

WHAKATŌHEA PRE-SETTLEMENT CLAIMS TRUST

Annual Report 2017 -2018



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CHAIR'S REPORT

I am pleased to be able to present the Annual Report for the Whakatohea Pre-Settlement Claims Trust (WPSCT). This report covers the activities including financial performance over the financial year of 01 July 2017 – 30 June 2018. I am pleased to be able to say that KPMG has approved an unqualified set of Financial Statements for this Annual Report.

The activities that are reported on include

- Acceptance of the Offer
- Agreement in Principle,
- Negotiations
- Waitangi Tribunal
- Maori Land Court s30 hearing.

Our last AGM report covered up until the receipt of the first offer from the Crown. This offer was rejected and has been increased substantially to the package that now sits within the Agreement in Principle that was signed on 18 August 2017. This settlement is not only significant but echoes the innovation and entrepreneurship of our tupuna.

I want to take this time to thank our Trustees who have been dedicated to this kaupapa and have given selflessly of their time. The appendix of the Report notes all the meetings that the Trust were involved with over the reporting period including the official meetings of the Trust (which are also listed in the Financial Statements). There were many times where the Trustees were required to meet more than twice in one month, sometimes more than once within a week and very often on weekends as well.

I want to also acknowledge the whanau that have volunteered their time to provide expert advice through the Te Roopu Awhina working groups. Without these whanau the Trust would have to pay for outsourced advice. I note in particular the Komiti Whiriwhiri Hitori who are a devoted group of whanau passionate in the mahi of our history. I also note the Mihi Marino working group who again devoted their time on a weekly basis to wananga that has developed into a vision and a process for reconciliation. This is just the beginning for Mihi Marino; it is a journey that we launched with our inaugural hui over Easter 2018. Whanau gave selflessly to the kaupapa of these working groups to benefit our Whakatohea future post settlement.

I also thank the Taumata Kaumatua who have provided an independent sounding board for the Trust to check in with and more importantly to seek guidance from. The Taumata never hesitates to correct or rebuke if they think we have it wrong.

The Waitangi Tribunal decided against recommending a halt to the negotiations and/or a rerun of the mandate. Instead the Tribunal recommended a vote to determine the support for WPSCT continuing to negotiate to reach a settlement with the Crown. The vote showed the majority support the direct negotiations as well as highlighting areas that need direct attention. WPSCT along with our Whakatohea whanau will need to work together in good faith to address these areas to ensure an enduring mandate and a successful settlement.

A Settlement does not bring with it a “settled Iwi” neither does a Tribunal Hearing bring with it a “settled Iwi”. The rebuilding of our nation and our people is up to Whakatohea and our commitment to achieve our visions.

A handwritten signature in black ink, appearing to be the name 'Heath', written in a cursive style.

SETTLEMENT PROGRESS

NEGOTIATIONS TO AGREEMENT IN PRINCIPLE (AIP)

The following information has been presented through our hui at home in Opotiki and around the country leading up to the acceptance of the Crown offer. However, it is important to share again the pathway and the achievements to reaching the AIP.

WHAKATOHEA NEGOTIATION STRATEGY

Our strategy for negotiations has been underpinned by the following fundamentals:

- Restoration of mana: mana tangata, mana whenua, mana moana
- Accelerating Whakatohea's vision for prosperity and wellbeing
- Reconciliation
- Cultural Regeneration
- Intergenerational Development
- Practising Hospitality

At the time of presenting the 2016-2017 Annual Report we advised that an initial Crown offer had been received which included \$90m and the return of 5000ha of public conservation land. This first offer did not meet Whakatohea's base lines within the Mana Tangata, Mana Whenua and Mana Moana framework as the Marine Space and Tertiary Education Vouchers were not included in the body of the settlement package, they were instead included within Schedule Four of the offer as matters of redress for further exploration.

Both the Marine Space and the Tertiary Education Credits have been fundamental planks of the negotiation process so far and WPSCT want to emphasize that they represent the key factors sought in settlement. The tertiary education credits will provide an opportunity for Whakatohea to invest in their people and grow their capacity. The provision of Marine space on the other hand provides for an opportunity for Whakatohea to invest in their region so that those that they invest in can come home and help build the iwi back into the economic force that it once was.

That offer was not accepted and WPSCT went back to the Crown with a counter offer in mid-June 2017. The Crown then responded with a comprehensive Crown offer presented on the 02 August 2017. This was a significant increase to the package on the previous offers, which was then accepted by the WPSCT.

