

# Office of Hon Te Ururoa Flavell

Mema Pāremata mō Waiariki  
Member of Parliament for Waiariki

Te Minita Whanaketanga Māori  
Minister for Māori Development

Te Minita Whānau Ora  
Minister for Whānau Ora

Te Minita Tuarua Whanaketanga Ohaoha  
Associate Minister for Economic Development



14 MAR 2016

Tim Selwyn  
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Tēnā koe Tim

## Official Information Act Request – Expenditure by Whakatōhea Māori Trust Board

Ō tātou mate tuatini, e takoto mai ai i runga i ō tātou marae maha, i runga i ō tātou papa kāinga, i roto i ō tātou whare, kua uhia rātou ki ngā taumata kōrero e tika ana hei poroporoaki i a rātou. Nā reira, me kī pēnei ake te kōrero, tukuna rātou kia okioki i runga i te moenga roa. Āpiti hono, tātai hono, ko te akaaka o te whenua ki a tātou te hunga ora. Tēnā koe.

Thank you for your email of 24 November 2015. I acknowledge that this response is outside of the time limit required by the Act and apologise. You have requested the following information under the Official Information Act 1982 (the Act):

1. *What is the amount spent and the costs of resources allocated to date by the Whakatōhea Māori Trust Board (WMTB) in connection with assisting Tu Ake Collective (TAC) and how was this accounted for?*
  - 1a. *Same question as 1 but 'other Hapu and claimant entities not in TAC' substituted for TAC.*
2. *How much WMTB staff time was involved in assisting TAC and how much staff time was foregone by WMTB for the reason of staff involvement with TAC activities and how was this accounted for?*
  - 2a. *Same question as 2 but 'other Hapu and claimant entities not in TAC' substituted for TAC.*
3. *What policies have been made by WMTB for the expenditure of money and the use of resource and staff time to assist TAC?*
  - 3a. *Same question as 3 but 'other Hapu and claimant entities not in TAC' substituted for TAC.*
4. *What advice has the Minister received and what decisions have been made by him or his staff in relation to the legal or political position of the WMTB being a party to TAC and the capability of the WMTB to participate as an equal member of that group in any Treaty settlement negotiation?*
5. *What Māori Trust Boards (constituted under the 1955 Act) have been, or are currently, directly represented on a group that has negotiated, or are negotiating, a Treaty settlement with the Crown?*

In response to your request, I am releasing information detailed in the attached document schedule. Some personal details have been withheld in the first document under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The second document is already publicly available and is included for contextual reasons.

One obligation I have under the Māori Trust Boards Act 1955 is to ensure Māori Trust Boards comply with their statutory obligations and I am actively engaging with Trust Boards on relevant matters in this regard. However the information that you have requested in points 1 to 3a is not information that would normally be provided to me or my officials. While Trust Boards do provide me with their annual budgets and audited financial year end accounts, the detailed and specific expenditure information you seek in relation to Tu Ake Collective is held by the Whakatōhea Māori Trust Board.

I am therefore refusing parts 1 to 3a of your request under section 18(g) of the Act as the information you have requested is not held by me nor by Te Puni Kōkiri.

In refusing these parts of your request, you may find it helpful to know that it is normal practice to consult relevant parties when information about them is proposed for release. The Board recently contacted my office and provided me with some information in relation to your request. Regrettably, while I do not consider this information meets your specific request, and therefore the reasons for my refusal remain valid, the Board have kindly offered further assistance if needed. I therefore encourage you to contact the Whakatōhea Māori Trust Board directly to request this information.

In response to point 4, while I have received advice or information to do with the monitoring of Whakatōhea Māori Trust Board, neither I nor staff in my office have received any specific advice or made any decisions in relation to Tu Ake Collective. To be helpful though I have attached a briefing paper dated 15 April 2014 which notes the Whakatōhea Māori Trust Board's participation in progressing a single representative Whakatōhea mandated entity for Treaty settlement negotiations with the Crown. I have also attached a copy of the Whakatōhea Pre-Settlement Trust draft mandate strategy. I consider this will provide you with some context as to the Whakatōhea Māori Trust Board's involvement in the mandating process.

In response to point 5, I am aware that Whanganui River Trust Board held the mandate to negotiate the recent settlement for the Whanganui River. I am also aware that Te Rūnanga o Ngāti Whātua is the mandated body for remaining Ngāti Whātua claims (claims not previously settled by Te Roroa, Te Uri o Hau, Ngāti Whātua o Kaipara and Ngāti Whātua Ōrākei), and the Wairoa Waikaremoana Trust Board is currently participating as part of an entity mandated to negotiate Treaty settlements.

Please note that if you are not satisfied with this response, you have the right under section 28(3) of the Act to make a complaint to an Ombudsman. Ngā mihi nui ki a koe.

Nāku noa, nā



Hon Te Ururoa Flavell  
Te Minita Whanaketanga Māori

**OFFICIAL INFORMATION ACT 1982 REQUEST: DOCUMENT SCHEDULE FOR CORRESPONDENCE RELATING TO TU AKE WHAKATŌHEA COLLECTIVE MANDATE STRATEGY**

	Document Name Date	Date	Document Type	Comments
1	Whakatōhea: Meeting with Claudette Hauiti regarding Whakatōhea Mandate	15 April 2014	Briefing Paper	Some personal details have been withheld in some documents under section 9(2)(a) of the Act in order to protect the privacy of natural persons.
2	Whakatōhea Pre-Settlement Trust draft mandate strategy	26 November 2015	Draft mandate strategy	Released in full



**Te Puni Kōkiri**  
REALISING MĀORI POTENTIAL



**Office of Treaty Settlements**

*Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi*

PART OF THE MINISTRY OF JUSTICE

1

**Minister for Treaty of Waitangi Negotiations**

**Minister of Māori Affairs**

**Subject** Whakatōhea: Meeting with Claudette Hauiti regarding Whakatōhea mandating

**Date:** 15 April 2014

**Priority:** High

**Report No:** 2013/2014 - 765

**File ref:** CLA DV-087-02-F02

**Action sought**

**Minister for Treaty of Waitangi Negotiations**  
(Hon Christopher Finlayson)

Note the contents of this briefing and attached speaking points.

By 16 April 2014

**Minister of Māori Affairs**  
(Hon Dr Pita R Sharples)

**Contact for Telephone Discussion (if required)**

Name	Position	Phone	1 <sup>st</sup> Contact
Lucy Te Moana	Director, Te Puni Kōkiri	09 (2) (E)	✓
Kererua Savage	Acting Manager, Te Puni Kōkiri	09 (2) (C)	✓
Marian Smith	Deputy Director, Special Projects	09 (2) (E)	✓
Tim Townsend	Manager, Settlement Development Team	09 (2) (E)	

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Whakatōhea: Meeting with Claudette Hauiti regarding Whakatōhea mandating

## Purpose

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1. This report provides you with an update on the Whakatōhea mandating progress and speaking points in preparation for your 17 April 2014 meeting with Ms Claudette Hauiti (Member of Parliament).

## Background information

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2. You are scheduled to meet with Ms Hauiti from 4.00pm – 4.30pm on Thursday, 17 April 2014. You have called the meeting so that Ms Hauiti can update you on discussions she has had with Whakatōhea iwi representatives since 18 December 2013.
3. Officials attending the meeting will be Glenn Webber (Deputy Director, Office of Treaty Settlement (OTS)), Tim Townsend (Manager Settlement Development Team, OTS), Lucy Te Moana (Director, Te Puni Kōkiri) and Kererua Savage (Acting Manager, Te Puni Kōkiri).
4. The meeting will be a good opportunity for you to provide Ms Hauiti with information on:
  - Crown policy; and
  - how this applies to Whakatōhea.
5. As you know, the Crown has a policy of settling with Large Natural Groupings (LNG). Whakatōhea has been recognised as a LNG and we have been encouraging Whakatōhea to work towards a single mandated entity to represent all of Whakatōhea in Treaty settlement negotiations.
6. This meeting will also be a good opportunity for Ms Hauiti to inform you and officials of the messages she has been giving various entities representing Whakatōhea and any undertakings she may have given to these entities.
7. Finally, Ms Hauiti may have information on the aspirations of the various groups, and ideas about how these aspirations could be met within the Crown's Treaty settlement policy framework.
8. Talking points for your meeting are attached as **Appendix 2**, for your consideration.

### *Groups seeking Mandate for Treaty settlement negotiations*

9. Whakatōhea does not have a Crown recognised mandate for Treaty settlement negotiations.
10. There are five groups seeking to represent some part or the whole of Whakatōhea for Treaty settlement negotiations. They are:
  - Whakatōhea Māori Trust Board;
  - Tū Ake Whakatōhea Collective;
  - Whakatōhea Raupatu Working Party;
  - Te Ūpokorehe Treaty Claims Trust; and
  - Te Whānau a Mokokoko.
11. One of the hapū of Whakatōhea, Ngāi Tamahaua, has stated that they would like to be kept informed of all Treaty settlement discussions.

12. Three of the five groups have expressed their willingness to work towards developing a single Whakatōhea mandated entity (Whakatōhea Māori Trust Board, Tū Ake Whakatōhea Collective and Whakatōhea Raupatu Working Party).
13. Te Ūpokorehe Treaty Claims Trust seeks a parallel mandate for Te Ūpokorehe. Te Whānau a Mokomoko seek a separate settlement process.
14. A mandate strategy has been submitted by Tū Ake Whakatōhea Collective and the Whakatōhea Māori Trust Board, which was developed without consultation with other Whakatōhea groups.
15. Officials have encouraged the Whakatōhea Raupatu Working Party and the Tū Ake Whakatōhea Collective (inclusive of the Whakatōhea Māori Trust Board) to engage with the other Whakatōhea groups to bring them into the development of this mandate strategy. However, officials understand that Tū Ake Whakatōhea Collective and the Whakatōhea Māori Trust Board have decided to progress their own mandate strategy rather than working with other groups to form a collective strategy.
16. Further background information is attached at **Appendix 1**, including information on:
  - 1996 Whakatōhea Deed of Settlement;
  - progress towards a Crown recognised mandate;
  - information on each of the Whakatōhea groups; and
  - the Crown response to the Te Ūpokorehe Treaty Claims Trust request for a Ministerial Inquiry.

#### **Ministers' meeting 18 December 2013**

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17. On 18 December 2013, you met with Whakatōhea iwi representatives in Ōpōtiki. You noted at the meeting that every negotiation is unique, there is no one size fits all and Whakatōhea needs to design something that works for Whakatōhea.
18. The opportunity for Whakatōhea iwi representatives to meet with you was well received by participants. Though most of the Whakatōhea groups were willing to work together for the benefit of Whakatōhea they wanted to ensure their own Treaty settlement aspirations are met through any settlement.
19. The Whakatōhea Māori Trust Board, the Tū Ake Whakatōhea Collective and the Whakatōhea Raupatu Working Party expressed their willingness to work towards developing a single Whakatōhea mandated entity for Treaty settlements negotiations.
20. At that meeting Te Ūpokorehe Treaty Claims Trust reiterated their desire for a parallel and separate mandate for Te Ūpokorehe. Te Ūpokorehe Treaty Claims Trust has stated they have their own mana and as such they do not want to come under any other entity for a Treaty settlement.
21. Though Te Whānau a Mokomoko declined to attend the meeting, they too are seeking a separate mandate to represent themselves in Treaty settlement negotiations.
22. On the 19 December 2013, the Whakatōhea Raupatu Working Party wrote to Crown officials thanking the Minister for Treaty Waitangi Negotiations for visiting their rohe and encouraging and supporting Whakatōhea iwi to progress a Treaty settlement.
23. The Whakatōhea Raupatu Working Party reconfirmed its commitment to progress mandate strategy discussions highlighting the need for the strategy to confirm and define a brief

Whakatōhea history, claimant definition and iwi/hapū representation on the mandated entity's governance board.

