

Ngāti Mutunga o Wharekauri Iwi Trust

Purpose: Hui-ā-iwi

Venue: Novotel Auckland Airport, Auckland

Date: Saturday, 27 May 2017

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

Attendees

Raynol Kamo, Mike Dreaver, Reriti Tau, Ward Kamo, Tish Siaosi, Maryann Absolum, Melissa Absolum, Te Wetini Amaru-Tibble, Hana Kamo, Tom McClurg (Lead negotiator), Hariroa Daymond (Negotiator), Geoff Mullen (Negotiator), Paula Page (Iwi Trust Co-Chair), John Kamo (Iwi Trust Co-Chair), Raana Tuuta (Kaumātua), Lois Croon (Kaumātua), Gail Amaru (Iwi Trust GM), Tony Tumoana (Negotiations support).

Apologies:

Monique Croon (Iwi Trust trustee), Melodie Eruera-Fraser (Iwi Trust trustee), Mahara Gilsenan (Iwi Trust trustee), Steve Tuuta (Iwi Trust trustee), Iwiroa Wairua (Iwi Trust trustee), Phil Seymour (SGG Chair), Natalie Absolum, Te Amo Siaosi, Sina Siaosi, James Whaitiri.

Hui:

The hui commenced at 2.30pm with karakia by Ward Kamo. This was followed an introduction on the kaupapa for the hui.

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

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

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:

- three negotiations pou for Ngāti Mutunga o Wharekauri (NMOW):
 - honour our tupuna and uphold NMOW mana,
 - provide for the mokopuna and look to provide a future amongst a Chatham Island's community that is united and prosperous, and
 - tell the story of NMOW truthfully.
- the proposed Agreement in Principle timeframe by the Crown is unrealistic as it hasn't addressed any of NMOW 30 Special Factors in its Initial Offer;
- the desire of NMOW to move forward in a negotiations environment where significant information is shared between parties;
- the appropriate resolution of overlapping claims with Moriori;
- the appropriate resolution of NMOW Special Factors;
- NMOW mana whenua remains an outstanding issue with the Crown;
- the lack of resonance of the Crown's acknowledgements with NMOW historical grievances;
- Moriori settlement has previously had its Special Factors acknowledged by the Crown and it forms part of the redress offered to it by the Crown;
- Schedule 1 acknowledges only a few of the many problems the Crown has created on-island;
- Schedule 2 provides Cultural redress:
 - degraded condition of Te Whaanga;
 - management of the opening of the Te Whaanga;
 - Ministry for Primary Industries drafting customary fishing regulations for Wharekauri presents NMOW with a long-term opportunity;
 - Kaitiaki management of customary fishing; and
 - the establishment of a management arrangement of Te Whaanga with Moriori, NMOW, Chatham Islands Council, and Department of Conservation (DoC) requires initial funding.
- unresolved issue of mana whenua/mana moana status of NMOW with the Crown – outcome of April hui with the Crown where they recognised NMOW mana whenua;
- willing to work with Moriori on 50/50 basis is an expression of NMOW mana whenua:
 - context of mana whenua in relation to DoC estate;
 - problematic for the Crown to return land as part of a Treaty settlement in which another iwi has an interest;

- provided Moriori with details of how this scheme would work - haven't received a response from them;
- offered Wharekauri 106, which raises concerns about what has been offered to Moriori in fee simple title; and
- likely Moriori will be offered small and discreet parcels of land that doesn't include marginal strips around Te Whaanga or along the coast.
- Statutory Acknowledgments relating to marginal strips, conservation areas and coastal statutory acknowledgement and the relationship to NMOW post settlement governance entity;
- NMOW offered relationship agreements with DoC, Ministry of Culture and Heritage, and Department of Internal Affairs. Feedback in the current hui round asks that Ministries of Education, Health, and Justice be added to this list;
- Relationship agreements and Statutory Acknowledgments are time consuming for modest benefit and seem to be a tactic applied by Crown to overwhelm and detract Iwi attention from the important stuff;
- seeking suggestions for name changes to certain areas. While there have been suggestions regarding what name changes should occur, people have yet to make any suggestions. Attendees invited to make suggestions;
- erecting a Pou on the Auckland Islands acknowledging NMOW presence there 1842-1851;
- Schedule 3 provides Financial redress of \$9 million;
- NMOW Special Factors break the benchmarking applied to other settlements;
- impact of annexation on NMOW;
- impact of Taranaki raupatu on NMOW;
- Schedule 1 is feeble and based on our Special Factors there is a need to reassess the redress offer;
- rights of first refusal options for Iwi on the Chathams are low. Shared school sites with Moriori;
- throughout the NMOW hui there has been universal rejection of \$9 million offered but no one has said what the level of financial redress for NMOW should be. This is positive because it allows the Negotiators to continue discussions on the NMOW Special Factors that the Crown has yet to discuss;
- the Hospital Block – the offer back process has not yet been followed correctly by the Crown and the implications for the potential successors of Mitai Tini;
- the way mana whenua is treated is critical to the resolution of overlapping claims with Moriori;
- the connection between Moriori claims and the Treaty of Waitangi is highly problematic. Moriori Article 3 rights existed at 1842 in relation to slavery but had few Article 2 rights at 1842. Slavery existed was endured by iwi throughout New Zealand at this time. Any recompense for this would have a flow on effect for other iwi;
- 30 Special Factors remain unaddressed by the Crown in negotiations;
- the Special Factors outline why NMOW isn't as culturally proficient as other iwi;
- the Special Factors set out why the Government should support NMOW to roll out programmes to increase its cultural capacity;
- our response is to not accept the Crown's initial offer:
 - establish a Special Factors work programme with officials to address these issue;
 - next phase of negotiations requires a cards-on-the-table approach between ourselves and Moriori to resolve Special Factors;
 - Moriori offer kept at Negotiators level and have yet to engage with their people on these matters;
 - by comparison NMOW is openly sharing the negotiations information with whānau;
 - creates issues for the resolution of an informed overlapping claims process; and
 - NMOW will not be in a position to make a counter offer until the Special Factors are satisfactorily resolved and the mana whenua issue is addressed.

