

WHAKATŌHEA PRE-SETTLEMENT CLAIMS TRUST

Annual Report 2016 -2017



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CHAIR'S REPORT

I am pleased to be able to present the inaugural Annual Report for the Whakatohea Pre-Settlement Claims Trust (WPSCT). This report covers the activities of the Trust since its establishment in July 2016 until the 30 June 2017, which is the end of the first financial year. Within our reporting we will also be presenting the Audited Financial Statements that have been prepared by KPMG.

Clause 7.5 of the Trust Deed requires an Annual General Meeting to be held within 9 calendar months of the end of the Financial Year. This would have meant that an AGM needed to be held by the end of March 2018. This has not been achievable due to the Urgent Tribunal Inquiry in November 2017 and then the Maori Land Court Sec30 in early March 2018.

The Annual Report includes the background commencing in November 2015 which was when the Mandate Strategy was submitted to the Crown by Tu Ake Whakatohea. The Report then covers the time frame from when the Trust was established on 16 July 2016 up to the 30 June 2017.

I want to take this time to thank our Trustees who have been dedicated to this kaupapa and have given selflessly of their time. Their compensation at \$120 per meeting at a maximum payment of 2 meetings per month does not reflect the time and effort they have committed in their role on your behalf.

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.

The appointment of our Negotiators and operational staff in early 2017 completed the team. The Trust has confidence in their selection of Negotiators to front foot discussions with the Crown. The Trust engaged in an ambitious negotiation timeframe and this resulted in an offer including \$90m and the return of 5000ha of public conservation land. as at 30 June 2017.

This offer was, of course, rejected and has been increased significantly to the package that now sits within the Agreement in Principle that was signed on 18 August 2017.

I want to 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 also thank the Taumata Kaumatua who have provided an independent sounding board for the Trust to check in with, to seek feedback from and, where needed provide correction.

The pathway of Direct Negotiations was selected more than 15 years ago. The Iwi has been supportive and reaffirmed that pathway by approving the mandate in 2016, that has allowed for the negotiations to begin. There is still a way to go on this journey to settlement. Our aspirations for the future provide us the vision that will be realised at the end of this road and the hope to fuel our beings till then.

My final word of thanks goes to our Whakatohea whanau, hapu and Iwi who resoundingly support this pathway to complete Settlement.

‘Kia rangatira ai nga uri o te Whakatohea’

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

BACKGROUND

In November 2015, a draft mandate strategy was submitted to the Crown for consideration. The draft mandate strategy proposed a new entity, the Whakatōhea Pre-Settlement Claims Trust which would seek a mandate from Whakatōhea Iwi members to represent them in treaty settlement negotiations. A mandate poll was undertaken as per the WPSCT mandate strategy seeking approval through the following resolution

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

Public notification occurred along with hui held around the motu that included Omarumutu Marae, Ōpōtiki; University Waikato, Hamilton; Whatua Kaimarie Marae, Auckland; Terenga Paraoa Marae, Whāngarei; Pataka Museum, Porirua; Te Korowai Atawhai Rooms, Christchurch; Maungaroa Marae, Te Kaha; Eastern Institute of Technology, Gisborne; Tahuwhakatiki Marae, Tauranga; Taharangi Marae, Rotorua; Te Taiwhenua o Heretaunga, Hastings; Waihi Marae, Turangi.

IWI APPROVE BY POSTAL VOTE

Voting papers were then posted to all those registered members on Tribal Database. There was a request by some beneficiaries to not have their database details made available for the Settlement process. This meant they did not participate in the vote. 91.6% of the votes received voted in favour of the resolution.

Implementation of the Trust then commenced with an independent Trustee appointed on the 16 July 2016 until final trustees from hapū, marae and the Whakatōhea Māori Trust Board were confirmed. Trustees were then duly appointed with the Deed of Succession signed on the 9th of October 2016. Trustees also underwent governance training on the same day as the signing of the deed of succession.

CROWN APPROVAL

The Crown approved both the Deed of Mandate and the Terms of Negotiations in mid-December 2016. The first meeting between the Trust and the Chief Negotiator for the Crown Glenn Webber occurred in mid-January 2017 followed by a meeting of the Trust and Minister Finlayson Minister of Treaty Settlements on 18 January 2017. Our presentation to the Minister outlined our historical past, and Whakatōhea's strategic footprint for the future.