24. Officials continue to work with all groups encouraging them to agree on a single mandate strategy for Whakatōhea. Te Whānau a Mōkōmoko continue to abstain from meetings, and have sought a meeting with you to discuss their Treaty settlement and aspirations.

#### Consultation

25. Te Puni Kōkiri was consulted on the development of this briefing.

#### Recommendations



26. It is recommended you:
- a. **note** the contents of this briefing and attached speaking points.



Marian Smith  
Deputy Director, Special Projects  
Office of Treaty Settlements



Lucy Te Moana  
Director, Policy  
Te Puni Kōkiri

NOTED / APPROVED / NOT APPROVED	NOTED / APPROVED / NOT APPROVED
 Hon Christopher Finlayson Minister for Treaty of Waitangi Negotiations	 Hon Dr Pita R Sharples Minister of Māori Affairs
Date: 18/4 /2014	Date: 5/5 /2014

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## Appendix 1 – Background information

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### *1996 Whakatōhea Deed of Settlement*

27. In 1996, the Crown and Whakatōhea initialled a Deed of Settlement to settle historical Treaty of Waitangi claims of Whakatōhea. Due to the lack of support from the claimant community of Whakatōhea, the Deed of Settlement was not ratified and the Crown withdrew from negotiations in 1998.
28. Since that time, the Crown has asked Whakatōhea representatives to complete a new mandating process to demonstrate that those who will represent Whakatōhea in Treaty settlements negotiations have the support of the claimant community it will represent.
29. In late 2007, the Hon Michael Cullen, Minister in Charge of Treaty of Waitangi Negotiations, wrote to Whakatōhea representatives recognising the status of the iwi as a large natural group for the purpose of Treaty settlements negotiations.
30. From 2007, officials have worked with and encouraged Whakatōhea groups to work together to establish a single representative Whakatōhea entity to enter in to Treaty settlement negotiations with the Crown. The first step in this process was the development of a draft mandate strategy for submission to the Crown to consider before advertising for submissions and taking to a mandate vote.
31. So far, efforts to bring Whakatōhea groups together to complete this first step have proved unsuccessful.

### **Mandating progress**

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#### *Crown leadership*

32. Te Puni Kōkiri leads the Crown's engagement with Whakatōhea on its mandating activity. Officials have met with the Whakatōhea groups several times over the past few years. On 11 January 2013 and 1 March 2013, Te Puni Kōkiri met with representatives from the Whakatōhea Māori Trust Board, Tū Ake Whakatōhea Collective, Whakatōhea Raupatu Working Party, Te Ūpokorehe Treaty Claims Trust, Ngāi Tamahaua and other uri of Whakatōhea. Te Whānau a Mokomoko did not attend either of the hui. The purpose of the two hui was to identify a process that would support Whakatōhea attain a single mandated entity to negotiate the Whakatōhea historical Treaty of Waitangi claims with the Crown.
33. The Whakatōhea Māori Trust Board, Tū Ake Whakatōhea Collective and the Whakatōhea Raupatu Working Party have supported activity to work towards a single Whakatōhea mandated entity. However, following the Tū Ake Whakatōhea Collective's most recent submission of a draft mandate strategy, officials are of the view that the Tū Ake Whakatōhea Collective and the Whakatōhea Māori Trust Board have decided to progress without the support or involvement of the other groups.
34. Te Ūpokorehe Treaty Claims Trust has continually stated their position is to seek a parallel, but non-competing mandate, to represent Te Ūpokorehe in negotiations alongside a separate Te Whakatōhea entity. Te Ūpokorehe Treaty Claims Trust has also stated in their view is that the Whakatōhea Māori Trust Board does not represent all hapū of Te Ūpokorehe.



35. Officials provided advice on draft mandate strategies received from the Whakatōhea Raupatu Working Party in March 2013, and the Tū Ake Whakatōhea Collective in October 2013. The Tū Ake Whakatōhea Collective is proposing to develop a new entity, with the support of the Whakatōhea Māori Trust Board, to seek a mandate to negotiate on behalf of Whakatōhea. Officials identified two main points of contention in the two draft mandate strategies received, the representation on the mandated entity and the claimant definition.
36. Officials have encouraged both the Whakatōhea Raupatu Working Party and the Tū Ake Whakatōhea Collective to engage with the other Whakatōhea groups to develop a single mandate strategy for the benefit of all Whakatōhea and to continue to work with them to seek a collective way forward. Officials offered to arrange a facilitated hui to discuss the points of contention before a further draft mandate strategy was submitted to the Crown.
37. In February 2014, the Tū Ake Whakatōhea Collective and Whakatōhea Māori Trust Board submitted a revised draft mandate strategy for review without undertaking consultation with any of the other Whakatōhea groups. Officials have asked the Tū Ake Whakatōhea Collective and Whakatōhea Māori Trust Board to engage directly with the other Whakatōhea groups to ensure everyone knows what is happening. No further engagement has happened to date.

*Whakatōhea Māori Trust Board and Tū Ake Whakatōhea Collective*

38. The Whakatōhea Māori Trust Board was established in 1949 to administer funds then held by the Māori Trustee as compensation for confiscated land. It is governed by the Māori Trust Boards Act 1955. The Trust Board represents Ngāi Tamahaua, Ngāti Irapuaia, Ngāti Ngāhere, Ngāti Ruatākena, Te Ūpokorehe and Ngāti Patumoana.
39. Tū Ake Whakatōhea Collective represents four hapū: Ngāti Irapuaia, Ngāti Ngāhere, Ngāti Ruatākena and Ngāti Patumoana.
40. In August 2012, the Whakatōhea Māori Trust Board agreed to assist and work with the Tū Ake Whakatōhea Collective to develop a comprehensive mandate process. The Whakatōhea Māori Trust Board formalised this relationship further by moving a motion that it would take a leadership role and work to achieve a collective mandate process with Tū Ake Whakatōhea Collective.
41. The Whakatōhea Māori Trust Board is not seeking a mandate. However, it is apparent to officials that the Whakatōhea Māori Trust Board is heavily involved with Tū Ake Whakatōhea Collective seeking mandate. Officials agree that the involvement of the Whakatōhea Māori Trust Board could be beneficial as it holds a comprehensive database of registered Whakatōhea iwi members, which could be utilised for distributing information regarding the mandate process and vote.
42. In October 2013, officials informed all Whakatōhea groups of the draft mandate strategies received from the Whakatōhea Raupatu Working Party in March 2013, and the Tū Ake Whakatōhea Collective. Tū Ake Whakatōhea Collective is proposing to develop a new entity, with the support of the Whakatōhea Māori Trust Board, to seek a mandate to negotiate on behalf of all Whakatōhea. Officials identified two main points of contention in the mandate strategies received; the representation on the governance board of the mandated entity, and the claimant definition.
43. Officials offered to facilitate hui to discuss the points of contention in the draft mandate strategies and to seek agreement from all parties to progress a single mandate process. However, this offer was not taken up.

### *Whakatōhea Raupatu Working Party*

44. Whakatōhea Raupatu Working Party has listed 13 hapū. The hapū that the Whakatōhea Raupatu Working Party wish to represent includes:

- Ngāti Muriwai;
- Ngāti Patumoana ;
- Ngāti Irapuaia;
- Ngāi Tamahaua;
- Ngāti Ruatākena;
- Ngāti Ngāhere;
- Ūpokorehe / Roimata / Rongopopoia;
- Kutarere;
- Maromahue;
- Pakowhai; and
- Turangapikitoi.

### *Te Ūpokorehe Treaty Claims Trust*

45. Te Ūpokorehe Treaty Claims Trust has consistently stated that it seeks a parallel, but non-competing, mandate to represent Te Ūpokorehe in negotiations with the Crown, alongside a separate Te Whakatōhea entity. Te Ūpokorehe Treaty Claims Trust has also stated that the Whakatōhea Māori Trust Board does not represent all hapū of Te Ūpokorehe.
46. Other members of Te Ūpokorehe dispute that Te Ūpokorehe Treaty Claims Trust should represent them, but rather the Te Ūpokorehe trustees on the Whakatōhea Māori Trust Board should represent the group.

### *Te Ūpokorehe Treaty Claims Trust: Ministerial Inquiry*

47. On 9 December 2013, Te Ūpokorehe Treaty Claims Trust wrote to the Minister of Māori Affairs requesting a ministerial inquiry into the Whakatōhea Māori Trust Board's spending of hapū money in pursuing a Treaty of Waitangi claim. The Minister of Māori Affairs has powers of investigation under section 33 of the Māori Trust Boards Act 1955.

### *Ministerial Inquiry response*

48. On 24 February 2014, the Minister of Māori Affairs wrote to Te Ūpokorehe Treaty Claims Trust and the Whakatōhea Māori Trust Board, respectively, explaining that he forwarded Te Ūpokorehe Treaty Claims Trusts letter to the Whakatōhea Māori Trust Board for an urgent response.
49. In those letters, the Minister of Māori Affairs explained that he was unable to consider Te Ūpokorehe Treaty Claims Trusts request without any evidence of actual wrongdoing or legal non-compliance, and requested that they provide evidence to substantiate the claims made in the letter. No evidence has been received to date.

### *Te Whānau a Mokomoko*

50. A fifth group represents Te Whānau a Mokomoko. Te Whānau a Mokomoko has consistently said they cannot sit at the table with Whakatōhea, and why they should be able to negotiate a separate settlement of their Treaty claims.
51. On 6 August 2013, the Te Whānau a Mokomoko leadership group wrote to you seeking a meeting to discuss their settlement aspirations. The Minister of Māori Affairs met the leadership group on 22 October 2013, prior to the second reading of the Mokomoko

(Restoration of Character, Mana, and Reputation) Bill. The Minister was unable to respond to the leadership group's specific queries relating to the Minister for Treaty of Waitangi Negotiations' portfolio.

52. On 26 November 2013, the leadership group wrote to the Minister for Treaty of Waitangi Negotiations reiterating their request for a meeting to discuss the aspirations of the Te Whānau a Mokomoko for a separate and independent settlement.
53. The Mokomoko (Restoration of Character, Mana, and Reputation) Act 2013 was progressed outside the Treaty settlement process and did not settle any of the whānau Wai claims. It does, however, record their aspirations to seek separate Treaty settlement negotiations with the Crown. The Crown has previously said that they would explore this option. The leadership group considers that the legacy of Mokomoko's treatment by the Crown and the strained relationship with Whakatōhea means that the whānau is in an exceptional situation and warrants special consideration by the Crown. At this stage, there is no agreement to providing separate large natural group recognition for Te Whānau a Mokomoko.

#### *Ngāi Tamahaua*

54. Ngai Tamahaua is a hapū of Whakatōhea and is represented on the Whakatōhea Māori Trust Board. Representatives from Ngāi Tamahaua have requested, on several occasions, to be kept informed of Treaty settlement related matters.

## Appendix 2 – Speaking Points

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- I understand that you have had some discussions with some the groups in Whakatōhea.
- It would be good to hear the messages you have provided to those groups as well as understand any undertakings that may have been given.

### **18 December 2013 meeting**

- When we met with Whakatōhea groups on 18 December 2013, I took from that meeting that:
  - the groups were willing to work together for the benefit of Whakatōhea; and
  - however the groups also want their own settlement aspirations to be met

### **Whakatōhea discussions**

I have consistently encouraged Whakatōhea to:

- establish and confirm a single Whakatōhea mandated entity, to represent all of Whakatōhea in their Treaty settlement negotiations with the Crown; and
- agree to an approach for developing a single mandate strategy for all Whakatōhea.