Geoff Mullen: In relation to DoC, we need to extend that a bit in terms of DoC's involvement in projects and the way in manages the estate on-island, we do want to have input into how it is managed and how we do joint projects at a direct level so that their management plans reflect our desires as well. We have a number of projects that we have done privately by the organisation that we think would be better supported from DoC.

Will we accept that Moriori will be offered small and discreet parcels of land excluding marginal strips?

Tom McClurg: We have said to the Crown in our detailed offer that we could accept small and discrete sites that weren't marginal strips but it would be on the basis that these matters were discussed in advance with an agreement between the two Iwi. However, the process is that it has to come from an agreement between the two Iwi to proceed on this basis. It doesn't come from the Crown offering Crown land directly to Moriori on the basis of some judgement. We've said that we can live with exclusivity over small sites if it is a thing that we consider to be proper but you have to talk to us about this matter. They haven't done that yet. There are some other customary redress sites around Tikitiki hill, which is located just above the Port. There are three house sites on that land currently owned by DoC – the old Resident Commissioner's house that is in poor condition including a high level of asbestos present in it; a house currently used and occupied by DoC, and a school house that is associated with Te One school. The land under those properties and adjacent DoC park areas have been offered as cultural redress. We are not actually aware that there are major cultural associations with that land. It is our view that it better fits within the commercial redress category better. At the crest of the Tikitiki hill, where there is a short walkway and lookout over the Port, our view is that it should stay as a scenic reserve that is managed by DoC. It is interesting that we are being offered things that we haven't sought as cultural redress. There is a modest amount of value in the Tikitiki land rents back from DoC and the Ministry of Education. There is one other school site that was on the Commercial redress schedule, the Owenga School site that is being claimed by Moriori as customary redress. We have indicated that we have an interest in that site. The Crown seems to have backed-off on some things that was going to be a major problem for us but I am confident that they have left us with a middle size problem that could still be fatal, which is disappointing.

Geoff Mullen: In respect to the Statutory Acknowledgements these don't apply to the DoC estate fee simple. Once an area goes fee simple we will not have any Statutory Acknowledgements in there.

Tom McClurg: Statutory Acknowledgements do not normally go further than what the standard legal requirements are for the Crown. It is a compact way to remind everyone what the legal requirements are.

I appreciate the presentation you have made to us today. What I failed to clear with you all before we started is the attendance of my brother-in-law Mike Dreaver at this hui who I asked to attend today. He is married to my sister Miriama, I asked him to attend specifically for three reasons:

- *the most important of these is that he is the father of a NMOW child;*
- *he has an in-depth of the Crown's approach to settling with iwi; and*
- *he has settled more claims for the Crown than all other Crown negotiators combined;*

I am aware that in the past that we have had non-NMOW people talking at NMOW hui. Whānau, I wanted to gain you acceptance that it was appropriate for Mike to speak here today as I consider that he has important information to share with us that will add value to our settlement.

Tom McClurg: Mike, I am glad that you have come along and we do recognise your incredible experience which is relevant to this NMOW kaupapa. We are involved in a process that requires creativity but there are also strategies and tactics that are more appropriate than others. If you feel that we are getting things wrong or that there are other things that would help us then, please feel free to share your thoughts with us, because

we are open to it. The way in which we are doing things is unusually open and NMOW people aren't used to this approach. We are finding that they are starting to respond positively to this approach but some people can't quite believe it is real. We consider that the benefits of sharing information are good and it means that we can speak quite candidly when we meet with whānau. Some are wondering what the cunning plan behind this approach but there is no cunning plan other than the fact that if there is to be a settlement people have to feel that there is something that is genuinely being settled, something that they can put this behind them and move on. A genuine settlement will also allow us to approach Moriori in a somewhat different way than has previously been the case.