TRUSTEES

There are 15 positions on the Pre –Settlement Trust with the 2 Marae positions of Opape and Roimata remaining vacant. There has been one change in Trustee, with Sarah Kurei Ngati Ira Hapu standing down due to personal reasons. Sarah has been replaced by Anau Apanui. Your current Trustees are listed below.

Ngai Tamahaua Hapu	Dave Ngatai
Opape Marae	vacant
Ngati Rua Hapu	Mereaira Hata
Omarumutu Marae	Frank Porter
Ngati Patumoana Hapu	Graeme Riesterer
Waiaua Marae	Erin Moore
Ngati Ngahere Hapu	Mana Pirihi
Terere Marae	Tahu Taia
Ngati Ira	Anau Apanui
Waioweka Marae	Jason Kurei
Upokorehe Hapu	Muriwai Kahaki
Roimata Marae	vacant
Kutarere Marae	Bruce Pukepuke
Maromahue Marae	Keita Hudson
Whakatohea Maori Trust Board	Robert Edwards

PROJECT MANAGEMENT TEAM

The Project Manager and Negotiators were appointed over the February – March 2017 period which completes the Pre- Settlement Team.

Administration	Gina Smith
Operations	
Project Manager	Arihia Tuoro
Negotiators	Jason Pou
	Maui Hudson

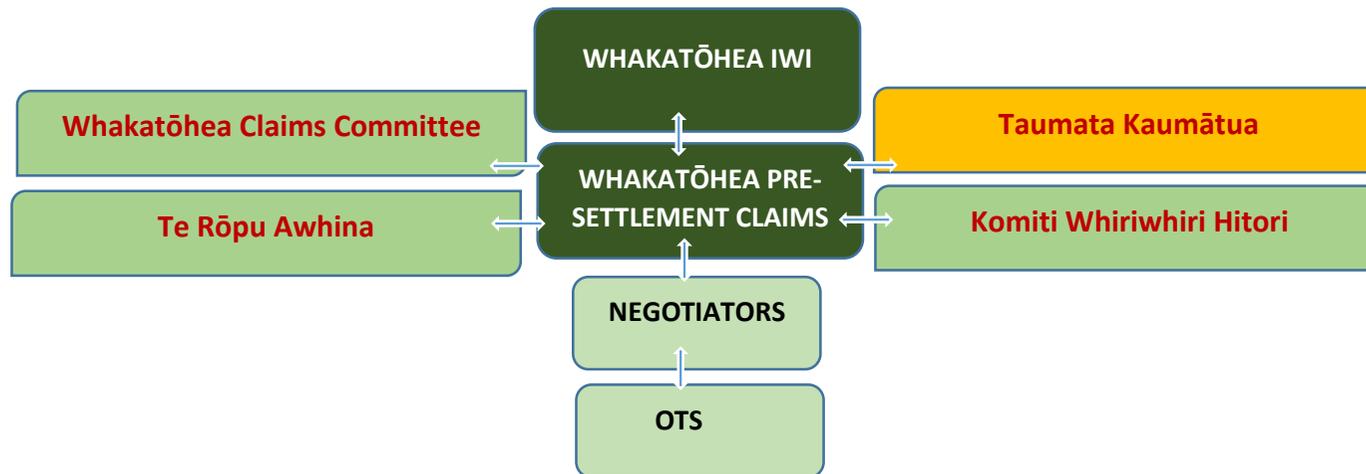
The Trust has a Service Level Agreement with the Whakatohea Maori Trust Board to provide a range of administrative and operational services which includes the office space that the Trust works from.