### **Preference for large natural groupings**

- It is my strong preference to negotiate Treaty settlements with 'large natural groupings' rather than within their whānau whānui.
- Negotiations can be difficult in circumstances where there are groups that have strained relationships with their neighbours.
- Large natural groupings:
  - Help to reduce iwi overlapping claim issues and iwi fragmentation; and
  - Allows a Treaty settlement package to cover a wider range of redress than might otherwise be possible.
- Wider redress means that the Treaty settlement is more likely to meet a greater number of the claimants' aspirations. Consequently, the durability of the settlement will be strengthened.

### **Key Whakatōhea mandate aspects**

- Important the mandate is designed to meet the needs of all claimant community members.
- It will not be helpful to have five groups seeking separate mandates.
- What are your views on how the aspirations of the Whakatōhea groups can be met within a large natural grouping?



Tu Ake  
Whakatōhea  
Collective

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**PROPOSED DRAFT**  
**WHAKATŌHEA PRE-SETTLEMENT CLAIMS TRUST**  
**MANDATE STRATEGY**

11 November 2015

Prepared for Tu Ake Whakatōhea Collective

OFFICIAL INFORMATION ACT  
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## WHAKATŪWHERA

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### 1.1 INTRODUCTION

- 1.1.1. It is widely acknowledged and accepted that Whakatōhea has suffered significantly as a result of various Crown acts or omissions since 1840. “The Whakatōhea Iwi, centred on Ōpōtiki, have claimed that they were prejudicially affected by the actions of the Crown in confiscating their lands in 1860”<sup>1</sup> (Gillings, 1994, p.1).
- 1.1.2. Whakatōhea first attempted to settle the historical Whakatōhea raupatu claims against the Crown in 1996. Since then, for nineteen (19) years hapū have lead a hapū driven process aimed at settling with the Crown, once and for all, the historical Treaty of Waitangi claims (the **Historical Claims**) of Whakatōhea.
- 1.1.3. In August 2003 an interim working party developed a process report known as the Te Ara Tono mō te Raupatu. This report set out a process by which Whakatōhea could re-engage with the Crown to negotiate a settlement of the Historical Claims. This report was adopted by Whakatōhea at a Hui-ā-Iwi on 26 August 2007.
- 1.1.4. Following the adoption of Te Ara Tono mō te Raupatu, a second group known as the Whakatōhea Raupatu Working Party (**WRWP**) began the work of preparing Whakatōhea to grant a mandate to a representative entity to negotiate the settlement of the Historical Claims. However, the WRWP was not able to finalise a mandating process before Ngāti Ngāhere, Ngāti Rua, Ngāti Patumoana, Ngāti Ira and Ngai Tamahaua hapū withdrew their representatives from the WRWP.
- 1.1.5. In 2010, Ngāti Ira, Ngāti Ngāhere, Ngāti Rua and Ngāti Patumoana regrouped to consider the next steps. This grouping of hapū became known as the Tu Ake Whakatōhea Collective (the **Collective**). The Collective sought assistance from the Whakatōhea Māori Trust Board (**Trust Board**) to engage with Iwi members of Whakatōhea (**Whakatōhea uri**) to identify the most appropriate process by which Whakatōhea could provide a mandate to a representative entity to negotiate the settlement of the Historical Claims. The Trust Board agreed to provide reasonable assistance in accordance with the terms of its governing legislation.
- 1.1.6. The Collective, with the support of the Trust Board, supported a collective approach, where whānau and hapū were encouraged to work together as Iwi in the context of the settlement of the Historical Claims. Through a robust consultation process which is detailed further in this document, the Collective sought to educate Whakatōhea uri, marae and hapū on the settlement process and options available to Whakatōhea to settle the Historical Claims.

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<sup>1</sup> Gillings, - Te Raupatu o te Whakatōhea: The Confiscation of Whakatōhea Land 1865-1866.

1.1.7. The Collective, with support from the Trust Board, held twenty three (23) education and consultation hui within the Whakatōhea rohe and around the country in order to ascertain the views of Whakatōhea uri and hapū on these important issues. The overall feedback from participants at those hui was that the information presented gave them a better understanding of the Treaty settlement process, Whakatōhea history, and the options available to Whakatōhea to settle the Historical Claims.

1.1.8. As a result of these extensive consultations with Whakatōhea uri, marae and hapū, the Collective has a detailed understanding of how our people wish to proceed to settle the Historical Claims. Consultation meetings and correspondence is detailed further in Appendix 1.

## 1.2 A FRESH APPROACH

1.2.1. A number of groups and associated organisations have, since 1996, sought to engage with Whakatōhea uri and hapū with the ultimate purpose of seeking a mandate from Whakatōhea uri to negotiate the settlement of the Historical Claims.

1.2.2. Through extensive consultation undertaken by the Collective, it is clear that Whakatōhea uri are seeking the timely settlement of its Historical Claims. It is also clear that the establishment of a new organisation, for the sole purpose of negotiating a settlement of these Historical Claims, is supported by Whakatōhea uri.

1.2.3. Accordingly, the Collective has proposed that a new entity, to be called the Whakatōhea Pre-settlement Claims Trust (the **Pre-settlement Trust**), should be established to seek a mandate from Whakatōhea uri. The Collective believes that a new entity, which is appropriately representative of and accountable to Whakatōhea uri, hapū and marae, will be supported by Whakatōhea as the most appropriate entity to pursue negotiations with the Crown.

## 2 TE KAUPAPA

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### 2.1 THE PURPOSE

2.1.1. This document sets out:

- a. the basis on which the Pre-settlement Trust is proposed to be established; and
- b. the process by which the Pre-settlement Trust will seek a durable mandate from Whakatōhea uri, hapū and marae to negotiate the comprehensive settlement of all Whakatōhea Historical Claims.

## 2.2 THE MANDATE STRATEGY

2.2.1. This Mandate Strategy is set out in four parts. Part A, entitled "*He Kōrero mo Whakatōhea*", explains who we are, the traditional areas of interest and the nature of the Historical Claims. Part B, entitled "*Te Tirohanga Whakamuri*", explains the story so far for the Collective and the nature and extent of consultation undertaken by the Collective with Whakatōhea and neighbouring Iwi. Part C, entitled "*The Pre-settlement Trust*", explains how the Pre-settlement Trust will be established, how it will operate and how it will be accountable to, and representative of, all Whakatōhea uri, hapū and marae. Part D, entitled "*The Proposed Mandate Process*", explains how the Pre-settlement Trust will seek a mandate from Whakatōhea uri to settle the Historical Claims with the Crown.

2.2.2. **More specifically, Part A of this Mandate Strategy:**

- a. describes who Whakatōhea are as an Iwi;
- b. names the hapū and marae of Whakatōhea;
- c. describes present-day characteristics of Whakatōhea, including population size and associated demographics; and
- d. describes Whakatōhea's traditional boundary and settlement area.

2.2.3. **Part B of this Mandate Strategy:**

- a. sets out the story so far for the Collective;
- b. details the consultation that the Collective has undertaken with Whakatōhea Uri, hapū, marae and other Whakatōhea groups; and
- c. details the consultation and engagement between the Collective and neighbouring Iwi.

2.2.4. **Part C of this Mandate Strategy:**

- a. describes the Pre-settlement Trust, including how hapū and marae members will be represented on the Pre-settlement Trust;
- b. describes how additional Whakatōhea hapū within the Pre-settlement Trust structure can be identified;
- c. outlines the nomination and election process for trustees of the Pre-settlement Trust (the **Trustees**);
- d. describes the Pre-settlement Trust's roles, accountabilities, decision making processes, monitoring and reporting requirements to claimants, hapū and Iwi;
- e. outlines the purpose of the Whakatōhea Claims Committee, together with its functions and accountabilities;

- f. outlines the Treaty settlement negotiations framework and how the Pre-settlement Trust will appoint negotiators to negotiate with the Crown for the settlement of the Historical Claims; and
- g. outlines the relationship of the Collective and the Trust Board.

2.2.5. Part D of this Mandate Strategy:

- a. describes the proposed mandate process to enable Whakatōhea to vote on whether to accept the Pre-settlement Trust as the mandated body to negotiate the settlement of the Historical Claims.

## PART A: HE KŌRERO MO WHAKATŌHEA

### 3 WHAKATŌHEA TE IWI

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#### 3.1 ŌKU TIPUNA - OUR ANCESTORS

- 3.1.1. Ko Tūtāmure rāua ko Muriwai ngā tīpuna. Whakatōhea members derive their whakapapa through Tūtāmure of the Nukutere waka and Muriwai of the Mataatua waka. *“The union between Tūtāmure and Hineīkauā laid the foundation for the Iwi of Whakatōhea on the mana whenua (territorial authority) of Te Panenehu and the mana ariki (chiefly authority) of the Mātaatua waka. Over succeeding generations the names Te Wakanui and Te Panenehu were submerged by the new Iwi of Whakatōhea”*<sup>2</sup>(Walker, 2006,p.25).
- 3.1.2. On the eastern boundary at Te Rangi where the Nukutere Waka landed around 1250AD our ancestor **Tauturangi** disembarked to form one of the original inhabitants of the area, the **Te Wakanui** people. These were the ancestors of **Tūtāmure** and his people, the **Panenehu** (Ngāti Rua hapū). It is said that Tūtāmure’s influence extended to the Motu, however it is evidenced that the eastern and south eastern boundaries of the Whakatōhea rohe were established during the time of Tūtāmure and the Panenehu people. Tūtāmure was responsible for defining the mana whenua (territorial authority) of the eastern and southern boundaries of Te Panenehu.
- 3.1.3. The **Ngāi Tū** people are descendants of **Taarawa** and settled much of the southern, central and northern regions of the Whakatōhea rohe, including the current Ōpōtiki Township. A number of hapū descend from Ngāi Tū, namely, Ngāti Ngāhere, Ngāti Patumoana, and Ngāi Tamahaua. Amongst some of the well-known descendants of Taarawa were Tamakōmutumutu, Hauoterangi, Tahu and Ruamoko.

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<sup>2</sup> Ōpōtiki Mai Tawhiti – Capital of Whakatōhea, Walker, 2006, p. 25.

- 3.1.4. On the western Whakatōhea boundary the Mataatua Waka arrived approximately eight generations after Nukutere. It is here our ancestor **Muriwai** disembarked and stayed in her cave below Kohi Point in Whakatane. This area is made famous because of her strength in saving the Mataatua Waka from floating out to sea with her quote “Kia whakatāne au i ahau”, and is part of the Mataatua legend. We also see through her travels and the influence of her children the emergence of important bloodlines connecting Mataatua.
- 3.1.5. Her eldest son **Repanga** married **Ngāpoupereta** daughter of Ranginui-a-tekohu of the Rangimātoru Waka from Ohiwa. And their son **Tuamutu** had a union with **Ani-i-waho** daughter of Tairongo, a descendant of Hape (Upokorehe Hapū). The only daughter of Muriwai, **Hineīkauīa** had a union with **Tūtāmure**, chief of Te Panenehu (Ngāti Rua hapū) and from Muriwai’s other son, **Rangikurukuru** descends the hapū of Ngāti Ira with links to other hapū, Ngāti Ngāhere and Ngāi Tamahaua.
- 3.1.6. Following the battle of Maungakahia involving his uncle Kahungunu, Tūtāmure returned from there and married Hineīkauīa, the daughter of Muriwai which laid the foundation on the western and northern side of Whakatōhea and the mana ariki (chiefly authority) of the **Mataatua waka**. It is from this union that the hapū of Whakatōhea derives its lineage.
- 3.1.7. However, Muriwai is known because of her tenacity and stubbornness, from which Whakatōhea derives its name. Her influence is further reinforced through an incident involving the drowning of her two sons Tanewhirinaki and Koau where the saying “Mai Ngā Kuri a Whareī ki Tihirau” originates. This kōrero references the tapu placed on the area because of the drowning of her sons and respect to Muriwai herself.