Kia ora Tom, kia ora whānau. Firstly, thank you for allowing me to speak to you. I want to say that I speak with the support of my father-in-law, Raynol, and my tuakana, Ward, and on behalf of my wife Miriama. I also want to say what a great job that Tom, the Negotiators, and the Trust has done to get to this stage. I am conscious that dealing with the Crown is hellish. The process of getting a mandate took about three years for NMOW and hear so much familiar stuff, and in my view, the only reason it took so long to confirm the mandate is that the Crown wasn't ready to negotiate with NMOW. Now they are trying to get some tick-offs before the Election and are now giving you six weeks before the Election to agree to a settlement with them [laughter]. So that is the Crown's process in a nutshell and your resilience and calmness in your approach is just fantastic.

There are a few comments that I'd like to make and I'll try to take no more than five minutes. I thought that if you found them useful I'd be happy to provide them in writing. Having read the Crown's initial offer there are four things that struck me as important to a settlement for NMOW. They are potentially big things that could improve your commercial settlement value and while they are all new, they are also highly achievable in terms they will not going to frighten the Crown from the negotiations table. I also have some comments regarding the overlapping claims, the question of NMOW mana whenua, and Statutory Acknowledgments.

Firstly, regarding the \$9 million offer, the Crown will probably have it in their minds that the figure is around about \$10 million. It means that they have left room for you to come out with your Special Factors and whether it was three, 30, or 300 they have probably got another \$1 million in their kitty. You have to make the call on whether you come back to them with a counter offer of say \$12 million or whatever number you think is appropriate. And I am aware of the Muaupoko situation, I have provided advice to them on their offer as I grew up in Levin and have a soft spot for them, they were offer \$6 million and they countered with a \$10 million and Minister Finlayson refuses to talk to them. One of the big calls you need to make is what do you counter-offer on before you reach a stage where you are suspended – and they do that. It's a terrible terrible thing and I have great difficulties with the Crown how they can turn on and off their tap. One of things that happens when they turn off their tap is that you don't get funding to manage the infrastructure of the negotiations. So, these are challenging questions for you to consider. I reckon you could get the offer over \$10 million, which means that it is into double figures, and I think that could, despite being a crap offer – because realistically they are all crap offers, and if it were \$100 million some people would find that unacceptably low. At some stage, you will need to decide to close it down and move forward for the greater benefit of NMOW.

The suggestions I will make, some of them may be able to be used almost immediately. The first thing, and by the way we are off to Parihaka in the next couple of weeks for their signing. That is a \$9 million agreement sitting outside of the Treaty settlement framework and is being made to the descendants of Parihaka, which include Ngāti Mutunga people. I wondered whether we could come back to the Crown and do something along that sort of model. What I am thinking about is in the context of annexation and the long running challenges with the Moriori relationship and we know the Crown is heavily bothered about, a matter that is outside of the Treaty settlement and outside of the quantum, and by the way I anticipate that Moriori's quantum would be \$9

million as well. I suggest that the Crown should establish a \$10 million partnership collaboration fund which would have trustees from NMOW, Moriori, and a couple of independent trustees, so it wasn't actually transferred to the iwi. The big bits of the fund would be to promote actions, projects, programmes, and activities that would create collaboration, working together, co-operation, and healing between both iwi. Because you could say that the fund would be partly controlled by the Crown, it wouldn't be a Treaty settlement and impact the quantum meaning they wouldn't have to consider the impact on the Treaty relativity clauses for Ngāi Tahu and Waikato Tainui. If you put it into a pot like this where it is slightly distance then you've got a worthwhile option for the Crown to consider. They might say they hate the idea or they may consider offering a different sum of money at which point we should consider that anything is better than nothing. One thing that I thought that you could also do is, and you could mix this with the quantum, you could counter with we want \$11 million of which we will put \$1 million of our settlement putea into the partnership collaboration fund, the Crown put in \$9 million, and Moriori be encouraged to put in \$1 million as well. You could also say to the Crown, while \$10 million would be ideal can we agree that we contribute something. So that is one big idea which I think is worth considering.

A second idea is completely detached from this concept is around the potential of procurement. Central and Local Government spend money on the Chathams and it is probably likely that Chatham Islanders and NMOW whānau get business from that sort of thing but probably it is a bit hit and miss. Over in Australia they have this interesting programme called Indigenous Procurement Guidelines. New Zealand is way behind on this topic. It would be worth saying to the Crown that we want an agreement over your procurement process so that all Central and Local Government services that are procured in the Chathams Islands fall under a quota system which see ten or 20 percent of procured services undertaken by iwi businesses. This concept is a long-term income revenue generator that allows NMOW whānau to create their own businesses. Procurement is a really interesting area for Māori to enter into. At the moment when the Government or Councils ask for iwi input into roads for example, they say things like it would be helpful if we can give the job to someone from Somali and because they need to be seen as culturally sensitive that get someone to bless the soil and then all of a sudden dig up kōiwi. This attitude is starting to change and some agencies are asking that iwi be brought in as sub-contractors to better develop relationships. This idea doesn't cost the Crown anything but potentially brings value to whānau and iwi owned businesses and is another idea which I think is worth considering.

