekauri to Christchurch unless you are incredibly successful, you are not going to be able to maintain those relationships. NMOW people didn't and effectively it was a whole lot of exiles that happened. There were a lot of breakdowns in traditional relationships that occurred and that is a Special Factor to NMOW. This disconnection was far more harmful than to any other Iwi and this is included in the Special Factors papers. This has a direct connection to the extent of cultural revitalisation support that NMOW requires as a consequence of this.

We are trying really hard up here to connect our whānau, however, and I don't want a reply or anything else because I know what is going on, I'm always getting pushback because we are out here and we are not seen as important as people who live on-island. I'm trying very hard to connect our whakapapa and I'm trying very hard to connect people that have attended tonight for the first time because it is about who we are and where we come from. I'm getting pushback now and I would hope from now on people actually support what we are trying to do because we are focussing on our whānau out here. Before I did that I contacted Statistics New Zealand to get census information. Hardly any NMOW live in Wharekauri, the majority of our iwi live in Te Waipounamu. The majority of our iwi reside here and are not living on-island. I'm fortunate that I whakapapa to Ngāi Tahu and so I live in my tribal rohe, which is very fortunate, but I'm a Tuuta so that is more important. But what I want to put out there is I'm trying really hard and getting massive pushback whether it is directed at me or not I know that I'm getting pushback. If this settlement proceeds we need to make sure that the needs of our people are met and that there is fair representation on the Iwi Trust. We have a single representative from here with the majority being ahi kaa and when they give their views it can always be voted down by ahi kaa. I understand that but we have over 600 NMOW whānau members living in Canterbury alone. We need to consider the same situation for the North Island as we have got many whānau up there too. It is almost 1000 NMOW whānau living off-island. It is so important to keep ahi kaa and the home fires burning but it is just as important to remember everyone else who is out here struggling off their ahi kaa and living in someone else's tribal rohe trying to make good for their whānau through improving education qualifications and getting out there to say they are NMOW. I was blown away last year when I went to the Māori lawyers conference, a Māori law student sat next to me and she was from NMOW. Do you know how proud that made me feel? There was one girl that was studying that was from my iwi.

That never happens.

And you need to embrace that. I think that recognise the incredible things that our whānau are doing off-island and support and embrace them so that all there whānau are prosperous and that they have a connection to the island and that they do want to come down to the island and that they are welcome. That they are not treated as outsiders and recognise the whānau that are living in New Zealand.

Tom McClurg: I think that it is a simple fact that we have a minimum of 1800 NMOW whānau and 300 live on-island. That tells you something has occurred to our iwi in the past. We are all connected by whakapapa and it's even bigger than that because if you want to look into it we are also powerfully connected to Ngāti

Mutungua people who are based in northern Taranaki but who are also equally scattered throughout New Zealand.

I just want to say there are some of us out here and any structure that goes forward to represent NMOW supports us out here. That is all I am saying.

Harioa Daymond: I'd just like to add to that. I think that the PSGE is where we all need to be looking at and making it into something that is going to be responsible to our iwi. I think that we need to start thinking about that now and looking at what are the things that haven't worked in our existing structure and how we will do those things and who are the people that we need to be putting in there.

I'll give you something to start with. A few years ago they came to us and said who do you want to vote for – Christchurch, Wellington? And then said vote for Wellington. Everyone crossed out the options and said they don't want to vote for those options but we ended up voting for Wellington. The Conservation Department stayed here. [unintelligible] went to Hawkes Bay and they split up all the Departments for the Island right through the country. It meant that you couldn't go to a Department for the Island matters in Christchurch. It meant that you couldn't organise anything and it's the Government that did that to us. Most of us have to leave the Island because of the economic situation that we face. It's a simple fact we have to come to school here and we have to work out here to get our families to the Chathams. It maybe [unintelligible] on the Chathams now but you can't live there. I sent a van back the other day – it cost \$3500 to send the van over on the boat – its bloody worth about that.

It's worth twice that now [laughter].

Stuff the Government. It's about time that we shifted the goal posts on them for once.

Tom, what do you want from us now?

Tom McClurg: The purpose of this is to consider what we have been offered and we understand the things that haven't been resolved and the things that we are having a very ugly battle over, in particular the whole mana whenua argument. I want whānau to understand the strategic position we have taken in the negotiations and it is a much more powerful position that we are in than we were in a year ago. We have managed to get an initial offer from the Crown and we still have a whole lot of bullets to fire in terms of our Special Factors and these other arguments that they haven't even started to consider and talk about. I feel that it is a feeble initial offer but there is a considerable upside in it if we can continue to get them to engage. Initially people said \$9 million tell them to go and jam it, whereas I think what we need to do is carry on working through this process. we are in a bit of a marathon here because our settlement is an unusually complex one and I think the Crown came into it thinking that it was small and simple and they would be able to resolve it quickly and cheaply. So I just wanted everyone to be informed and not get frustrated with the amount of time that it was going to be taking as I think that is the nature of the trench warfare that we are in.