## **4 NGĀ HAPŪ ME NGĀ MARAE O WHAKATŌHEA**

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### **4.1 NGĀ HAPŪ O WHAKATŌHEA**

4.1.1. There are six recognised hapū of Whakatōhea and these are listed below:

<b>1</b>	Ngāti Rua
<b>2</b>	Ngāi Tamahaua
<b>3</b>	Ngāti Patumoana
<b>4</b>	Ngāti Ngāhere
<b>5</b>	Ngāti Ira
<b>6</b>	Upokorehe

4.1.2. These hapū have been recognised for some time and, by way of example, are the hapū of Whakatōhea that were identified when the Trust Board was established in 1952.

4.1.3. During the consultation process undertaken by the Collective, a view has been expressed that the traditional list of Whakatōhea hapū may be too restrictive, and that there may be some merit in establishing a process for additional Whakatōhea hapū who wish to be acknowledged and recognised over time. Accordingly, this mandate strategy and the proposed Trust Deed for the Pre-settlement Trust (the **Trust Deed**) provides for a process for additional hapū o Whakatōhea to be recognised and represented on the Pre-settlement Trust.

## 4.2 NGĀ MARAE O WHAKATŌHEA

4.2.1. Whakatōhea has a number of marae within its tribal boundary. The following eight marae are active and functional:

1	Omarumutu
2	Opape
3	Waiaua
4	Terere
5	Opeke
6	Roimata
7	Kutarere
8	Maromahue

4.2.2 As noted above, the eight marae of Whakatōhea are active and functional and have trustees in place that have been approved and registered by the Māori Land Court. The role and responsibilities of marae Trustees are governed by the Te Ture Whenua Māori Act 1993, however, their principle function is to look after the interests of the marae for the benefit of uri and hapū o Whakatōhea.

4.2.3 Whakatōhea hapū and marae have been widely consulted in the development of this mandate strategy and both are provided for in the representative structure proposed for the Pre-settlement Trust. Importantly and as noted above, the Pre-settlement Trust structure sets out a clear process for the recognition and representation of additional Whakatōhea hapū.

## 5 TE MANA TANGATA

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### 5.1 CLAIMANT DEFINITION

5.1.1. For the purposes of settlement, the Whakatōhea claimant group encompasses the whakapapa of:

- a. The descendants of Muriwai and Tūtāmure and;
- b. Affiliate to one or more of the hapū and marae o Whakatōhea, listed at 4.1.1 and 4.2.1.

- 5.1.2. The definition will ensure that only the Historical Claims of Whakatōhea are settled through the settlement and that all Whakatōhea uri, marae and hapū will be entitled to benefit from that settlement.
- 5.1.3. Importantly for us, the Iwi of Whakatōhea is not named after one of our ancestors. Instead, our Iwi takes its name from an event. This is important because, unlike other Iwi, Whakatōhea does not trace descent from one eponymous ancestor. We trace our descent as an Iwi from two key ancestors (being those ancestors referred to in paragraph 3.1 above).
- 5.1.4. The Collective has developed a definition that it considers captures all of the Whakatōhea uri. That definition of Whakatōhea is set out in the Trust Deed. The Pre-settlement Trust Trustees are required to act in the best interests of all uri of Whakatōhea. This mandate strategy is hapū driven and Iwi focussed.

## 5.2 POPULATION

- 5.2.1. Statistics NZ have completed the new 2013 census data and the Whakatōhea population for 2013 stands at 12,174.
- 5.2.2. The majority of Whakatōhea uri live in the Bay of Plenty (40.2%), followed by Auckland (19.6%), Waikato (10.5%), Wellington (7.81%), Gisborne (4.77%), Manawatu (3.47%), Hawkes Bay (3.2%), Northland (2.48%), Taranaki (1.2%) and in total for the South Island (6.87%) respectively.
- 5.2.3. Census figures only show those people resident in NZ. The number of Whakatōhea uri is likely to be considerably more than 12,174, with a large number of Whakatōhea uri living elsewhere in the world.
- 5.2.4. It is also noted, that 90% of Whakatōhea uri do not live within the boundaries of Whakatōhea and there are currently no statistics regarding the number of Whakatōhea uri who live overseas.

## 5.3 WHAKATŌHEA IWI REGISTER

- 5.3.1. A considerable amount of time has been undertaken to update the Whakatōhea Iwi register information on a regular basis. Our current tribal membership, as recorded in the register, totals 11,030 registered members inclusive of tamariki and voting members. These registered members affiliate to hapū o Whakatōhea as follows:

1	Ngāti Rua	3,273
2	Ngāi Tamahaua	1,995
3	Ngāti Patumoana	1,663
4	Ngāti Ngāhere	1,412
5	Upokorehe	1,398



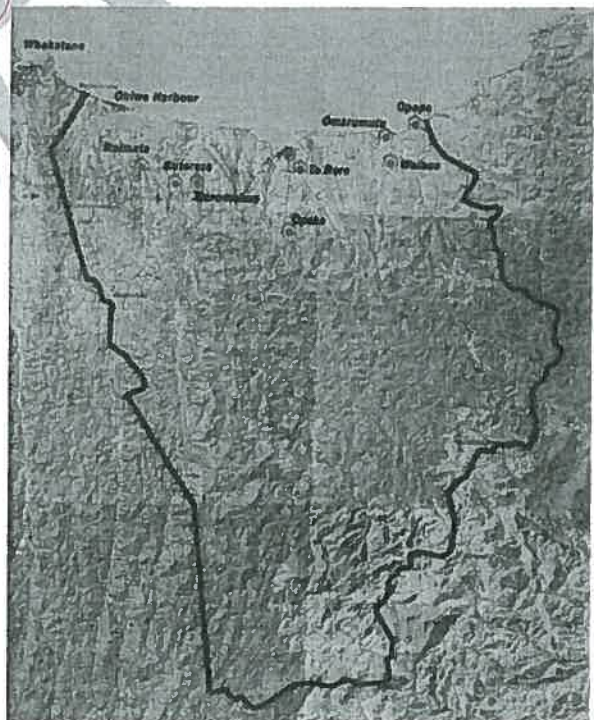
<b>6</b>	Ngāti Ira	1,289
	<b>TOTAL</b>	<b>11,030</b>

5.3.2. It is important to note that the number of uri registered on the Whakatōhea register aligns closely with the number of Whakatōhea uri identified in the 2013 census.

5.3.3. The Trust Board proposes to provide access to its register of Whakatōhea uri by way of its tribal coordinator to allow the Pre-settlement Trust to communicate directly with a significant proportion of Whakatōhea uri, wherever they reside.

**6 TRADITIONAL TRIBAL BOUNDARY AND AREA OF INTEREST**

6.1.1. Commencing at Pakihi, at the mouth of the river along the sea coast to the mouth of the Waiotaha Stream to the mouth of the Ohiwa Harbour to Tehoro (a hill), then turning inland southwards to Puhikoko (a hill) to Pukemoremore (a hill) then to Mapouriki (a hill), at one time a fighting pā. Then descending to Waimana Stream, to Mapouriki; following the Waimana Stream toward its source at Tautautahi along the banks to the mouth of the Pārau Stream; then following Pārau Stream to Tangata-e-roha (a hill) on to Kaharoa (an old settlement); from Kaharoa to Pa Harakeke, a ridge leading towards Maungapohatu to Maungatāpere descending into the Motu river to Kaitaura falls to Peketutu (a rock); leaving the river and up a ridge to Whakararonga; following the hill tops until it reaches Tipi O Houmea (a peak) descending towards Makomako (a hill) till it crosses Takaputahi Stream to Ngaupokotangata (a mountain) following the ridge to Kamakama; along the ridge to Oroī then turning seawards to Te Rangi on the sea coast; then along the sea coast to the mouth of the Ōpape Stream to Awahou Stream to Tirohanga and back to Pakihi. (Te Hoeroa Horokai and Heremia Hoera)<sup>3</sup>(Jones, 1920, p.22)



6.1.2. The map depicted below sets out the general area of interest and marae of Whakatōhea for the purposes of the settlement of the Historical Claims.

6.1.3. Whakatōhea acknowledges the settlement area of interest overlaps and in some instances is shared with neighbouring Iwi.

<sup>3</sup> Jones, Sim Report, 1920, pg 22

Shared boundaries exist between Ngai Tuhoe and Ngāti Awa on the Western boundary, Te Aitanga-a-Mahaki on the Southern boundary, and Ngai Tai on the Eastern boundary.

6.1.4. The Pre-settlement Trust will work with neighbouring Iwi to find a solution to these shared interests.

6.1.5. Subject to a Deed of Mandate being recognised by the Crown, the Collective and the Trust Board will inform the Crown of the processes agreed to by the neighbouring Iwi until such time as the Pre-settlement Trust is in place. From that time, the process for engaging with neighbouring Iwi on Treaty settlement matters will become the responsibility of the Pre-settlement Trust.

## **7 WHAKATŌHEA HISTORICAL CLAIMS**

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7.1.1. It is proposed that the Pre-Settlement Trust will negotiate for the full and final settlement of all Whakatōhea Historical Claims through direct negotiation with the Crown. The Historical Claims of Whakatōhea include all claims made at any time (whether or not the claims have been researched, registered and/or notified) by any claimant or anyone representing them that:

- a. Are based on a claimant's whakapapa to ōku tipuna referred to in paragraph 3 and affiliation to one or more of the hapū and marae o Whakatōhea (those hapū and marae listed in paragraph 4.1.1 and 4.2.1).
- b. Are founded on rights arising from Te Tiriti o Waitangi, including customary law and aboriginal title.
- c. Arise from or relate to acts before 21 September 1992 by or on behalf of the Crown or legislation.

7.1.2. The Historical Claims include registered WAI claims as set out in **Appendix 2** (Whakatōhea WAI claims).

## PART B: HE TIROHANGA WHAKAMURI

### 8 TE TIROHANGA WHAKAMURI

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#### 8.1 What has happened so far?

8.1.1. As noted previously, the Collective, supported by the Trust Board has undertaken a robust consultation and communications process to ensure all those who whakapapa to Whakatōhea have the opportunity to provide their view on the best possible entity to represent them in negotiations for the settlement of their historical Treaty claims.

8.1.2. In this regard, the Collective has engaged with:

- a. Uri o Whakatōhea;
- b. Whakatōhea hapū and marae;
- c. Other Whakatōhea groups listed in Appendix 1; and
- d. Iwi with overlapping interests.

#### 8.2 Hui with ngā uri o Whakatōhea

8.2.1. Over the course of the last five years (2011-2015), meetings with hapū, and marae such as Ngāti Rua, Ngāti Patumoana, Ngāti Ngāhere, Ngāi Tama, Te Upokorēhē, Ngāti Ira, Te Upokorehe Treaty Claims Trust (TUTCT), the WRWP and marae listed in 4.2.1, were held, and information relating to the proposed settlement, mandate process and Pre-settlement Trust was presented to meeting attendees.

8.2.2. Between 2011 and 2015 the Collective has hosted a number of hui within the rohe with marae and hapū, and throughout the motu. These information hui were held in various cities and presentations, comprising information relating to the proposed mandate process and the Pre-settlement Trust was explained. Presentations were undertaken with groups in the following centres:

- a. Taumata Kaumātua, Ōpōtiki 8 March 2013
- b. Whakatāne on 14 March 2013
- c. Gisborne on 18 March 2013
- d. Tauranga on 19 March 2013
- e. Rotorua on 20 March 2013
- f. Auckland on 21 March 2013
- g. Whangarei on 26 March 2013

- h. Wellington on 27 March 2013
- i. Christchurch on 3 April 2013
- j. Haahi Ringatū Church, Ōpōtiki 12 April 2013
- k. Ngāti Rua Hapū, 6 May 2013
- l. Hamilton on 7 May 2013
- m. Ngāti Patumoana Hapū, 17 May 2013
- n. Pirihi Whānau Reunion, Ōpōtiki 2 June 2013
- o. Ngāti Ira Hapū, 6 June 2013
- p. Turangi on 9 June 2013
- q. Hastings on 10 June 2013
- r. Te Kaha, on 9 October 2013
- s. Ōpōtiki, on 10 October 2013

8.2.3. These hui were well attended and members agreed with the work completed by the Collective to support obtaining a mandate to negotiate the settlement of the Historical Claims. Ngā uri o Whakatōhea recognised the history associated with the Trust Board's involvement in settlement negotiations and were supportive of the creation of a new entity, which would be responsible for Treaty settlement negotiations with the Crown. The Pre-settlement Trust is proposed to be this new entity.