The third idea is about seeking something for the future. When we did the Tamaki Collective negotiations we had this tiny little thing called the Department of Business and Housing Protocol which refers to the rights of first refusal. As part of negotiations I said on behalf of the Crown that these don't apply to Housing New Zealand and when the Crown is using land for state housing we had to go to rights of first refusal. We put in a protocol to say that 'if the Crown does want to build houses on Crown land then they will talk to the Tamaki Collective' or words to that effect. That was put in their Treaty settlement and that has turned into a situation where in Tāmaki Makaurau there is a huge housing crisis and the Crown is looking for land all over the place and we've extended that protocol into something called the Mahi Ngātahi Agreement. Two years after that settlement, every piece of Crown land for building is offered first to iwi. That is a kind of model for what I think you could set up for the future and you could ask the Crown to do a Social and Economic infrastructure review every five or ten years following the Deed of Settlement, who knows what might be in there. Social and Economic infrastructure could include education, health, or roading. We know that the Crown is quite interested in the Chathams at the moment. Once you get your settlement deal there will be people in Government who say that NMOW has their settlement and that we can forget about them. But if you lock them into a five or ten-year review then who knows what you might be able to achieve from this sort of deal.

It's almost worth turning it into a Treaty settlement review on a five or ten-year basis. Again, these are just my ideas and they haven't been tested in the Treaty settlement space but I think that they are worth pursuing.

The fourth thing really isn't a settlement issue but it's might be something to signal in advance now. Ministry of Business, Innovation and Employment is running a regional development programme around the country. Taranaki has a programme where the regional stakeholders, Central and Local Government, and iwi get together to work out big priorities and then they are given a putea to advance those projects. I don't know if you have one specifically for the Chathams but if not, why don't we ask for that now. In Taranaki for example, there is big money in that region and that space. It made sense to me that the Chathams take advantage of that situation and for NMOW have governance role over how that money is spent. Those are my four big ideas and I will quickly run through some of the specifics that jumped out at me from the Crown's Initial Offer letter.

The overlapping claims matter – asking you to resolve the overlapping claims issue before the Agreement in Principle is signed is a nonsense. Nobody has to do that, so you are absolutely right to throw that back at them. Nobody has ever had to resolved that issue at that time because you don't know the detail. Then the double whammy they do is the Auckland Island, so you have to resolve that matter with Ngāi Tahu, so I found that quite odd.

On mana whenua, I completely tautoko the approach taken by NMOW on this matter. Eddie Durie nowadays sees a lot of Government people sneer at his attitudes on the various topics he discusses. Yet his Waitangi Tribunal report has become some sort of talisman for the Crown. I can see that the Crown is referring to "Eddie said" which I find unhelpful. Of course, NMOW has mana whenua. We have got 30 mana whenua here in Tāmaki Makaurau with people living everywhere. By the way Tāmaki Makaurau in 1840 was empty. If there was nobody here it is because they were all settled down in Waikato and Hauraki. So of course, NMOW has mana whenua and that is a no-brainer. My personal view is the Crown, and I am cautious about talking about Moriori things, but if we can get the Crown to agree about NMOW mana whenua we should be disinterested in what they refer to Moriori as. I think the safest thing to say is that we're interested in talking about NMOW and the Crown rather than any relationship with Moriori. If the Crown wants to call Moriori mana whenua that is fine because we shouldn't care about labels the Crown places on another Iwi. These are my thoughts on mana whenua.

Just a few other quick points:

- *Te Whaanga could be quite costly and I see the use of this word "management" and not "governance". It seems to me that co-governance rather than co-management is a better term to use here. It would help with setting up the detail of the discussions to come as you are not going to get detail through this document, you are going to get detail about this later between the AIP and Deed of Settlement. This is the big picture stuff. A co-governance arrangement seems to me to be more appropriate.*
- *Council planning is the one thing that stood out to me. They could have written this on the first day of negotiations and what has been said since that day would not have made any difference. The Council Planning Committee is the most interesting one and I believe there is more to get out of that and I think that it is a great idea and we should expand its scope beyond a planning document we should have NMOW commissioners to consider applications that go to the Planning Committee, or we should have the ability to nominate commissioners. We need to ask what the planning documents are, who has the final say, who chairs that committee, there is a lot of work between the AIP and Deed of Settlement to create something that you essentially have a strong veto over. At the end of the day it's*

about what is the status of the document that is produced as there are a whole range of different planning documents and how do they impact on the conservation plan for example. There is a lot of detail around that and I think the key is to say that we like this option but we need to keep the wording nice and broad and play with the detail post-AIP.