WHAKATOHEA PRE SETTLEMENT CLAIMS TRUST STRUCTURE

The Deed designates for a Kaumatua Kaunihera and a Whakatohea Claims Committee. The Trust has acknowledged the existing Taumata Kaumātua as the Kaumātua Kaunihera that is described in the Deed. The Taumata is a standalone group that has been meeting for the last 15 years and meets the description in the Deed as the “unincorporated collective of individuals that operate from time to time as the council of elders of Whakatōhea, as recognised by the Trustees”

The Trust has also added two further advisory groups; one being Te Rōpu Awhina and the other the Kōmiti Whiriwhiri Hitori. Te Rōpu Awhina provides advice through different working groups to the Whakatōhea Pre-Settlement Claims Trust and the Negotiators on specific opportunities in the Settlement. The membership is flexible and open to co-option for whanau with specific expertise to assist in targeted areas and also contribute to the review of documents including relationship agreements. The working groups are Natural Resources and Environment, Marine & Harbour, Post Settlement Governance Entity, Government Relationships, and Investment & Valuation. The Komiti Whiriwhiri Hitori meet weekly in Opotiki and like Te Rōpu Awhina the membership is open to all whanau.

What you see below is the structure of the Trust including the advisory groups that all provide opportunity for the Claimant Community (Whakatohea whanui) to engage, provide feedback and inform the negotiations.



ENGAGEMENT WITH THE CLAIMANT COMMUNITY

The Deed that was endorsed for the purposes of the Pre –Settlement Trust describes the Claimant Community as the descendants of Muriwai and Tūtāmure and; those that affiliate to one or more of the hapū and marae of Whakatōhea (as listed in the Deed).

The Deed of Mandate notes the establishment of a Whakatohea Claims Committee to provide non-binding advice and recommendations to the Trustees on any matters relating to the settlement of the historical claims that the Whakatōhea Claims Committee sees fit.

Included in the make-up of this committee are all Whakatōhea Wai Claimants, which each claimant invited to appoint a representative to the committee and provided with direct access to Negotiators and the right to assist with the negotiations of their claim. Letters of invitation were forwarded to all WAI Claimants to participate in this committee. WAI Claim 1511 Ngai Tamatea, WAI Claim 1827 Rangihaerepo, WAI Claim 1884 Ngati Ngahere and WAI Claim 1782 Danny Paruru Ngati Rua have engaged and in the case of 1511, 1884 and 1827 note that they appropriately represented by their representatives on the Pre Settlement Claims Trust. WAI 1827 claimants Rachel and Tania Wolfgramm have chosen to engage and contribute through the Te Rōpu Awhina advisory groups in particular the PSGE.

As at 30 June 2017 the WAI Claimants that filed for urgency had not accepted the offer to engage.

Further into this report we note the engagement we have had with Whakatohea uri in the period up to 30 June 2017.

OBJECTIONS TO THE MANDATE

A Judicial Conference was facilitated by the Waitangi Tribunal to hear objections to the WPSCT Mandate on 8th of October 2016. Following on from the Judicial Conference was a mediation held on 5/6 November 2016 with those WAI claimants that objected to the mandate. The WPSCT then received notification on the 22 November 2016 that the Wai claimants that objected to the Mandate sought to withdraw their claims from the Mandate and instead seek to progress to a discrete and/or full Inquiry into their claims. A further meeting was held in January 2017 with the same claimants to hear the request to withdraw.

Following on from the request to withdraw was a request for an urgent Inquiry, the results of which will be reported on in the next Annual Report for the Year end June 2018.

JOURNEY TO AGREEMENT IN PRINCIPLE JANUARY 2017 – 30 JUNE 2017

ESTABLISHING WHAKATOHEA SPECIAL FACTORS

Full compensation for the loss that Whakatohea experienced as a people due to raupatu and the ongoing breeches to our Iwi is not something that can be achieved. No redress, monetary or otherwise, will compensate for the losses we suffered as a people, whanau, hapu, and Iwi.

We also recognise that settlement in itself will not miraculously *settle* us as an Iwi, solve the challenges we face, heal us as a people, settle our past nor reconcile our future. Resolution and reconciliation is our responsibility as an Iwi moving forward.