8.2.4. To further strengthen this mandate strategy, a draft of the mandate strategy was presented to the Iwi on the 11 November 2014 for feedback and submission. 146 submissions were received with 83.56% (122) in full support, 3.43% (5) partial support with amendments and 13.01% (19) not in support. In light of this process, several changes were made to the draft mandate strategy.

8.2.5. It is important to note that this process has been above and beyond Crown policy. Further opportunity to make submissions on the draft mandate strategy will be advertised before any vote is sought.

### **8.3 Hui with other Whakatōhea groups**

8.3.1. The Collective is well aware that other entities seek a mandate to negotiate the settlement of the Whakatōhea historical Treaty claims. Principal amongst those are TUTCT and WRWP.

8.3.2. In relation to WRWP, the Collective has met with representatives a number of times since 2011 and more recently in 2015. The Collective is confident that any issues which the

WRWP may have will be addressed through the proposed structure of the Pre-settlement Trust or within the associated committee structure (including the Whakatōhea Claims Committee). In this regard, members from the WRWP may be elected to the Pre-settlement Trust and will certainly be represented on the Whakatōhea Claims Committee, being a group of kaumātua, claimants, uri, whānau, marae and hapū within the proposed structure who will provide guidance to the Trustees and negotiators.

8.3.3. In relation to TUTCT, while the Collective has proposed a number of hui with TUTCT since 2011, they have not always been held. Notwithstanding this, the Collective is confident that any issues which TUTCT may have will not affect settlement negotiations between the Pre-settlement Trust and the Crown. The Collective considers that, based on history and whakapapa, Te Upokorehe is a hapū of Whakatōhea and is not a large natural grouping separate from Whakatōhea. In this regard, any settlement reached with the Pre-settlement Trust will, by claimant definition and definition of the historical claims to be settled, include the historical claims of Te Upokorehe.

8.3.4. A summary of the nature and extent of engagement between the Collective and other Whakatōhea groups is also set out in the Whakatōhea Consultation Report attached as **Appendix 2**.

#### **8.4 Hui with Iwi with overlapping interests**

8.4.1. Hapū of the Collective have met with Iwi with overlapping interests throughout the Collectives consultation and communications process. These meetings will continue to occur as the mandate strategy progresses. These have included hui with:

- a. Ngāi Tuhoe; and
- b. Ngāi Tai.

### **PART C: PROPOSED NEW ENTITY**

#### **9 WHAKATŌHEA PRE-SETTLEMENT TRUST**

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9.1.1. The Whakatōhea Iwi wish to establish an entity to obtain a mandate to negotiate with the Crown a full and final settlement of all Historical Claims of Whakatōhea.

9.1.2. The Whakatōhea Iwi considers the role of the Whakatōhea Pre-settlement Trust (Pre-settlement Trust) will be to represent their views in the context of direct negotiations with the Crown.

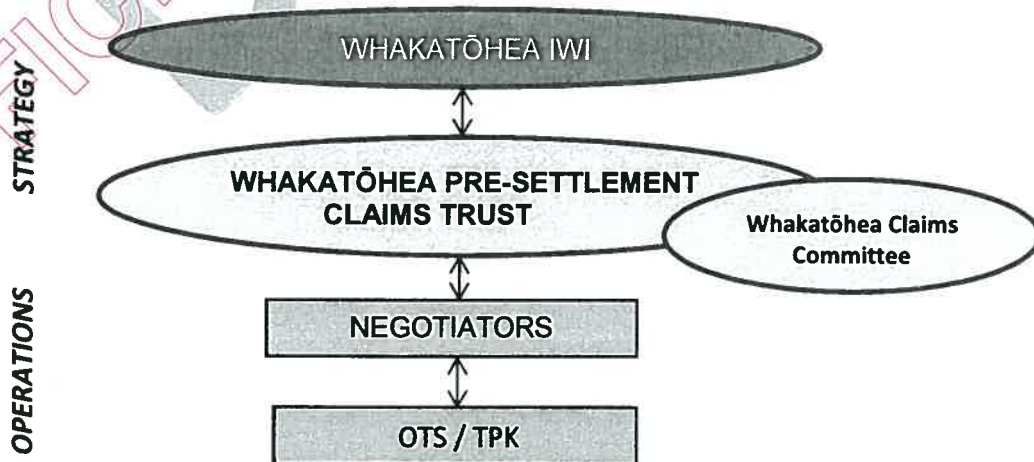
9.1.3. The beneficiaries of the Pre-settlement Trust are ngā uri o Whakatōhea, hapū and marae o Whakatōhea.

- 9.1.4. The Pre-settlement Trust is intended to be the mandated entity to negotiate with the Crown.
- 9.1.5. The Pre-settlement Trust seeks the mandate to represent all hapū of Whakatōhea for Treaty settlement negotiations, including but not limited to the recognised hapū of Whakatōhea listed at 4.1.1, and including all Whakatōhea hapū on whose behalf historical claims have been made to the Waitangi Tribunal.
- 9.1.6. The Pre-settlement Trust seeks the mandate to represent all marae of Whakatōhea for Treaty settlement negotiations, including but not limited to the recognised marae of Whakatōhea listed in 4.2.1.
- 9.1.7. A resolution will be presented at mandate hui seeking the establishment of the Pre-settlement trust as the mandated body to represent Whakatōhea and is listed at 21.5.1.
- 9.1.8. The Pre-settlement Trust will be a private trust that will be established pursuant to rules that will ensure that it remains representative of and accountable to the Whakatōhea Iwi. Those rules will be set out in the Trust Deed for the Pre-settlement Trust (the **Trust Deed**).
- 9.1.9. The Pre-settlement Trust is a temporary trust who will operate until such time as a new post settlement governance entity is established for the Iwi of Whakatōhea.
- 9.1.10. The Trust Deed will also provide for a committee of hapū delegates and WAI claimants (as defined in the Trust Deed) to provide non-binding advice and recommendations to the Pre-settlement Trust. This committee will be called the **Whakatōhea Claims Committee**.

**OVERVIEW OF THE STRUCTURE OF THE PRE-SETTLEMENT TRUST**

**9.2 DIAGRAMATIC OVERVIEW**

9.2.1. The diagram below sets out the proposed structure for the Pre-settlement Trust:



### 9.2.2. By way of summary of the diagram:

- a. The Whakatōhea Iwi is a collective of hapū who represents the views and interests of all Whakatōhea members no matter where they reside.
- b. The Whakatōhea Iwi represents both registered and non-registered members of Whakatōhea.
- c. The Pre-settlement Trust will be representative of, and accountable to, the Whakatōhea Iwi (through ngā uri, hapū and marae).
- d. The Pre-settlement Trust will comprise hapū and marae Trustees and one member from the Trust Board.
- e. The Whakatōhea Claims Committee will comprise representatives of hapū, named WAI claimants and members of the Kaumātua Kaunihera. This Committee will provide non-binding advice and recommendations to the Pre-settlement Trust.
- f. The Pre-settlement Trust will appoint, and monitor the performance of negotiators.
- g. The negotiators will negotiate directly with the Crown (primarily the Office of Treaty Settlements and also Te Puni Kōkiri and other Crown agencies) for the settlement of the Historical Claims.

## 9.3 KEY MATTERS

9.3.1. In developing the structure for the Pre-settlement Trust, the Collective considered a number of issues, including the following:

- a. An analysis of a range of representative models.
- b. The manner in which the Trustees of the Pre-settlement Trust should be elected or appointed.
- c. The governance and decision-making processes of the Pre-settlement Trust.
- d. How the Pre-settlement Trust should report back to Whakatōhea uri, marae and hapū regarding progress on the Treaty settlement negotiations.
- e. The role and responsibilities of the Whakatōhea Claims Committee.
- f. The steps for additional Whakatōhea hapū who wish to be recognised on the Pre-settlement Trust.
- g. The role and responsibilities of the negotiators who will be appointed to negotiate directly with the Crown for the settlement of the Historical Claims.
- h. The role of the Collective.
- i. The role of the Trust Board.

## **10 THE PRE-SETTLEMENT TRUST**

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### **10.1 WHAKATŌHEA IWI**

- 10.1.1. The Trust Board was established in 1952 when it first received funds to establish its current Trust activities.
- 10.1.2. The Trust Board is the current Mandated Iwi Organisation (MIO) for the receipt of Fisheries and Aquaculture Assets.
- 10.1.3. The Trust Board currently represents Iwi and its role in relation to the settlement of the Historical Claims has been clarified further in this strategy at section 10.

### **10.2 MARAE REPRESENTATION**

- 10.2.1 There are eight marae of Whakatōhea which are active and functional and have trustees in place that have been approved and registered by the Māori Land Court. The role and responsibilities of marae Trustees are governed by the Te Ture Whenua Māori Act 1993, however, their principle function is to look after the interests of the marae for the benefit of uri and hapū o Whakatōhea.
- 10.2.2 One (1) Trustee shall be appointed from each of the eight functional marae as listed in paragraph 4.2.1.
- 10.2.3 Appointment of marae trustee shall be made in writing outlining the following:
1. Date of marae trustee meeting held;
  2. Minutes of meeting outlining motion for appointment of member;

### **10.3 HAPŪ REPRESENTATION**

- 10.3.1. This strategy acknowledges Whakatōhea members who are a direct descendent of a Whakatōhea ancestor as described at paragraph 3.1.1.
- 10.3.2. Hapū play a pivotal role in the negotiations with the Crown as they represent whānau who have been adversely affected from past confiscations and loss of life.
- 10.3.3. As acknowledged in paragraph 4.1.2, hapū have been recognised for some time and, by way of example, are the hapū of Whakatōhea that were identified when the Trust Board was established in 1952.
- 10.3.4. As outlined in paragraph 4.1.3, a process for additional Whakatōhea hapū who wish to be acknowledged and be represented on the Pre-settlement Trust has been established and is described below.



10.3.5. The steps to recognising additional Whakatōhea hapū within the Pre-settlement Trust structure include the following:

- a. Presenting historical evidence to established hapū and Iwi of Whakatōhea.
- b. Trustees of the Pre-settlement Trust are satisfied (acting reasonably) that the group:
  - (i) descends from a Whakatōhea Ancestor;
  - (ii) has active, functioning marae;
  - (iii) belongs to, or associates with, a maunga (mountain) and awa (river); and
  - (iv) is recognised as a functioning hapū of Whakatōhea by other hapū and
- c. the Trustees have consulted with the Kaumātua Kaunihera on the issue; and
- d. the Trustees by a seventy-five per cent (75%) majority, will support the request to add the group to the definition of hapū; and
- e. Resolution to amend the definition of hapū has been passed in accordance with the First Schedule of the Trust Deed.

10.3.6. One (1) hapū trustee shall be elected from each of the six hapū listed in 4.1.1.

10.3.7. Should additional hapū to the six listed at 4.1.1 be recognised as a result of the process described above, a hapū seat will be available for that hapū on the Pre-settlement Trust.

10.3.8. An election process for additional hapū will need to be undertaken.

10.3.9. Hapū members are encouraged to be a part of the election process as well as the Claims Committee process on all matters of Treaty settlement.

10.3.10. Claimants who have a claim will be encouraged to discuss their claim with the hapū of Whakatōhea who could be directly affected.