- *Your model for cultural sites is really interesting, which is basically don't bother transferring any sites to either iwi due to the overlaps. There will be available a small putea to assist with your cultural revitalisation, which will add value to your settlement. The putea for the value of these cultural sites whether it is commercial or not should still be available. Firstly, you have a strong principled basis for it, and secondly, there is more money left for other things that you might want.*
- *Statutory Acknowledgments, I helped to invent those in the Ngāi Tahu settlement 20 years ago. If you have a Council Planning arrangement, Statutory Acknowledgments are nice to have and they come as part of the Settlement legislation so that you are able to talk to Council or Government agencies about a relationship to an area. The Council should be letting you get involved about these matters, and secondly if the Statutory Acknowledgments can fit into the functions of your committee you will be able to be the Commissioners and the decision makers rather than the participants in the process.*

My last comment is in regard to relationship redresses and tautoko your view that there is a lot of detail in those ones and they can take a lot of time. The other thing is that there are two or three things in the relationship documents that we would like to get sorted out at the settlement like the DoC or Culture and Heritage, which are relatively straight forward. If you have another 15 or 20 you can take your time about these things and get a letter post-settlement from Minister for Treaty of Waitangi Negotiations (MfTOWN) to write to other relevant Ministers and seeking a timeframe to trigger those relationships. As you have said there is a lot of work to be done on this type of redress which often don't offer much and you may not have the capacity to engage on the specific topic at that stage and so I think that they can be done over time. These are my big picture ideas for the settlement, my apologies for taking more than five minutes, there is probably more detail but that is my contribution for today and thank you all for allowing me to talk here today.

Tom McClurg: I guess that while you're here there is one other issue that is just coming up and it will be discussed in Wellington tomorrow that I'm interested in gaining your views on. It concerns a discussion that I had with Ken Mair in his capacity as Chair of Te Wai Māori Trust because Moriori had applied to the Te Wai Māori Trust for a Te Whaanga project. My advice in the application was that it should be a joint thing. But afterwards Ken and I began to discuss a hobbyhorse of his, which is the legal personality for the Whanganui River, Te Awa Tupua, and considered the potential of recognising the Island in the same manner. I told him that we had held discussions about seeking that sort of status for Te Whaanga and given what we were being offered in terms of ownership and management or governance structures, we couldn't see what additional value would be gained. It's a kind of difficult concept to get your head around and we didn't really see that it was something worth pursuing.

He suggested that we should consider going for that for the whole of the Islands and I think there is some merit in that concept, especially given the particular stressed situation that we have between NMOW and Moriori. If you bring the Island to the table as a person with defined rights, needs, and things that need to be formally considered when decisions are being made, there just seemed to be something there. It is quite a subversive concept that appealed to me. It is also a concept where you are forced to actually consider the interests of the Island in a culturally different way than is normally the case. It just seems to be a concept that helps NMOW and Moriori get over themselves to a certain extent and to always look past those frictions and conflicts to a wider concept of value and benefit. It is probably going to be suggested tomorrow that it is a terrible oversight of the Negotiators that they have not gone down this path already, but I'm inclined to

embrace it and say let's look at it and see if Moriori would like it. I quite like the idea that you produce something that is like a constitutional type of document that sets out in general terms what the interests and values of the Island as an entity are that everyone needs to be mindful of regardless if you are the Council, either Iwi, or whatever is going on there. In a sense, it resonates with the way my father would talk about the Island. The Island is almost like a thing in itself with a life and existence of its own. I think that giving it the legal personality status is a way of giving effect to that. These are very initial comments about this concept.

I'll just make some initial comments about the possibility of recognising the Island as being recognised as having a legal personality in its own legal right. When you said Ken's got this thought my first reaction is 'Ken stay out of this thing' as the legal personality concept is really long, hard, and complicated to get across the line.

Tom McClurg: Yes, it is.

I can see the attraction of it. The biggest practical challenge with it is that with Urewera, Te Awa Tupua, and potentially with Maunga Taranaki, because Taranaki Iwi have decided that they don't want legal title, the Crown owns each of these things. The difficulty with the Chatham Islands is that so much of the land is privately owned and the difficulty is essentially turning people's private property rights into some other legal personality. It is far more complicated than what has been done for the Whanganui River. That would be my initial reaction to this concept.

Tom McClurg: The River is complicated, the Maunga is complicated, to do it with the motu is highly complex.

With the Chathams you have enormous private land interests, so does it then become a matter that only applies to Crown-owned land and then starts to become this funny hodgepodge where this bit of the whenua has a legal personality and this bit doesn't and how do you work through this. Ward, you have some thoughts on this.

May I say in respect to a legal identity obviously Eddie brought up the idea of an alternative land tenure system for the Chatham Islands in that famous report of his.

Tom McClurg: A recommendation that I am willing to go out on a limb here and I'm prepared to describe it as the most impractical recommendation the Waitangi Tribunal has ever made [general laughter].

With Eddie's little left field argument there and my only concern is that the adoption of a legal identity will be jumped on by some brainbox sitting down there at Office of Treaty Settlements and use it to develop and propose a scheme that is very impractical for the purposes of Chathams land tenure.

Tom McClurg: Yes, that is something we would want to avoid.

Except to say that we have that saying in Māori "whatungarongaro te tangata, toi tū te whenua" and we understand that people come and go but the land remains.

Tom McClurg: Yes, that is what is behind my thinking.

I think that there needs to be some more thinking around the legal personality matter and if it does get raised acknowledge it, engage in the kōrero, refer to the whakataukī, and confirm that we are looking at creative ways to address this issue.