CROWN PARAMETERS FOR QUANTUM

A key principle applied by the Crown in determining quantum offers is that 'relativity' or fairness between claimant groups should be maintained. Differences in quantum awarded to different claimant groups should be related to differences in quantum factors. These quantum factors are

- Land loss to Raupatu
- Land loss consequential to Raupatu or; and
- Claimant group size (reserve position on population)

- Special factors that should be considered in establishing a quantum

The Whakatōhea Rohe comprises some 192,158 hectares, of which 80,826 ha was taken directly by Raupatu, a further 99,316 hectares were lost as in the wake of and as a direct consequence of Raupatu. Our position in negotiations is that Whakatōhea have been rendered virtually landless and the Crown has accepted that this is the case. In accepting this they also acknowledge that the grievances suffered by Whakatōhea are amongst the most egregious ever and requiring of an apology.

AGREEMENT IN PRINCIPLE

The negotiated outcome arrived at by WPSCT, is recorded within the Agreement in Principle that was signed on 18 August 2017.

Over 300 of our whanau joined together in Wellington to sign the Agreement in Principle on the 18 August 2017. A summary is set out as follows:

Mana Whenua	Mana Moana	Mana Tangata
<ul style="list-style-type: none"> ▪ Transfer of sites totalling over 6,692 ha ▪ Chapter in the Bay of Plenty CMS covering 83,000 ha ▪ Cultural Materials Plan and Decision-Making Framework ▪ RFR over Crown land in Whakatōhea rohe ▪ Reserve Land Development Fund ▪ Statutory acknowledgements over certain waterways 	<ul style="list-style-type: none"> ▪ Up to 5,000 ha reserved for aquaculture development near Opotiki ▪ Marine and harbour development fund that includes support for a resource application by Whakatōhea ▪ Offer to make Ohiwa Harbour Implementation Forum permanent (subject to agreement of Forum) 	<ul style="list-style-type: none"> ▪ Commitments from the Tertiary Education Commission to work with Whakatōhea ▪ Education Endowment Fund ▪ Te Reo Revitalisation Fund ▪ Cultural Revitalisation Fund ▪ Return of key sites potentially suitable for cultural development ▪ Relationship redress with government agencies and Ministers
<p>\$100,000,000</p> <ul style="list-style-type: none"> ▪ Reserve lands development fund (\$5m) ▪ Cultural revitalisation fund (\$5m) ▪ Te reo revitalisation fund (\$1m) ▪ Education endowment fund (\$2m) ▪ Marine and harbour development fund (\$2m) ▪ Quantum (\$85m) 		

PROGRESS FROM AIP TO JUNE 2018

WORKSTREAMS / TE ROOPU AWHINA (TWA)

After the signing of the AIP, workstreams were set up along with working groups for each of the streams.

Te Roopu Awhina (TRA) is a support group that coalesced prior to the signing of the AIP. The group total over 30 in all and bring with them an incredible scope of skills and expertise in a wide range of areas. These skills have been matched up with the workstreams with our TRA now a part of the working groups allocated with each workstream.

In addition to the expertise that this roopu has brought to the table, it has provided a channel for WPSCT to distribute settlement information out to our whanau to keep them updated. The group has developed through our whanau connections, meeting new whanau at the hui around the country, as well as whanau coming forward and putting up their hand to help.

Each working group meet and contribute through a range of communication channels including kanohi ki te kanohi, email discussion groups, zooming into meetings, one on one discussions with the lead member of the group. This support group is open, and we welcome any whanau to contribute in any way to the kaupapa.

PROGRESS

The work from the signing of the AIP to 30 June 2018 has been about working on the detail within the AIP.

Two important pieces of work have underpinned the conversations and negotiations with the Crown and their respective agencies. These documents are the

- The Whakatohea Transformational Framework and the
- Whakatohea 50-year strategy (WMTB)

Both these documents define what we consider Whakatohea wellbeing to look like as a people and as a nation, and the pathway to achieving that wellbeing. The negotiations and work that is now required in putting in the detail behind the AIP includes the partnership role the Crown/agencies will play “post settlement”.

Settlement is not a finite date and does not finish on the signing of the Deed, it just begins as we walk and work through the transformation framework toward a state of wellbeing. The mechanisms, tools, resources that we negotiate in the detail of the AIP need to align in the achievement of our vision and state of wellbeing.