I want to say that I appreciated the work being done by the Negotiators on behalf of the Iwi. what I am asking is do you need this meeting to give you some sort of mandate to carry on fighting it? Or are you looking to this meeting to accept the offer or reject the offer? What is it that you want from us.

Tom McClurg: What we are saying is that we are not going to accept the offer.

Cool.

Tom McClurg: I want to know that people agree that we are doing the right thing by doing this and we are not just spitting the dummy. We are saying that we are rejecting the offer because we want to talk about all these other things.

Is there anyone in the room that doesn't agree with that statement? There was a brief general discussion amongst attendees on this point. There was no indication from the floor that any of the attendees agreed that the Crown's initial offer should be accepted.

In regard to the settlement aspirations that you have outlined, respect our tupuna, provide for our mokopuna, and tell our true story, what is it that you are seeking to achieve through this because you can't do this without having an end result.

Tom McClurg: I agree.

We need to know because if we reject \$9 million and they come back with another figure that they have plucked out, where do we get the full story and a truthful answer. [unintelligible] Is not going to support NMOW forever. So we are going to come to an end at some time and we are going to need money pumped into the Island and investments to keep supporting our whānau.

Tom McClurg: The thing that actually comes first is the truthful story of NMOW and that's what I feel that we have not had enough engagement over with the Crown. I want to really get it so that we tell our story in a way that we understand it and so that the Crown starts to get it and understand the special circumstances of the Island as well. Having got them to that point we can go back with a counter offer. I want to keep that option available to us, so that when we counter we have options.

Shouldn't we be honest with ourselves and ask the question what is it going to cost us to do these aspirations. We need to have the return that sees us not falling behind but building a future for our iwi.

Tom McClurg: The truth is that we are doing that but at a very modest and slow rate. I've been on the AHC since 2010 and when I came in we were earning just over \$1 million a year and now we are earning just over \$1.9 million a year. The funding to the Trust has gone up over that period although not quite so proportionately, but we don't have debt. We are clawing our way forward very slowly but it is not enough to run and grow the sorts of programmes that you would like to give NMOW whānau wherever they live.

What I am saying is that we are only going to have one go at this and if we don't get it right then in ten years' time we'll have to go back there.

Tom McClurg: Yes - I agree.

So we need to make sure that we are prepared before they come to us.

Tom McClurg: We also have to realise that we are in a Treaty negotiation, so the money that we get has to be linked back to some bad behaviour by the Crown. It is not simply an aspirational thing to say that this is what we need on-island. I look at all of the investment opportunities on-island and I want \$100 million.

It's not greed. I'm talking about the Special Factors and we need to be compensated properly and fairly for those things. I'm not concerned about the end dollar figure but I am saying that we have the right to be right rather than being half rights.

Tom McClurg: The thing is that we are just going to have to come back and have more meetings like this one so that people know whether or not we are getting it right. At some point we will come back and say we have got them to concede these things that the Crown has done which have negatively impacted Wharekauri and were harmful to us. On the basis of this we consider that we should now go for this level of redress and ask the question – is everyone comfortable with that? This is really the way a lot of negotiations occur. A lot of negotiations occur where the negotiators go away and strike a deal and then come back and tell the iwi what is on the table. We are not working that way. I am going to come back to every step of the way and consult with whānau and ask the question are we on the right track. And you can tell us – yes or no. We will eventually reach the point where we can say that we are all unhappy or that we can live with what is on offer.

What are our 30 Special Factors?

Tom McClurg: They are all listed in the Special Factors papers.

John Kamo: Whānau there are papers here and they are available to you to take away and read if you haven't already done so.

Tom McClurg: There is information available here and I encourage you to read this material. There is also the PowerPoint presentation available that sets out the detail of the Crown's initial offer. There are the three Special Factors papers telling our story in the context of Treaty grievances. From those papers we have distilled 30 Special Factors which is captured in a Summary paper. The information is also available on the website.

So regarding the Special Factors, the more thorough that you have researched these factors it will form the basis of our argument with the Crown and it should impact the end result. I see that \$9 million as an expression of interest on the Crown's part to negotiate with us.

Tom McClurg: It's a beginning and when you look at the Special Factors papers you will see that they are carefully written, there is nothing in there which I think anyone could claim to have been pulled out of the air, its carefully referenced, and below it there is a substantial amount of other research such as papers, Government reports, books, and so forth.

So it is evenly spaced.

Tom McClurg: Totally.

Gail Amaru concluded the hui with general comments. The hui finished with karakia at 10.35pm.