One of the things about the AIP, if you think this is important, and it is kind of challenging, but it is something that is worth pursuing and it's like we have got a kind of feel for it, is to have some detail in the AIP that sets you up for that discussion at a later stage and at that point you can say that you want to talk about the legal personality. Some of the ideas that I've introduced today, such as procurement, you don't have to feel that you need to lock down every level of detail before you sign the AIP. Opacity is your friend. The more blurred it is in the AIP the better it is for NMOW because you can fill in the details later. Finally, I just want to thank you for the opportunity to speak to you today and I do apologise for leaving early today.

Paula Page: *Kia ora whānau. I really want to acknowledge you Mike. I know that you have offered for a long time to give something to your wife and daughter's Iwi and I appreciate that you have always offered to be around and support NMOW. It is all of our settlement regardless of where whānau choose to live and it is for the future of our mokopuna.*

My phone number is on the list so if you ever need help please call.

Are you free to attend Christchurch hui? [General laughter]

It is appropriate if I pick up on one thing that Mike mentioned and that is talk about the Partnership Fund. At the very start of this process years ago, there was kōrero about the possibility of a whole-of-island settlement. It got pushed to one side as there was a fear that it would override the specifics of NMOW settlement and we now have in front of us a NMOW specific offer. The offer is approximately where we thought it would be and we always know that an offer of that type would be inadequate. Part of the thinking behind the thinking of a whole-of-island settlement was to sidestep inadequate offers and seek alternative ways for the Crown to fund without calling it a treaty settlement. This is the concept that Mike picked up on where we sit alongside Council and Moriori to consider the actual needs of the Island such as the roads, we've got a good start with the wharf but it could go further, issues around transport between the Island and New Zealand and the costs associated with the boats, and the planes, and so on. The big issue that we have got though is that until we get greater economic activity on-island then we are not going to be able to resolve the shipping issues. We will struggle to resolve the plane and freight issues.

There are ways and means in which these can be managed and the first part of this whole-of-island settlement could be to look at feasibility studies. Accompanying the Chatham Island Phosphate application was that they quickly identified that if someone else was willing to put in a deep-water port of them it would cut their costs dramatically because they wouldn't have to ship all the way back to New Zealand – it was good of them that they were looking for someone else to fund this for them. If we start to think about that from a deep-water fishing perspective the cost of deep-water fishing is the time on the water. You don't have to have boats steaming out of Nelson or Auckland. You can cut down the amount of time that takes and over a series of years you can get a return in a place like the Chatham Islands, because it is far closer to the drop-off point than any of those ports on the East Coast of New Zealand. You may have a case, but I don't know until you get the feasibility reports done, to get a deep-water port in. Then there is associated activity that needs to occur such as processing, there is a run-way that needs to be extended. Once the run-way is extended the planes arriving are bigger and there is an ability to ship directly into the rest of the world if it is freight based. I realise this is very high-end stuff but this sort of whole-of-island approach is what I recommend. We should take the \$9 million or whatever is settled and apply it to these sorts of programmes.

Secondly, is our marae through the cultural redress. Can I suggest that when you head back in this matter is raised front and centre with the Crown? We have had a number of debates and there has been some work done back on-island on where and how that marae might look like. Ultimately you want NMOW front and

centre of determining what a whare would look like and what the name should be. My belief is that if we are going to have a NMOW marae that has a carved tupuna, I have always argued for Te One. I know that our settlements have been located in various places over the 100 plus years on-island. One of the things that we were as NMOW [and remain] is strategic, so we should look for the place that is going to give us the biggest bang for our buck. What we know is the road that runs through Te One comes straight from the airport. That's where the Government officials come from and many of them try to jump over us to get to Moriori up the hill. When you place a strategic whare that clearly says NMOW it is difficult to drive past us unless it is being done deliberately. The other thing I like about Te One is that you have the schools there and if you have a whare there, there is the potential for it to be living and used and be apparent every single day. It then becomes a matter of applying the Catholic model of indoctrination – NMOW is indoctrinating every kid on-island in NMOW ways because there is our whare right there. That is my two cents worth - kia ora.

Paula Page: Kia ora Ward. Just picking up on what you've said, before we were even mandated that number was put in front of us and I'm just looking for the balance.

Yes, it was.

Paula Page: And I'm just looking at the idea of being more creative in other ways of generating value to our settlement, and our island, which is why governance for example is so important to us and we know that was the other ways of getting more across the line.

I think that we are heading in the right direction. I like the research and the background and I appreciate the work that you have put in and everything that you have taken on. I also appreciate the open approach and I support it fully.

I think that if you want people behind you then you have to be open in your approach and open to the ideas that they bring. This is obviously the beginning, or half way through, so the \$9 million figure can still be adjusted. The ideas that you have, I've always been interested in the health issues as they affect whānau on-island and it would be great for us to have our own hospital.

Geoff Mullen: As a negotiator, and we don't get the opportunity very much, and I'm really going to embarrass them, but I'd really like to know where the rangatahi think we are up to?

Paula Page: Geoff, we will just let the Aunties finish first and then hear from the rangatahi.

Gail Amaru: Because there is a question around the provision of aged care facilities and services, and that is the sort of thing that you would like to see on Wharekauri.