## **11 THE TRUSTEES**

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11.1.1. It is proposed that the Pre-settlement Trust consist of fifteen (15) Trustees.

- a. One (1) Trustee shall be elected from each of the six hapū listed in paragraph 4.1.1; (sum total being 6 Trustees) and
- b. One (1) Trustee shall be appointed from each of the eight functional marae as listed in paragraph 4.2.1; (sum total being 8 marae Trustees) and
- c. One (1) Trustee shall be appointed by the Whakatōhea Māori Trust Board.

11.1.2. Trustees will hold office for a term of three (3) years.

- 11.1.3. Hapū Trustees will be elected by ballot, postal, online voting and special votes in accordance with the terms of the Trust Deed. The marae Trustees and the Trust Board Trustee will be appointed by the marae and the Trust Board respectively.

## **12 NOMINATING, ELECTING AND REPLACING HAPŪ TRUSTEES**

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### **12.1 PRE-SETTLEMENT TRUST NOMINATION PROCESS**

- 12.1.1. The Trust Deed provides for members being Whakatōhea uri 18 years of age and over to be able to nominate members of the hapū that they affiliate to for election as a Trustee of the Pre-settlement Trust. There is no limit to the number of nominees who may stand for election as a Trustee. There will only be one (1) Trustee position available for each of the six hapū.
- 12.1.2. To be accepted, each nomination form is to be signed by five (5) Adult Registered Members of their principal hapū.
- 12.1.3. Verification of adult registered members will be confirmed by independent elections service providers.
- 12.1.4. Nominees are expected to provide a profile of their governance, marae and hapū experience.
- 12.1.5. For those members who are not registered with the Trust Board, a separate verification process will be completed by kaumātua and hapū members. Verification will include confirmation of whakapapa.
- 12.1.6. The Trust Deed sets out the criteria for eligibility for election as a Trustee.
- 12.1.7. Nominations from all Adult Registered Members for the election of a Trustee position on the Pre-settlement Trust will be open for a period of twenty one (21) business working days.
- 12.1.8. Nominations will close at 12 noon on the last day of the nomination period.
- 12.1.9. Nominations for each hapū trustee will be open for a period of 21 working days starting from the 14<sup>th</sup> April 2016. The date of the first mandate hui.

### **12.2 PRE-SETTLEMENT TRUST VOTING AND ELECTIONS PROCESS**

- 12.2.1. The elections and voting process for Trustees to the Pre-settlement Trust will be undertaken by an independent company. This is likely to be Independent Elections Services Ltd.

- 12.2.2. The Trust Deed requires voting papers to be sent to all Adult Registered Members (18 years of age and over) of Whakatōhea descent, within ten (10) working days after nominations close.
- 12.2.3. Voting for the election of Trustees will be open for a period of twenty one (21) business working days.
- 12.2.4. Voting will close at 12 noon on the last day of the voting period.
- 12.2.5. Votes may be cast:
- a. by returning the completed ballot paper to the Chief Returning Officer; or
  - b. online provided by the website of the Chief Returning Officer; or
  - c. at hui ballot box overseen by or on behalf of the Chief Returning Officer.
- 12.2.6. Elections will be by 'First Past the Post' (FPP). The highest polling candidate for each hapū will be elected as Trustees.
- 12.2.7. Each voter is able to cast one vote.
- 12.2.8. The voting process will be overseen by an independent Chief Returning Officer.
- 12.2.9. Notice of the result of the election will be given at the annual general meeting of the Pre-settlement Trust and the results will be published in major metropolitan newspapers and in any provincial newspapers circulating in regions within the area of Whakatōhea's customary interests.

### **12.3 REPLACEMENT OF TRUSTEES**

- 12.3.1. The removal and replacement of Hapū Trustees is provided for in the Trust Deed. Hapū Trustees are elected and hold office for a term of 3 years.
- 12.3.2. The trustees of each marae, will appoint and remove a Trustee by notice in writing to the Pre-settlement Trust.
- 12.3.3. The Whakatōhea Māori Trust Board will appoint and remove a Trustee by notice in writing to the Pre-settlement Trust.

### **12.4 TRUSTEES CEASING TO HOLD OFFICE**

- 12.4.1. The Trust Deed provides further detail regarding when a Hapū Trustee ceases to hold office, including if he or she:
- a. Resigns in writing;
  - b. Fails to attend three (3) consecutive meetings of the Trustees without a leave of absence;

- c. Is or becomes bankrupt;
- d. Is or has ever been convicted of a crime involving dishonesty;
- e. Fails to meet the requirements for registration as an officer of charitable entity under the Charities Act 2005.
- f. Dies.

## **13 GOVERNANCE AND DECISION-MAKING**

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### **13.1 GOVERNANCE**

13.1.1. The Trustees of the Pre-settlement Trust will:

- a. guide the negotiations, provide final approval and sign off on key milestones and documents such as the Terms of Negotiations, the Agreement in Principle and the Deed of Settlement;
- b. maintain the highest level of trust and integrity by keeping the interests of Whakatōhea at the forefront of the Treaty settlement process;
- c. report to the Whakatōhea Claims Committee and the wider Whakatōhea Iwi on a monthly basis;
- d. maintain a robust and widely consultative process with ngā uri, whānau, hapū and the Iwi of Whakatōhea;
- e. establish a fair and transparent process for the appointment of negotiators;
- f. oversee and co-ordinate all aspects of negotiations including the contracting of specialist advice when required; and
- g. monitor and report on all financial matters, throughout the mandating process and Treaty settlement negotiations.

### **13.2 DECISION MAKING**

13.2.1. The Trust Deed provides for the following matters:

- a. Trustees will make decisions by way of majority.
- b. Minutes of the Trustees' meetings and resolutions will be kept. These minutes will provide conclusive evidence of the Trustees' proceedings.
- c. Trustees will, if requested, provide records of meetings and decisions to the Whakatōhea Claims Committee.

13.2.2. The Trust Deed also requires certain decisions to be approved by Whakatōhea uri. An additional hapū for Whakatōhea can only be recognised if approved by a Members

Resolution (which is a resolution supported by 60% or more of Whakatōhea uri who vote on the matter). Further, certain provisions of the Trust Deed cannot be amended unless supported by such a Members Resolution.

## **14 REPORTING BACK TO THE CLAIMANT COMMUNITY**

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### **14.1 REGULAR REPORTING TO WHAKATŌHEA**

14.1.1. The Pre-settlement Trust, as the mandated entity, will have overall responsibility for reporting back to Whakatōhea uri, marae and hapū, to ensure its mandate is kept current.

14.1.2. The Pre-settlement Trust will report back monthly to Whakatōhea uri, marae and hapū, on the progress of the settlement process including updates and information at key milestones such as:

- a. Achieving Crown recognition of mandate;
- b. Terms of Negotiation;
- c. Agreement in Principle;
- d. Deed of Settlement;
- e. PSGE Structuring;
- f. Ratification of the settlement package and the PSGE which will require hui around the motu and an approved ratification and voting process and;
- g. Progression of research activity and timing of other opportunities for Whakatōhea to tell their story.

14.1.3. The Trustees of the Pre-settlement Trust will hold monthly hui for lwi members to attend. The Whakatōhea Claimant Committee is one avenue for the Pre-settlement Trust to provide updates on settlement negotiations. Updates on the settlement negotiations will also be posted on the following:

- a. The Pre-settlement Trust's website
- b. Trust Board's website
- c. Quarterly newsletter
- d. Mail out to beneficiaries
- e. Road show / Information hui
- f. Face book and twitter
- g. Hapū and hui ā-lwi
- h. Media briefings

i. Newspaper advertisements

14.1.4. In addition, the Trust Deed for the Pre-settlement Trust provides a process providing adult registered Iwi members with the ability to request a special meeting, provided that five percent (5%) of adult registered members support the request. The special meeting process is described more in the Trust Deed at clause 7.6.

## **14.2 Ratification of an initialled Deed of Settlement**

14.2.1. Importantly, the Pre-settlement Trust will not have authority to sign a Deed of Settlement with the Crown unless that Deed of Settlement has been ratified by Whakatōhea. In this regard, once the Pre-settlement Trust has agreed with the Crown on the nature of any redress package to settle the Historical Claims, it will initial a Deed of Settlement. That initialling indicates to the Crown that the Pre-settlement Trust, as the mandated entity, is comfortable to present the settlement package to Whakatōhea uri for consideration.

14.2.2. The initialled Deed of Settlement will then require ratification by Whakatōhea uri. It is anticipated that similar voting requirements to those identified in relation to the mandate process will be followed to ratify the Deed of Settlement. All adult Whakatōhea uri will be entitled to vote on whether the Deed of Settlement should be signed.

## **15 WHAKATŌHEA CLAIMS COMMITTEE**

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### **15.1 PURPOSE**

15.1.1. The purpose of the Whakatōhea Claims Committee is to strengthen the “representative” structure of the Pre-settlement Trust by establishing the Whakatōhea Claims Committee as an advisory body to the Pre-settlement Trust. The Whakatōhea Claims Committee membership will enhance the representation of interests within its constituent claimant community.

### **15.2 COMPOSITION**

15.2.1. The Whakatōhea Claims Committee will operate effectively as a subcommittee of the Pre-settlement Trust, sitting inside the Pre-settlement Trust’s structure. The Whakatōhea Claims Committee will include representation of:

- a. Hapū;
- b. Marae;
- c. Kaumātua Kaunihera; and
- d. Registered Waitangi Tribunal (WAI) Claimants.

15.2.2. The groups above have been selected as they are representative of a wide cross-section of the Whakatōhea claimant community.

15.2.3. Individual and whānau claims will be presented to the hapū and Iwi for consideration and in turn the negotiations team.

### **15.3 APPOINTMENT PROCESS**

15.3.1. One (1) representative will be appointed from each hapū onto the Whakatōhea Claims Committee in accordance with the kawa of each hapū. The hapū are to inform the Pre-settlement Trust in writing of the appointment, removal and replacement of its representatives onto the Whakatōhea Claims Committee.

15.3.2. One (1) representative from each of the functioning eight Marae will be appointed onto the Whakatōhea Claims Committee in accordance with the kawa of each Marae. The Marae are to inform the Pre-settlement Trust in writing of the appointment, removal and replacement of its representatives onto the Whakatōhea Claims Committee.

15.3.3. The Trust Deed provides for the Kaumātua Kaunihera to appoint as many representatives as it wishes to the Whakatōhea Claims Committee. The Kaumātua Kaunihera is to inform the Pre-settlement Trust in writing of the appointment, removal and replacement of its representatives on the Whakatōhea Claims Committee.

15.3.4. The named claimant or claimants of each WAI claim may appoint one (1) representative (per WAI claim) to the Whakatōhea Claims Committee. The named claimant or claimants are to inform the Pre-settlement Trust in writing of the appointment, removal and replacement of such representatives.

15.3.5. The appointment and removal process are provided for in the Trust Deed.

### **15.4 ROLE AND FUNCTION**

15.4.1. The role of the Whakatōhea Claims Committee will be to provide non-binding advice and recommendations to the Pre-settlement Trust on all Treaty settlement matters.

15.4.2. In its role as advisor, the Whakatōhea Claims Committee may provide historical research that has been presented to hapū and the Iwi to validate their claim(s) throughout the negotiations process.

15.4.3. In its role as advisor, the Whakatōhea Claims Committee may make non-binding recommendations to the Pre-settlement Trustees for sign off of key decisions such as the Agreement in Principle, Deed of Settlement, Ratification and Post Settlement Governance Entity structure.

- 15.4.4. The Whakatōhea Claims Committee can also be a link between the Pre-settlement Trust and the claimant community by promoting an open and transparent process. However, this will be subject to confidentiality at key points of the negotiation.
- 15.4.5. The Pre-settlement Trust may provide some resourcing to the Whakatōhea Claims Committee. Representatives on the Whakatōhea Claims Committee, and those that appoint them, are to be responsible for their own expenses.