Like all direct negotiations the Crown have a *redress quantum* which is the dollar value of cash and assets that are transferred in settlement in recognition of historical claims. There are some base factors that the Crown considers when determining this redress quantum; namely

- Nature of the Treaty breaches
- Amount of land loss
- Population

There are then Secondary factors considered by the Crown namely:

- Overlapping claims
- Benchmarks set by other settlements
- ***Special factors***

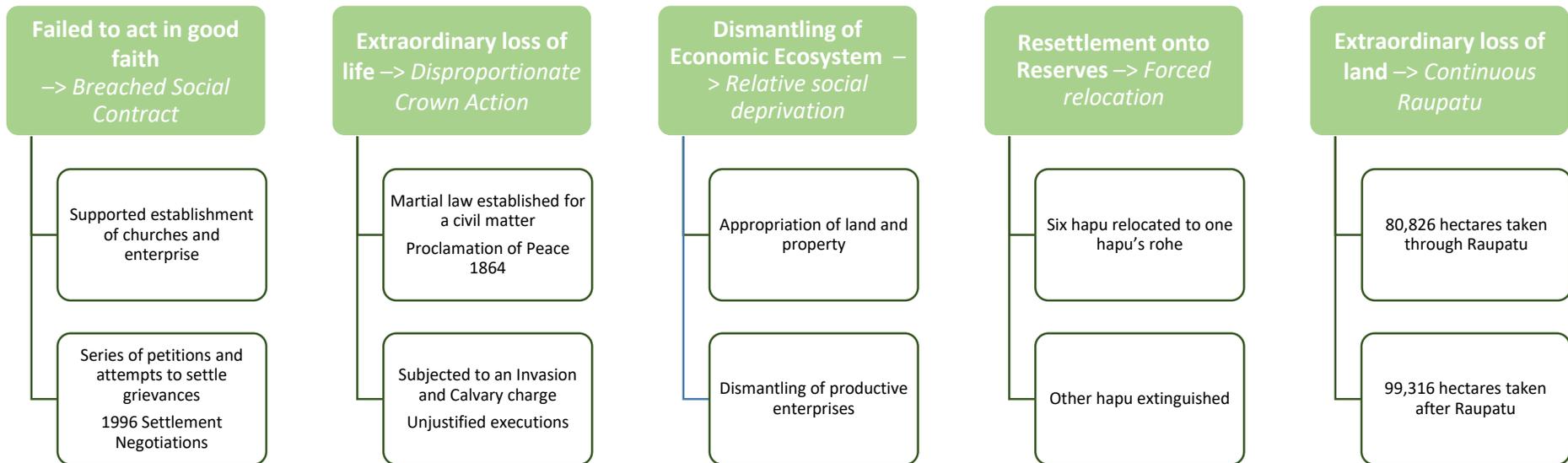
The Trust argued for recognition of the extreme and extraordinary treatment that Whakatohea suffered at their hands of the Crown. The following special factors provided leverage in negotiations with the Crown.

The special factors are:

- Extraordinary loss of land through continuous Raupatu
- Extraordinary loss of life which was a disproportionate Crown action
- Dismantling of our Economic Ecosystem that has resulted in social deprivation

- Resettlement onto Reserves by forced location
- Failing to act in good faith which was a breach of social contract

These Special Factors were then presented to Minister Finlayson and OTS staff in Ōpōtiki in late March 2017. It was within this early period of negotiations that the Crown accepted that Whakatohea have lost all their land.



ASPIRATIONS FOR SETTLEMENT

In April 2017 the Trust consulted with Whakatohea through Hui an Iwi and Hui a Rohe in the form of presentations and workshops to present and seek feedback on

- Special Factors
- Components of settlement
- What an acceptable settlement package would be for Whakatohea
- Aspirations for Settlement

The Trust received feedback from whanau that then assisted in providing substance, guidance and direction at the negotiation table as well as providing some development options post settlement. The Trust also sourced the feedback from the Whakatohea Maori Trust Board’s Well Being Survey conducted with Whakatohea uri living within the Whakatohea rohe.