All of our kaumātua have to come out to New Zealand to go to hospital and all they want to do is go home and die at home. A lot of our kaumātua have to die up here. So, Health and Education are big issues to us.

I'm not going to act that I grew up in the Chathams and relate this first-hand experience of what it is like to be there because I was born in Christchurch and our Ngāi Tahu side is strong. My relationship to the Chathams is through my grandfather, who essentially escaped with his brothers on a container ship due to family circumstances. This has meant there has been an animosity in our whānau about that and wanting to repatriate and reconnect to the Island. However, my whānau name is Reriti and it is important information for me to know. Our interaction with people over in the Chathams has been with people of my own age group because they have had to come over to New Zealand to work and they know the connections with whanaunga who have gone to various Christchurch schools. You can tell there is a connection that they have for their Island

as they are always wanting to get home to work on the fishing boat. What I do see in them is that despite being in Christchurch, there is a longing to be home but they are not able to remain home because of financial reasons and the ability to get further in life. If they get injured either at work or in rugby, like my ex-partner's father got injured over in the Chathams and his knee is stuffed up and he had to go to the Hastings Hospital. Often our people are there in hospital in Hasting but nobody is with them because it is such a long way from the Chathams and a place that we don't have a connection with. It's cool that we get this \$9 million but what is that going to do? Essentially as you build one marae and look at the costs of our marae that opened in Hokitika recently that cost \$5.5 million to build. So, what are we actually thinking with \$9 million that does even add up to two marae.

Also, I'm guessing the shipping of items to the Chathams is really expensive because I remember my grandmother used to live over there and they found it hard back then to ship items over to them and I'm assuming it's not any easier today. When I think about these things I'm kind of wondering with the costs associated to transport and travel over there, it's an impossibility for me to get over there next weekend because that is a planned trip, I'm not sure where I am going with this, but for me to have a relationship with the people who are still living there and maintain the ahi kaa there and are aware of the difficulties of living there – do we have a clear idea of what the \$9 million will go towards? I'm guessing to build a deep-water port will be more than \$9 million [general laughter]. It's costing us here \$200,000 to put water through a 1.2 kilometre road. I'm assuming that on the Chathams the costs would be substantially more. I work with two girls from the Chathams, one is from Pitt Island, and we were talking about how stuffed the infrastructure was there. We really need to be thinking beyond this Treaty settlement and as what is on offer is like pocket money and it's not going to get us far. Sorry for going on [and there was support from the hui for this speaker].

Tom McClurg: I could try and answer you on what the \$9 million might be spent on but just to confirm what you are saying that the \$9 million doesn't make a big difference. At the moment, the AHC holds assets of approximately \$25 million and from that we generated last year \$1.9 million in profit. This figure can shift due to markets such as the quota that we own. The profit is split two ways. It is used to support the Iwi Trust which is currently \$550,000 per year and the remainder is re-invested. The objective of it is that you want to be able to generate a marginal income stream that can support the activities that the Iwi Trust wants to deliver. This might be in the form of cultural revitalisation or whatever it is that whānau want the Iwi Trust to be doing. The fact is that an extra \$9 million you would seek to invest in a way that would strengthen the Island's economy. You would be looking to invest in things that would create employment there along with economic activity on-island that supported the island. But you don't want all of your eggs in one basket so there may be other things that you might want to invest in as well to secure that future income. An extra \$9 million would generate an extra \$450,000 per year and let's say you want to reinvest \$250,000 of that amount, as the number of NMOW grow and you are required to provide more services to more NMOW people, you need to increase the capacity to support this. That means that you really have \$200,000 left over to add to the \$550,000 that the Iwi Trust already has to provide services and activities to support NMOW whānau. You are exactly right, it is not like we will all of a sudden have millions of dollars that will allow us to resolve these issues of the Chathams. We have been slowly clawing our way forward under our own steam and we are working to support the level of funding that we can provide for the Iwi Trust, so it can support NMOW whānau. The strength of our position is that we don't have any debt currently and we are secure and we are moving ahead. We have been moving at baby steps pace and all this will do is allow us to move at toddler steps pace unless we got carried away and took off ahead of it [laughter].

Geoff Mullen: The other part of this is the lateral opportunities that we have to negotiate at the table such as the \$10 million Partnership Fund is where we can make some really good gains. The \$9 million or whatever it

ends up being will grow itself over time. It was 10 years before Ngāi Tahu provided direct support to their beneficiaries as they chose a commercial return first. But there are opportunities at the table where we can gain putea for things like a Marae and the Partnership Fund to increase our capacity.

Can I ask how many NMOW people currently live on-island? Do we have an idea of that figure because I'm assuming that this putea will hopefully benefit especially the whānau that was living on-island?

Paula Page: There are approximately 600 people on-island and 60 to 70% of them are NMOW

The number is about 363 identified specifically as NMOW, another 106 identify as Moriori. Most of those Moriori have NMOW whakapapa and most of them would claim their NMOW heritage as well. When tend to be of the view that we are around 460-470 in total on-island population is of NMOW descent. It is a significant population that we have on-island and then there NMOW whānau spread throughout the rest of the country.