## **16 RESEARCH GROUP**

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- 16.1.1. The Pre-settlement Trust will be supported by a Research Group headed by a professional historian/researcher, selected by the Pre-settlement Trustees, who is engaged to ensure a robust historical account can be established forming the basis of negotiations and settlement. The Crown will be informed who the professional historian/researcher will represent the Pre-settlement Trust.
- 16.1.2. This Research Group will be supported with members from hapū who will have in-depth knowledge of the history and whakapapa of Whakatōhea.

## **17 ADVISORS**

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- 17.1.1. The Pre-settlement Trust will utilise a number of advisors and specialist advisors where appropriate and when required. The Pre-settlement Trust will utilise internal staffing resources and capacity within its claimant groups where appropriate.
- 17.1.2. The Pre-settlement Trust will liaise with kaumātua from each of the hapū for ongoing advice and support to the Pre-settlement Trust in relation to matters of tikanga and whakapapa. As well as liaising with the Whakatōhea Claims Committee for advice from time to time as the Pre-settlement Trust may require.

## **18 FRAME WORK FOR NEGOTIATIONS**

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### **18.1 NEGOTIATING TEAM**

- 18.1.1. A negotiating team will be appointed by the Pre-settlement Trust to negotiate a settlement package with the Crown. The negotiators will be given general direction and guidance by the Pre-settlement Trust and will report back throughout negotiations.



## **18.2 LEAD NEGOTIATOR**

18.2.1. The Pre-settlement Trust should consider engaging the services of an experienced Treaty negotiator of reputable note and credibility. The lead negotiator's role will be to lead the team of negotiators through key engagements with Ministers and Government officials. A second tier of negotiators may undertake the work required at a more detailed level.

18.2.2. In considering the appointment of negotiators, the Pre-settlement Trust will consider the following criteria:

- a. Knowledge of Whakatōhea claims and history;
- b. Understanding of Whakatōhea values, tikanga, reo, culture;
- c. Knowledge of Whakatōhea rohe;
- d. Experience in negotiations, particularly settlement negotiations;
- e. Understanding of Crown processes;
- f. Interpersonal skills, including the ability to relate to people; and
- g. Such other qualities as may be required.

18.2.3. Beneficiaries of the Pre-settlement Trust may be appointed as negotiators.

18.2.4. Trustees of the Pre-settlement Trust are not eligible to be appointed as negotiators.

## **18.3 APPOINTMENT AND OR REPLACEMENT OF NEGOTIATOR(S)**

18.3.1. The Pre-settlement Trust will confirm, appoint, and replace Negotiator(s) by way of resolution of the Trustees of the Pre-settlement Trust.

## **18.4 REPORTING PROCESS FOR NEGOTIATOR(S)**

18.4.1. The negotiators are accountable to the Pre-settlement Trust and will report to the Pre-settlement Trustees on a monthly basis or more frequently as required. Reports will be copied to the Whakatōhea Claimant Committee to enable it to provide ongoing advice to the Pre-settlement Trustees.

## **18.5 DECISION MAKING PROCESS FOR NEGOTIATOR(S)**

18.5.1. The Negotiators will conduct negotiations with the Crown, but will not make final decisions without the agreement of the Pre-settlement Trustees.

## **18.6 RESPONSIBILITIES OF NEGOTIATOR(S)**

18.6.1. The negotiators will prepare a negotiation strategy that will be confirmed and/or modified by the Trustees, as appropriate. The negotiation strategy will include a detailed plan relating to:

- a. Decisions requiring oversight by Trustees;
- b. The subject matter for negotiations;
- c. Priorities for negotiations;
- d. Negotiation options.

## **19 TU AKE WHAKATŌHEA COLLECTIVE**

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19.1.1. Tu Ake Whakatōhea Collective was initiated by hapū o Whakatōhea. Their role is to:

- a. Develop a draft mandate strategy;
- b. Develop a draft Trust Deed for a new entity structure to be called the Pre-settlement Trust;
- c. Communicate widely with whānau, hapū, marae and the wider community to approve the draft mandate strategy and trust deed;
- d. Educate and update whānau, hapū, marae and iwi members on the mandate process and progress;

19.1.2. The Collective's role will cease once the Pre-settlement Trust is formed.

19.1.3. All information developed through the mandate process will be provided to the Pre-settlement Trust as required.

## **20 WHAKATŌHEA MĀORI TRUST BOARD**

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20.1.1. The Trust Board has been working together in partnership with the Collective to progress the settlement of Whakatōhea Historical Claims.

20.1.2. The Trust Board currently maintains a register of beneficiaries and will retain the responsibility for updating the register during the mandate and settlement negotiation process. The Trust Board has agreed to the use of its register of beneficiaries for the purposes of voting, including for mandating, election of trustees, confirming members to the Whakatōhea Claims Committee and ratification.

20.1.3. In recognition of the Trust Board's experience and established structures, policies and procedures, the Trust Board may provide assistance, in the form of administration and

financial management services to the Pre-settlement Trust. This would be through an agreed arrangement.

20.1.4. Other services available include:

- a. Finance and Auditing;
- b. Communications and Public Relations;
- c. Policies and Procedures;
- d. Tribal Database Management;
- e. Human Resource Management;
- f. Administration Services;
- g. Annual reporting; and other functions as required.

## PART D: THE MANDATE STRATEGY

### 21 WHAKATAKA RAUTAKI MANA WHAKAHAERE

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#### 21.1 Mandate hui

21.1.1. The Collective and the Trust Board understand that, in order to ensure that all those who whakapapa to Whakatōhea have the opportunity to take part and engage in a fair, inclusive mandate process, a robust mandating process must be undertaken.

21.1.2. With the Trust Board's previous history in mind and to ensure that the mandating process is robust and fair, the Collective and the Trust Board consider that a similar process to that taken to determine the structure of the Pre-settlement Trust should be followed.

#### 21.2 Hui locations

21.2.1. The Collective therefore proposes to hold mandating hui at the following locations:

Date and time	Location
14 April 2016, 6pm	Gisborne
16 April 2016, 10am	Ōpōtiki hapū and hui-a-lwi
16 April 2016, 4 pm	Te Kaha
22 April 2016, 11am	Tauranga
22 April 2016, 6pm	Rotorua
23 April 2016, 11am	Tūrangi
23 April 2016, 3pm	Hastings
7 May 2016, 10am	Hamilton
7 May 2016, 6pm	Auckland
8 May 2016, 1pm	Whangārei
14 May 2016, 11am	Wellington
15 May 2016, 11am	Christchurch

### **21.3 Advertising mandate hui**

21.3.1. All mandating hui will be advertised in local and national newspapers. Pānui for the proposed hui will also be provided to local radio, posted on the Trust Board's website and, where possible, included in television broadcasts.

21.3.2. The advertisement will include the following information:

- a. the location, date and time of the hui;
- b. the purpose of the hui, being a hui held to seek a mandate for direct Treaty settlement negotiations to settle all historical Treaty of Waitangi claims whether registered or unregistered relating to Crown actions and omissions that occurred prior to 21 September 1992, on behalf of ngā hapū, marae me ngā uri o Whakatōhea;
- c. the resolution to be voted on in relation to the establishment of the Pre-settlement Trust.
- d. The nomination and election process for mandate and how voting will be completed ie, by postal ballot, and or electronic form, administered by the Chief Returning Officer;
- e. where further information on the hui can be found eg, on the Pre-settlement Trust's website or the Trust Board's website;
- f. how members of Whakatōhea may register on the Trust Board's tribal database for the purposes of mandating; or
- g. how members who choose not to register with the Trust Board, may register with the Chief Returning Officer for purpose of mandating; and
- h. contact details for the Collective and the Trust Board.

### **21.4 Hui presentation**

21.4.1. A presentation will be delivered at each hui. The presentation will include:

- a. an explanation of the process to date, including the hui held to determine the development of the Pre-settlement Trust;
- b. the structure of the Pre-settlement Trust;
- c. the claimant definition and the historical claims to be settled;
- d. voting on the resolution relating to the mandate sought for the establishment of the Pre-settlement Trust;
- e. the process for nominating hapū Pre-settlement Trustees;

- f. Process for electing Pre-settlement Trustees;
- g. confirmation of the process for seeking the approval of ngā uri o Whakatōhea before signing of a Deed of Settlement;
- h. how ngā uri o Whakatōhea may apply for registration on the Trust Board's tribal database or choose to register with the Chief Returning Officer for the purpose of participating in the ratification of the PSGE and Deed of Settlement; and
- i. where further information on the mandating process may be found.

## **21.5 Resolution to be voted on by Whakatōhea**

21.5.1. There is one resolution to be presented at the mandating hui:

"That the Whakatōhea Pre-settlement Claims Trust is mandated to represent Whakatōhea in direct negotiations with the Crown for the comprehensive settlement of all of the Whakatōhea historical Treaty of Waitangi claims."

21.5.2. It is also proposed that each voting form will include the list of nominees / candidates for election as the first elected trustees of the Pre-settlement Trust. Each hapū will be entitled to elect one Trustee. The voting form for each voter will list the nominees / candidates for the hapū to which that voter affiliates for voting purposes. The voter will be asked to vote for his or her preferred nominee / candidate.

## **21.6 Records to be kept**

21.6.1. The Collective will maintain the following records in relation to the mandating hui:

- a. Copies of all advertisements, pānui and notices of the hui;
- b. Registers of attendance for each hui; and
- c. Minutes of the proceedings at each hui;
- d. Schedules of telephone and email queries.

## **21.7 Voting on the proposed mandate**

21.7.1. The register maintained by the Trust Board provides the most comprehensive list of beneficiaries with interests in any proposed mandating process and subsequent settlement. As a consequence, voting will be by ballot, online voting, postal ballot, using the register of beneficiaries maintained by the Trust Board. There will also be a process for Whakatōhea uri who are not registered with the Trust Board to be able to vote. This will ensure that as many uri o Whakatōhea as possible are provided information on the proposed mandate process and Pre-settlement Trust and, in turn, the ability to vote on the resolutions relating to these matters.

- 21.7.2. Those eligible to vote are Whakatōhea uri aged 18 years and over. Those who are currently enrolled members on the Whakatōhea tribal register maintained by the Trust Board will be able to vote. Whakatōhea uri who are not on the Trust Board register will be able to vote, provided that they complete the necessary documentation to show that they whakapapa to Whakatōhea.
- 21.7.3. Whakatōhea uri can apply to register for voting purposes (either by becoming registered on the Trust Board register or by registering with the Chief Returning Officer who then receives validation from Whakatōhea Kaumātua.) Registrations can come from any part of New Zealand or overseas. The application for registration is subject to the approval by the hapū trustees of the Trust Board along with Kaumātua from each hapū who can confirm Whakatōhea whakapapa. Both parties are responsible for confirming whakapapa and registration for voting purposes. Votes may be cast:
- a. By posting the completed ballot paper to the Chief Returning Officer;
  - b. By submitting the completed ballot paper in a ballot box at a mandating hui; or
  - c. Online on the website of the Chief Returning Officer.
- 21.7.4. Those members who choose not to register with the Whakatōhea Māori Trust Board will complete a separate application to register for voting purposes, which will be subject to the approval by hapū delegate along with Kaumātua from each hapū who are responsible for confirming whakapapa.
- 21.7.5. The voting process will be overseen by the independent Chief Returning Officer.

## **21.8 Liaising with Crown Officials**

- 21.8.1. Liaising with Crown officials will occur on a regular basis and as necessary between the Collective, the Pre-settlement Trust (once it is established), Te Puni Kōkiri and OTS, to ensure all parties are kept up to date on the progress of the mandating process.