The resulting feedback fell into 1 of 2 categories; Settlement Possibilities and Development Options (post settlement). The **Settlement Possibilities** provided the steer and rudiments for negotiations. The **Development Options** will be for the Post Settlement entity to progress. The feedback was substantial the list below is a snap shot of some key options

SETTLEMENT POSSIBILITIES	
Pouwhenua	Wananga facility
Place name changes	Cultural funds for Marae
Cultural storytelling	Return of lands
Rebuild Whirinaki	Connect people in digital space
Marine space	Land development fund
Micro-loan facility	UFB infrastructure
Whakatohea Education Org	Whakatohea curriculum
Co-governance of DoC estate	Trade Training
Mineral rights	Water rights
Air space	Rivers
Foreshore	Apology

DEVELOPMENT OPTIONS	
Waka for each hapū	Te Reo wananga resources
Cultural tourism	Manuka honey
Seaweed/mussels	Organis food production
Education programmes	Accommodation for Uni students
Digital Education platform	Entrepreneur incubator
Marae Insurances	Free healthcare
Papakainga	Succession planning
Foraging sites	Iwi wananga and trail
Alternative fuels	Rongoa centre
Taonga from Te Papa	Motorhome infrastructure
Scholarships	Whakatohea movie

SETTLEMENT MECHANISMS TO REALISE WHAKATOHEA ASPIRATIONS

The feedback from our Whakatōhea whanau has assisted in informing the Strategy, Framework and Settlement Mechanisms that will direct and guide us through the negotiations with the Crown. This was then presented back to a Hui a Iwi in May as follows

Principled Approach based on Whakatōhea Transformation Framework

Whakatōhea are taking a principled approach to the Settlement negotiations based on the restoration of mana and advancing Whakatōhea’s aspirations for wellbeing and economic prosperity. The Whakatōhea Transformation Framework provided the foundation for discussions with the Crown about

- Reconciliation with Society
- Regeneration of Capacity
- Intergenerational Development, and
- Practising Hospitality

<i>Towards Well Being</i>	<i>Reconciliation with Society Mihi Marino</i>	<i>Regenerating Culture- Kōpura</i>	<i>Intergenerational Development – Te Puta Tieke</i>	<i>Practicing Hospitality - Te Umu taonoa a Tairongo</i>	<i>A way of Being Whakatōhea</i>
Leadership	→				
Capacity	→				
Capability	→				
Community Engagement	→				
Whanau	→				
Collective decision making	→				

NEGOTIATIONS

The Trust's negotiations with the Crown have been underpinned by the desires of Whakatohea to provide in settlement material redress that will recognise the mana of Whakatohea under Mana Moana, Mana Tangata and Mana Whenua.

STRATEGY

Restoration of mana: mana tangata, mana whenua, mana moana

Mana Moana

We are seeking marine space

Mana Whenua

We are seeking mechanisms that will recognise mana whenua over Public Conservation Lands as well as the return of land currently held by the Opotiki District Council.

Mana Tangata

Relationship redress is a significant issue for Whakatohea with and for our people. Reconciliation with the Crown is one part of re-setting our treaty relationship with the Crown and developing productive relationships with government agencies to enhance future progress.

- We are seeking Cultural, Social and Economic accords
- We seek a Whakatohea hearings process that shares the history(truth) in a public forum
- We seek further Research projects informing historic account
- We seek Tertiary Education Vouchers

Accelerating Whakatōhea's vision for prosperity and wellbeing

VISION

"Kia rangatira ai nga uri o te Whakatohea"

THE OFFER

A Crown offer of redress was presented to the Negotiators on the 8th of June 2017. The offer included

- A Settlement offer package of \$90 million dollars;
- Up to 5000ha made up of up to 30 sites within the Public Conservation Area;
- The ability to co-author with Department of Conservation (DoC) a chapter in the Conservation Management Strategy. This is a Co-Governance arrangement that will determine the parameters of DoC management on a 10 yearly cycle over 88,000 ha of Public Conservation Land;
- The Establishment of a joint reserve board to manage the Tirohanga Dunes Conservation Management Area

The Crown were advised on the 16th of June 2017 that the Offer was not accepted as it was not comprehensive in meeting the Whakatohea Strategy of Restoration of mana;

- mana tangata
- mana whenua
- mana moana.

In particular, the exclusion of redress under Mana Moana (provision for Marine Space) and Mana Tangata (Tertiary Education Vouchers) within the body of the settlement package was unacceptable.

The Crown presented a further Offer to WPSCT on the 22nd of June 2017. That offer remained under negotiation through to the end of this Annual Report date of 30 June 2017.