As it is noted in the foreword, the settlement “package” does not bring with it a settled people. That is up to us, and we have the pathway and the vision in place to achieve that.

The Crown and their agencies have more than once noted the value of these 2 pieces of work that keeps our negotiations with the Crown in a “forward gear” as they can share in the ultimate vision of what Whakatōhea wellbeing looks like.

There has been a great deal of work completed, and it is again appropriate to acknowledge all those Whakatōhea whānau who have given of their time and expertise in contributing to the mahi to date. Obviously, there is still much to complete in fleshing out the detail of the tools and mechanisms defined in the AIP including our relationships with the Crown and their agencies. The Trust reiterate that this the work of many, and we welcome more whānau to our working groups.

WORKSTREAMS	PROGRESS
Post Settlement Governance Entity <i>Designing the governance structure for the Iwi</i>	Introductory presentation on PSGE to Hui a Rohe and Hui a Iwi for feedback Further development and refinement to include feedback from first presentation Workshops to collate feedback and formulate PSGE models and options vs 2 Presentation PSGE vs 2 April 2018 to Hui a rohe, Hapu and Hui a Iwi
Investment and Valuation <i>Reviewing the commercial redress properties in the AIP</i> <i>Development of Investment strategies, values for PSGE/AHC</i>	Introductory presentations on investment strategy and why Workshops Further development and refinement Site visit to potential commercial redress properties Presentations to Hui a Iwi & Hui a Rohe
Natural Resources / Environment	Offering to explore enhancements to the Ohiwa Harbour Implementation Forum Discussions with Bay of Plenty Regional Council, Ngati Awa, Tuhoe and the OHIF
Mihi Marino Reconciliation with the Crown process	Process developed for the concept of Mihi Marino Mihi Marino Inaugural hui planning Inaugural hui completed
Marinespace	Commenced the process for consenting over the 5000 ha of water space for Settlement
Komiti Whiriwhiri Hitori	AIP kupu Sites of significance commenced Mapping Statements of Association commenced Place name changes/alterations commenced Review potential cultural redress transfer sites commenced Historical Account commenced Additional research commissioned on <ul style="list-style-type: none"> • Nineteenth-century history of Whakatōhea lands outside of the EBOP confiscation block • Old Land Claims • Compensation court, out-of-court settlements and lands returned to Whakatōhea nineteenth and twentieth century • Environmental issues

WORKSTREAMS	PROGRESS
	<ul style="list-style-type: none"> • Twentieth century land administration and Socio-Economic <p>Research Hui a Iwi 09 September 2017 presentation of additional research topics Research Hui a Iwi 03 February 2018 presentation of Reports on additional research</p>
Relationships	<p>Meetings held with</p> <ul style="list-style-type: none"> • Tertiary Education Committee (TEC): • Ministry of Education • Department of Internal Affairs (DIA): • Ministry for Culture and Heritage (MCH): • Museum of New Zealand Te Papa Tongarewa (Te Papa): • Ngā Tāonga Sound and Vision (Ngā Taonga): • Heritage New Zealand (Heritage): • Corrections • Ministry for Primary Industries (MPI): • Ministry of Business Innovation and Employment • Ministry for the Environment • NZ Police • DOC • Corrections
Iwi Neighbours Areas of Shared Interest	<p>This work stream has included whanau / kaumatua along with Trustees of WPST Initial korero have been had with Ngati Awa, Tuhoë, Te Whanau a Kai, Te Aitanga a Mahaki, Ngai Tai, and Te Whanau a Apanui.</p> <p>This korero has included</p> <ul style="list-style-type: none"> - Sharing aspirations and opportunities that may arise from areas of shared interest - Commence the korero on proposed redress within the areas of shared interest - Place name changes - Enhancements for the Ohiwa Implementation Forum & (Ngati Awa /Tuhoë) - Conservation Management Strategy (CMS) (Ngati Awa/Tuhoë/Te Whanau a Apanui

WAITANGI TRIBUNAL WHAKATOHEA MANDATE INQUIRY REPORT

THE HEARING

The Tribunal granted urgency on the 28th of July 2017 to hear claims concerning the Crown's recognition of the WPSCT Deed of Mandate. The Tribunal then called for the hearing to be held at the Awakeri Events Centre, which took place for the full week of 6-10 November. The closing submissions were then held over the 20-21st of November at Wairaka Ngati Awa. The Report with findings and recommendations was released on the 17th of April 2018.