## **21.9 Declaration of the voting results**

- 21.9.1. The results will be advertised in local and national newspapers. Pānui for the proposed hui will also be provided to local radio, posted on the Trust Board's website and, where possible, included in television broadcasts.

## **22 DISPUTE RESOLUTION**

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### **22.1 Matters for Dispute Resolution**

- 22.1.1. The Trustees shall, in good faith, take all reasonable steps to resolve any dispute that may arise in connection with:

- a. The terms of the Trust Deed for the Pre-settlement Trust;
- b. Registration as a beneficiary of the Trust Board;
- c. Decisions of the Trustees;
- d. The actions of the Whakatōhea Claimant Committee;
- e. The actions of the negotiators; or
- f. Any group that has concerns regarding the representation of their interests during negotiations.

## **22.2 Dispute resolution process:**

22.2.1. In the event that a complaint or dispute arises, this shall be submitted in writing to the Trustees (a **Dispute Notice**).

22.2.2. Any dispute regarding membership of Whakatōhea or otherwise in connection with the tikanga, reo, kawa, whakapapa and kōrero of Whakatōhea shall be referred by the Trust to the Kaumātua Kaunihera. The Kaumātua Kaunihera may provide non-binding advice to the Trust on the manner in which the dispute should be resolved.

22.2.3. In the first instance, the Chairperson (or a delegated member) shall meet with the complainant (the **Petitioner**) within 10 business days of receipt of the Dispute Notice to discuss and understand the issue, seek relevant information where required from the Petitioner, person(s) or group(s) involved in the complaint or dispute.

22.2.4. Following the provision of advice from the Kaumātua Kaunihera or any meeting between the Petitioner and the Chairperson (or a delegated member) the Pre-settlement Trust will then consider the matter, including whether further action is required.

22.2.5. The Petitioner shall be informed of any decisions made by the Trustees.

22.2.6. Should any party disagree with the findings of the Trustees, the Pre-settlement Trust and the complainant may seek to have the dispute resolved by an outside mediator or facilitator.

22.2.7. If the parties are unable to resolve the dispute, the Trustees may convene a Special Meeting at the written request of:

- (i) The Chairperson and Deputy Chairperson for the time being of the Trust or;
- (ii) The majority of the Trustees then in office, or
- (iii) 5% of Adult Registered Members'

The process for dispute resolution is outlined at Special Meetings 7.6 (b) (c) of the Trust Deed.

22.2.8. A conflict of interest register will be maintained to ensure all conflicts are identified and noted.

### **22.3 Removing or amending the mandate**

22.3.1. In order to amend or withdraw the mandate in respect of all or part of the claimant community, the following process must be undertaken.

22.3.2. Written notice of the proposal to withdraw or amend the mandate must be provided to the Chairperson of the Pre-settlement Trust. The written notice must:

- a. Identify whether the proposal seeks to amend or withdraw the mandate in respect of all or part of the claimant community, and if the latter, which part of the claimant community i.e. which hapū;
- b. Identify the concerns of the party seeking to amend or withdraw the mandate in respect of all or part of the claimant community;
- c. Be signed by at least 500 adult registered members on the register maintained by the Trust Board.

22.3.3. On receipt of the written notice referred to in paragraph 23.3.2, the Pre-settlement Trust will arrange for a meeting to be convened, within two weeks of the date of the written notice, between the party seeking to amend or withdraw the mandate and the Trustees of the Pre-settlement Trust. If this meeting does not resolve the identified concerns, the party seeking to amend or withdraw the mandate may organise five (or greater) publicly notified hui to discuss, withdraw or amend the mandate.

22.3.4. The publicly notified hui must follow the same process and procedures that conferred mandate on the Pre-settlement Trust, as identified above, including (but not limited to):

- a. the provision of sufficient public notice;
- b. the provision of information regarding the likely effects of any proposal to amend or withdraw the mandate; and
- c. the ability for as many Whakatōhea uri as possible to participate in the process (including postal voting).

22.3.5. Once the publicly notified hui have been completed and the outcome of the relevant voting process has been determined, the party seeking to amend or withdraw the mandate must provide a written report, containing copies of public notices advertising the publicly notified hui, attendance registers, minutes etc, to the Pre-settlement Trust and the Office of Treaty Settlements.



22.3.6. On receipt of the written report the Pre-settlement Trust will discuss the proposal to withdraw or amend the mandate and the written report with the Office of Treaty Settlements. If required, the Deed of Mandate may be amended to conform with the results of the voting.

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## Appendix 1

### Tū Ake Whakatōhea Collective Hapū Consultation Meetings and Correspondence

DATE: 25<sup>th</sup> September 2015



**Tu Ake  
Whakatōhea  
Collective**

This document has been developed to list dates of meetings, minutes and correspondence between the Tū Ake Whakatōhea Collective (TAWC), Hapū, the Working Party (WP) and Te Upokorēhē Treaty Claims Trust (TUTCT). There are other unrecorded dates that are not listed here prior to 2011.

The purpose of this document is to highlight the ongoing consultation to form a single mandated body for Whakatōhea and to show the level of activity between hapū and the Tū Ake Whakatōhea Collective.

Hapū / Group	Date	Detail
Whakatōhea Working Party	1 May 2012	Working Party & Collective Minutes
	17 May 2011	Working Party & Collective Minutes
	5 Nov 2011	Working Party & Collective Minutes
	11 April 2012	Working Party & Collective Minutes
	27 April 2012	Working Party & Collective Minutes
	28 May 2012	Working Party & Collective Minutes
	10 Oct 2012	Working Party & Collective Minutes
	3 Nov 2012	Working Party & Collective Minutes
	11 Nov 2012	Working Party & Collective Minutes
	2 Dec 2012	Working Party & Collective Minutes
	2 Nov 2013	Working Party & Collective meeting
	16 Nov 2013	Working Party & Collective meeting
	9 Dec 2014	Letter to Working Party from Ngāti Ira RE: Ngāti Ira support to TAWC
	21 Feb 15	Working Party & Collective Meeting
	21 March 15	Working Party & Collective Meeting
13 April 15	Collective minutes – Discussions with Working	

Hapū / Group	Date	Detail
		Party
Te Upokorehe Hapū	4 April 1991	Motion signed by Charlie Aramoana (Te Upokorehe) on behalf of Whakatōhea regarding Boundaries for Whakatōhea and Ngāti Awa
	19 June 2011	TUTCT & Whakatōhea Taumata Kaumatua Hui minutes
	27 July 2011	Documents sent by TUTCT (Kahukore Baker) regarding Whakatōhea position; Opposition by Toby (Jim) Wikotu and Kahikatea Marae (Rongopopoia) of position presented by Kahukore
	14 Aug 2011	TUTCT & Collective Minutes
	28 Jan 2013	Letter Received from TUTCT to TAWC; RE: Whakatōhea meeting with Tuhoe – disapproval of meeting
	8 March 2013	Response from TUTCT to TAWC (Letter) – TUTCT Decision not to engage with TAWC, WMTB or Whakatōhea Taumata Kaumātua
	22 July 2013	Upokorehe letter to TAWC declined to meet with TAWC (following TAWC request to meet). No explanation given.
	17 Nov 2013	Presentation by TAWC to Kutarere Marae Committee – Mandate Strategy and Representation Structure
	19 April 2015	Kutarere Marae - Hapū to Hapū korero – Do you want to be represented by Whakatōhea? If so, how do you want to be represented?
	26 July 2015	Maromahue Marae - Hapū to Hapū korero – Do you want to be represented by Whakatōhea? If so, how do you want to be represented?
	3 Aug 2015	Meeting request letter sent to Roimata Marae
	Sept / Oct 2015	Email Correspondence between TUTCT and TAWC – TUTCT declined to meet with TAWC regarding Whakatōhea Mandate
Ngai Tama Hapū	6 July 2014	Presentation to Ngai Tama from TAWC – mandate

Hapū / Group	Date	Detail
		strategy
	23 March 2015	Letter received by Ngai Tama – presented by Tracy Hillier, disapproval of mandate strategy at TAWC hui
	3 August 2015	Letter to Ngai Tama – Request to Meet
Hui with Neighbouring Iwi	10 Oct 2012	Whakatōhea & Tuhoe Hui – discussions around shared interests and boundaries
	14 Nov 2012	Collective, Tuhoe Meeting – discussions around Tahora block, shared interests, boundaries and Tuhoe Settlement
UPDATE REPORTS	6 Dec 2012	TAWC Update Report #1
	22 Feb 2013	TAWC Summary Report
	25 Feb 2013	Roadshow Panui
	12 Mar 2013	TAWC Update Report #2
	10 Apr 2013	Roadshow Report
	12 Jul 2013	Activity Report to OTS
	25 Nov 2014	Activity Report to OTS

## Appendix 2

The Trust Board lodged a historical claim against the Crown in 1989 for the unjustified confiscation of Whakatōhea land in 1867. The Crown has acknowledged that it treated Whakatōhea unjustly and wishes to settle the grievance of Whakatōhea and build an enduring Treaty relationship with Whakatōhea.

A number of claims have been made to the Waitangi Tribunal that relate to or include historical Treaty claims of Whakatōhea. The following are the historical Treaty claims filed with the Waitangi Tribunal that would be settled should a mandate be conferred on the Pre-Settlement Trust.

The following are the historical Treaty claims filed with the Tribunal that would be settled to the extent that they relate to Whakatōhea should a mandate be conferred to the Pre-Settlement Trust.

1	WAI 87	Whakatōhea Raupatu Claim	The Late Claude Augustus Edwards
2	WAI 203	Mokomoko whanau claim	The Late Tuiringa Mokomoko
3	WAI 287	School History	Ariana Delamere
4	WAI 339	Hiwarau Block	The Late Tuiringa Mokomoko
5	WAI 558	Ngāti Ira o Waioweka Rohe	John Hone Kameta
6	WAI 864	Moutohora quarry	Russell Hollis, John Hata, Len Brown and the Maori Trustee for and on behalf of the owners of Whakapaupakihi 2
7	WAI 1092	Upokorehe Claim	The Late Charles Aramoana
8	WAI 1433		Nepia Whānau Trust
9	WAI 1511	Ngai Tamatea	Keita Hudson
10	WAI 1758	Roimata marae, Upokorehe hapu, Ngati Raumoia Roimata Marae Trust	Wallace Aramoana, Lance Reha, Gaylene Kohunui, W Aramoana, S Aramoana
11	WAI 1775	Ngāti Patu	John Hata
12	WAI 1781	Ngai Tamahaua	Biddle Claim
13	WAI 1782	Ngāti Rua	Paruru Claim
14	WAI 1787	Rongopopoia ki Upokorehe	Hinehou Leef, Mekita Te Whenua, Richard Wikotu, Rocky Ihe, Kahukore Baker
15	WAI 1794	Turangapikitoi hapū	Muriwai Wehi
16	WAI 1795	Ngāti Rua	Tawhirimatea Williams
17	WAI 1884	Ngāti Ngāhere	The Late Tarati Carrington
18	WAI 2006	Upokorehe and Whakatoia hapu	Priscilla Pihitahi Sandys
19	WAI 2008	Pākowhai	Peter Warren
20	WAI 2055	Ngai Tama of Opape	Dr Guy Naden
21	WAI 2066	Ngati Ruatakenga	Takaparae Papuni
22	WAI 2107	Ngati Ngahere, Ngati Ira	Lee Ann Martin, descendant of Kurei

			Tamaipaoa and Tuku Maaka, Mokomoko, Te Manawa o Kimohia, Mererua Wahine, Karaitiana Ruru, Horikerei
23	WAI 2160	Whakatōhea / Ngāti Muriwai	Theresa McMurtrie

**Disclaimer**

The Collective have taken reasonable care to ensure the list of WAI claims is accurate and complete. Should further information come to light indicating additional Whakatōhea related claims that have not been included in this list, the Collective reserve the right to include them as appropriate.

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