APPENDIX SIGNIFICANT DATES

2015

November 2015

Draft mandate strategy submitted to the Crown for consideration.

2016

15 April 2016

Public notification occurred

04 May 2016

Voting papers posted out to registered members on the Whakatohea Maori Trust Board Tribal Database

06 May 2016

Voting opened

Twelve mandate hui were held over the voting period.

03 June 2016

Voting closed

7 June 2016

Results of the vote notified

29 June 2016 – 27 July 2016

Hapu Trustee nominations timeline

16 July 2016

Implementation of the Pre-Settlement Claims Trust

Independent Trustee appointed

Process of trustee appointments to the Trust commenced

06 September 2016

Marae trustee nominations closing date

9 October 2016

Newly appointed trustees sign the deed of succession.

5 – 6 November 2016

Waitangi Tribunal led Mediation to hear concerns of objectors to the Mandate as well as the WPSCT.

22 November 2016

Objectors seek to withdraw the claims that they represent

14th of December 2016

Crown approved the Deed of Mandate

17th of December 2016.

Crown approved the Terms of Negotiations

2017**January 2017**

8/16/23/30 Trust meetings

14 January Trust meet with Glenn Webber Chief Crown Negotiator

Trust meeting with WAI Claimants objecting to Mandate

18/19 January Trust meet with Minister Chris Finlayson Minister of Treaty Settlements and Office of Treaty Settlement's staff in Ōpōtiki

30 January Trust meet with Tamati Kruger

February

13/20/27 Trust meetings

22 February WPSCT meet with Ngai Tai

23 February WPSCT update Taumata Kaumatua

9/10 February OTS meeting Ōpōtiki

21 February Trust meet with TPK to discuss funding options

24 February Trust meet with OTS and Crown Agencies in Wellington

March 2017

05 March Hui a Iwi – Omarumutu Ōpōtiki
6/13/20/27 Trust meetings
06 March OTS meeting Ōpōtiki
17 March OTS meeting Ōpōtiki
19 March Whakatohea Claims Committee Meeting Ōpōtiki
25 March Hosted Minister Finlayson in Ōpōtiki
30 March OTS meeting Ōpōtiki

April 2017

01 April Hui a Iwi Terere Ōpōtiki
02 April WPSCT meet with WAI 1827 claimants Tania & Rachel Wolfgramm
3/10/24 Trust meetings
04 April Hui a rohe Whakatane
07 April Hui a rohe Hamilton
07 April OTS meeting Hamilton
08 April Hui a rohe Auckland
09 April Hui a rohe Wellington
11 April Hui a rohe Tauranga
19/20 April OTS meeting Ōpōtiki
20 April WPSCT present to Taumata Kaumatua
23 April WPSCT update Ngati Patu
26 April Hui a rohe Rotorua

May 2017

1 /15 /22 Trust meetings
4 May WPSCT present to Taumata Kaumatua
07 May WPSCT present to Ngati Ira Hapu meeting
8/9 May OTS meeting Wellington
4 May OTS meeting Ōpōtiki
15 May Hui a rohe Whakatane
16 May Hui a rohe Tauranga

17 May Hui a rohe Rotorua
19 May Hui a rohe Hamilton
19 May OTS meeting Hamilton
20 May Hui a rohe Auckland
21 May Hui a rohe Wellington
27 May Hui a Iwi – Senior Citizens Hall Ōpōtiki

June

01 June WPSCT present to Taumata Kaumatua
02 June WPSCT meet with Te Uru Taumata (Tamati Kruger, Patrick Mc Garvey Kirsti Luke)
6/12/19 June Trust meetings
8 June Crown presented first offer to Negotiations
16 June Whakatohea Negotiators respond to Crown with a counter offer
18 June WPCT meet Kutarere Trustees
18 June WPCT meet Ngati Rua Hapu meeting
23 June OTS meeting Ōpōtiki – 2nd Offer presented
25 June WPSCT meet with Ngai Tai
26 June WPSCT meet with Te Whanau a Kai
27 June PSGE Working Group meet Rotorua
27 June WPSCT meet with Rikirangi Gage Te Whanau a Apanui
28 June PSGE Working Group meet Hamilton
29 June WPSCT present to Taumata Kaumatua