TRIBUNAL REPORT

The Tribunal noted that:

“We have decided against simply recommending a halt to the current negotiations and a re-run of the mandate process; On balance, we think that the better course is to now provide Whakatōhea with an opportunity to decide how they wish to proceed”

“The immediate question facing Whakatōhea is whether or not the current settlement negotiations should proceed, and that these matters are of such importance that we believe Whakatōhea must to be given an opportunity to express a view “

The Tribunal recommended that all substantive work on the Whakatohea negotiations be suspended until completion of the steps outlined in their recommendations. As at 17 April 2018 on receipt of the report WPSCT ceased all substantive work on the Whakatohea negotiations and dedicated all its efforts into the proactive engagement to expedite the implementation of the Tribunal the recommendations. In the words of the Waitangi Tribunal, Whakatohea now have “significant redress that is on offer” and “worth preserving”.

VOTE

The Inquiry Report recommended how Whakatohea wish to proceed should be by a vote.

All adult members vote on:

1. Do you support the Trust continuing to negotiate to reach a settlement with the Crown of the historical Treaty grievances of Whakatōhea?

If no to question 1:

2. Do you wish to see the current Treaty negotiations stopped so:

- a. That a mandate process be re-run from the start? OR
- b. That the Waitangi Tribunal can carry out an inquiry into the historical grievances of Whakatōhea?

MAORI LAND COURT DETERMINATION TO REVIEW

The Maori Land Court received an application from Adriana Edwards for a review of a determination made at 69 Opotiki MB 11 -26 (2 November 1994) an order appointing representatives to act as negotiators on behalf of Whakatohea. The Chief Judge of the Maori Land Court was satisfied that a review was necessary, with the court sitting held over the 3 days of 5- 7 March 2018.

This request to review by Adriana Edwards was based on the premise that the order made back in 1994 through the Maori Land Court is current and surpassed any later decisions that Whakatohea have made from 1994 to the present day in regard to negotiations.

The findings of this review were issued 5 days after the last day of the hearing on the 12th of March. The Maori Land Court findings noted:

- The s 30 order made in 1994 is legally valid
- There have been significant changes in circumstances with regards to Whakatohea and the s 30 order and that order is no longer effective; and
- An amendment is necessary to the s30 order to reflect the change in circumstances and bring the order to an end
- We therefore make an order pursuant to s30 I (4) and s30H(f) specifying that the date after which the order ceases to have effect is the 12 March 2018.

APPENDIX SIGNIFICANT DATES

2017

JULY

04 Jul Ngati Patu Update
09 Jul Ngati Ngahere Update

23 Jul Maromahue update

27 Jul Taumata Kaumatua update
14 Jul OTS Negotiations Opotiki
28 Jul Urgency granted by Tribunal

AUGUST

02 Aug Crown Offer Accepted
09 – 14 Aug Iwi Neighbours invited to AIP

05 Aug Hui a Iwi Waiaua

17-18 Aug AIP signing in Wellington

SEPTEMBER

07 Sept Taumata Kaumatua Update
08 Sept Inaugural TeRoopu Awhina Hui
allocation of work streams
09 Sept Research Hui Opotiki – additional
research topics announced
10 Sept Ngai Tai meeting
12 Sep OTS Negotiations Opotiki
24 Sept Ngati Ngahere Update

2017

OCTOBER

06 Oct Taumata Kaumatua update
14 Oct Hui a Iwi Waioweka
25 October Hapu / Marae / Wai claimants sent invites to Hui a Rohe
29 October Ngati Patu update

NOVEMBER

6 – 10 Nov Tribunal Hearing
14 Nov Hui a rohe Whakatane
14 Nov First Mihi Marino weekly planning hui

15 Nov Hui a rohe Tauranga
16 Nov Hui a rohe Rotorua
16 Nov Taumata Kaumatua Update
17 Nov Hui a rohe Hamilton
18 Nov Hui a rohe Auckland
19 Nov Ngati Rua update
19 Nov Hui a rohe Wellington
20 – 21 Nov Tribunal Hearing
23 Nov OHIF & WPSCT meeting
26 Nov Ngati Ngahere update
27 Nov Investment Property Hui
WPSCT Meeting
28 Nov Mihi Marino planning hui