Tom McClurg: Every programme the Iwi Trust runs is available to every NMOW person regardless of where they reside. Where there is a benefit to people who live on-island and who are directly engaged in things, so we support approximately 20 divers who receive NMOW paua quota. It is not enough to support themselves, it is really a supplement in terms of what they are doing, but it is sufficient to help young guys get started in business. Generally, the prices that we charge are at a conservative market price. It's not as if they get a great windfall but they get the opportunity to dive in the cold water and swim around with great white sharks [everyone laughed] for a fair day's pay. Yesterday we got a lot from the Christchurch hui about how everything is focussed on the Island and about how the Iwi Trust operates its beneficiary schemes, but that is not really true. It's true to a certain extent how the AHC operates but that is deliberate. Our Statement of Investment Policies, which is available on the website so that everyone can read it, says what we are doing is to preserve our identity as NMOW. We can only really do that in the long term if there is a community of people on-island that identify themselves as NMOW and maintain this identity. People living on Wharekauri will only do so if they can make a living there and to do this they need to have access to the sorts of things that allows them to stay there. We feel that it is our responsibility to try to strengthen the economy and the community on the Chatham Islands generally because by doing so NMOW whānau can sustain themselves there and therefore our NMOW identity is sustained through time. It is not about subsidising a handful of people out of the 1800 that identify themselves as NMOW, it's about the actions that are necessary for us to maintain our NMOW identity.

Without NMOW whānau living on the Island you won't have you don't have a home to go back to.

Tom McClurg: That is exactly the point I'm making. The AHC, even though it is a commercial entity, is wholly owned by the Iwi Trust. Our directions are commercially focussed but they are set for a wider goal which is the perpetuation of our NMOW identity.

I'll try not to get in trouble [laughs]

Paula Page: And he'd better move away from Mum then.

Tom McClurg: We all try that but it rarely ever works.

I am really pleased and supportive of the idea that was raised around a potential legal personality for Wharekauri however complicated that might be around private interests. To me it seems like a really Māori thing to do in this context. For me the Island's whenua and motu to get its own identity in a Pākehā sense seems like the right thing to do. The pay-off might be in 50 years' time, it is such an awesome direction to take

and whether it eventuates is something else and it may take a long time to negotiate. My point of view about the money is whole Ngāi Tahu example where it took 10-years before you got paid is a worthy model to consider. John F Kennedy said ask not what your country can do for you but ask what you can do for your country. I think that it's about not what your iwi can do for you but ask what you can do for your iwi. I know people are asking where that money is going and where this money is going, that doesn't bother me because it's about building resources and upskilling people and NMOW becomes an enterprise in itself. With all due respect to my Aunty, to me healthcare is the responsibility of the Crown and they should be responsible for this and we should hold them to account. We should not accept a burden that is their responsibility. If we accept and sign then that has to come with responsibility of building NMOW capacity and we should work towards the legal personality. That's awesome.

Tom McClurg: That was a beautiful breath of fresh air. I feel the same way that you do about Wharekauri gaining a legal personality. I feel that it is a deeply Māori concept. The thing that intimidates me personally is the challenge in having to articulate that as a concept. As you have said, it is a thing that we can take our time with to flesh out. We can craft the concept over time as we get better at understanding the detail of it. I'm up for that challenge but I am going to need a lot of help from people to put some shape to it. It's always good to know that you don't always have to get it perfect and that we can continue to revisit it. I think JFK needed to spend more time in Christchurch [laughter]. That's also my experience of my association with NMOW its only when you step out and try to make a contribution then the rewards come. It's not the sort of thing where you sit there and kōrero about how the Iwi Trust hasn't done enough to meet my needs, it is just unproductive. One of things that I am noticing in this process is that I am finding that people want to move forward in the way that you are talking about, which I think is a very positive position for NMOW.

Hairoa Daymond: I'd like to pick up on one or two of the things that you have said Tom. That is definitely one of the things that I have picked up on this round, is that our Iwi are wanting to get involved and they are wanting us to get them involved, and we need to come up with projects that does that otherwise we are going to lose them. I think it is really interesting to hear from you people today. Ward, I like the idea of the Marae because that's an area that we can start involving the people at home and some of our off-island iwi whānau as well. I can remember for those that went to the last governance hui that one of the tutors there commented on the fact that people at home are wanting to see something being operated and grown at home rather than before off-island projects are considered. Today we heard kōrero about a whole-of-island concept. I think there is a bit a fear in the whole-island concept in that it may swallow NMOW identity and how realistic that is I don't know but the fear is there. It's been good kōrero and good to hear from everybody today. Kia ora.

I just want to say that I really enjoyed the kōrero and that I'm mindful of time as you all have a plane to catch.

Gail Amaru: thank you all for the kōrero today. We are mindful of the time but if you have any further questions or want to follow up with us about anything please contact me at the office.

Ward Kamo gave a closing mihi to the hui. Aunty Raana finished the hui with karakia at 4.45pm.