DECEMBER

07 Dec Taumata Kaumatua update
09 Dec Hui a Iwi Kutarere
04 Dec Research Interviews Whakatohea
Mihi Marino planning hui
11 Dec WPSCT Meeting
12 Dec OTS negotiation
12 Dec Maori Land Court review of Sec 30
18 Dec Te Roopu Awhina Update
21 December TRIBUNAL – closing submissions

2018

JANUARY

12 Jan	TRIBUNAL –responses to closing submissions
15 Jan	WPSCT meeting
16 Jan	Mihi Marino Working Group Meeting Marine space /Harbour group Hui
17 Jan	PSGE Working Group meeting
18 Jan	Property Investment Working Group
22 Jan	Opape Marae & Urupa Trust appoint
23 Jan	Mihi Marino planning hui
23 Jan	OTS negotiations
25 Jan	WPSCT Meeting
30 Jan	Mihi Marino weekly meeting
30 Jan	WPSCT Meeting
30 Jan	Finals Additional Research Reports

FEBRUARY

02 Feb	Crown agencies / WPSCT meeting
03 Feb	Hui a Iwi Hura Hitori: Nga Rangahau mo te raupatu– Additional Research
07 Feb	Komiti Whiri Hitori Investment Property site visits
09 Feb	Mihi Marino Planning Hui
12 Feb	WPSCT meeting
13 Feb	Mihi Marino
14 Feb	Komiti Whiriwhiri Hitori
15 Feb	Taumata Kaumatua – update Hura Hitori, Mihi Marino & tribunal Mihi Marino
17 Feb	Investment Property workshop
20 Feb	Mihi Marino
21 Feb	Komiti Whiriwhiri Hitori
26 Feb	WPSCT meeting
26 Feb	OTS Negotiations
28 Feb	Meet with Ngati Awa
28 Feb	Komiti Whiriwhiri Hitori
28 Feb	Tour of prospective commercial redress properties in Opotiki

MARCH

5-7 Mar	Maori Land Court Sec 30 Hearing
10 Mar	PSGE Wananga Rotorua
12 Mar	Maori Land Court Sec 30 hearing
12 Mar	Meeting with Tuhoē
15 Mar	WPSCT meeting with Minister Little
15 Mar	Taumata Kaumatua Update
18 Mar	Ngati Rua Update
19 Mar	OHIF / WPSCT Hui “Enhancements to Ohiwa through Settlement”
20 Mar	OTS negotiations - relationships Komiti Whiriwhiri Hitori
25 Mar	Ngati Patu update
26 Mar	WPSCT Meeting
28 Mar	Komiti Whiriwhiri Hitori
30 Mar - 02 Apr	Mihi Marino

2018

APRIL

04 Apr Komiti Whiriwhiri Hitori

April Responses of approval to name change

11 Apr Komiti Whiriwhiri Hitori

12 Apr Taumata Kaumatua Update

16 Apr WPSCT meeting workshop of PSGE models

17 Apr Waitangi Tribunal Report released

17 Apr Te Roopu Awhina Update

18 Apr Komiti Whiriwhiri Hitori

22 Apr Ngati Rua Update

24 Apr Whakatane Hui a Rohe

27 Apr Hamilton Hui a Rohe

28 Apr Auckland Hui a Rohe

29 Apr Wellington Hui a Rohe

MAY

01 May

01 May

02 May

03 May

09 May

10 May

12 May

17 May

20 May

20 May

23 May

25 May

27 May

29 May

29 May

Taumata Kaumatua update

OTS meeting

Hui a Rohe Rotorua

Hui a Rohe Tauranga

Komiti Whiriwhiri Hitori

OTS meeting / Draft voting process

Investment Property meeting

Taumata Kaumatua Update

Ngati Ngahere Update

Kutarere Marae Upokorehe update

Komiti Whiriwhiri Hitori

WPSCT MOC Process to give effect to
Tribunal recommendations

Ngati Patu update

Judges Directions Waitangi Tribunal

WPSCT MOC in response to Tribunal
recommendations

JUNE

01 Jun

04 Jun

15 Jun

21 Jun

21 June

22 June

23 Jun

MOC answers to Tribunal

Te Roopu Awhina Update

Tribunal Directions for Judicial
Conference Appointment of IRO

MOC WPSCT Judicial Conference

Taumata Kaumatua Update

Judicial Conference

AGM