

Ngātiwai Trust Board

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SUBMISSION TO THE MĀORI AFFAIRS SELECT COMMITTEE ON THE NGĀI TAI KI TĀMAKI CLAIMS SETTLEMENT BILL

INTRODUCTION

1. This submission is made by the Ngātiwai Trust Board (the **Trust Board**) on behalf of Te Iwi o Ngātiwai (**Ngātiwai**).
2. The Trust Board was incorporated on 22 November 1966 as a charitable trust under the Charitable Trusts Act 1957 with the purpose of addressing the collective needs of the Ngātiwai iwi.
3. For the reasons set out below, the Trust Board **strongly opposes** the enactment of the Ngāi Tai ki Tāmaki Claims Settlement Bill (the **Bill**) in its current form. The Bill was introduced after the Trust Board had filed a Waitangi Tribunal urgency application challenging the Ngāi Tai ki Tāmaki Deed of Settlement (the **NTKT Deed of Settlement**) and prior to the Trust Board's claim being heard. The Bill's introduction has removed the ability of Ngātiwai to challenge the NTKT Deed of Settlement in the Waitangi Tribunal as being contrary to the Treaty of Waitangi.
4. The Trust Board has serious concerns regarding the NTKT Deed of Settlement, to which this Bill gives effect. If the Bill is passed in its current form it will legitimise the Crown's breaches of the Treaty of Waitangi and entrench processes and outcomes that are inconsistent with the Crown's obligations under the Treaty of Waitangi.
5. The Trust Board wishes to be heard in support of this submission.

SUMMARY – CONCERNS WITH THE BILL

6. The primary concerns that the Trust Board has with the Bill are:
 - (a) the Bill legitimises processes and policies regarding the treatment of overlapping claims in the context of Treaty settlements which are contrary to the Treaty of Waitangi;
 - (b) the introduction of the Bill removes the ability of these Treaty breaches to be determined by the Waitangi Tribunal;

- (c) the Bill (once passed) will legalise the Crown's recognition of another iwi's interests within the rohe of Ngātiwai without the Crown having first undertaken a proper process consistent with tikanga to first determine the nature of those interests. This is contrary to the principles of the Treaty of Waitangi;
- (d) the Bill (once passed) will legalise the right of Ngāi Tai ki Tāmaki to have influence over activities within the rohe of Ngātiwai by providing statutory acknowledgements to Ngāi Tai ki Tamaki. The relevant statutory areas should be amended to remove those areas that are within the Ngātiwai rohe;
- (e) the Bill entrenches processes that force authorities to deal with Ngāi Tai ki Tāmaki in relation to issues that arise within the rohe of Ngātiwai by agreeing to protocols with Ngāi Tai ki Tāmaki in relation to primary industries and taonga tūturu. This will impact the current protocols and processes already in place between Ngātiwai and relevant authorities; and
- (f) by providing protocols and statutory acknowledgements to Ngāi Tai ki Tāmaki without first determining the nature of their interests or how those interests should be dealt with relative to the interests of Ngātiwai, the Bill will establish an uncertain and unclear regime which the relevant authorities will be left to determine.

BACKGROUND

7. The tribal rohe of Ngātiwai encompasses the north eastern coastline of the North Island from the bottom of the Bay of Islands to just north of Tāmaki including all the offshore islands. Ngātiwai are the descendants of Manaia II who are inextricably connected with the sea. This is reflected in our history and traditions; in the caves of Manawāhuna in Motukōkako, at Taihāruru and our battles at Mimiwhāngata and Waiwerawera. The map of the Ngātiwai rohe which was included in the Trust Board's Deed of Mandate is **attached** as Appendix 1. In addition, a map which was included for the purposes of the Trust Board's Marine and Coastal Area (Takutai Moana) Act 2011 application is **attached** as Appendix 2. This map does not show all of Ngātiwai's interests in the territorial sea, and is only provided to give the Committee an indication of Ngātiwai's coastal marine area.
8. While the Trust Board has being engaged with the Crown's overlapping claims policy and process in relation to settlements being offered to various iwi of Hauraki since 2013 the Ngāi Tai ki Tāmaki settlement was not brought to the Trust Board's attention until June 2017. The overlapping claims process has resulted in the Crown offering redress within the rohe of Ngātiwai to both individual Hauraki iwi including Ngāi Tai ki Tāmaki, the Hauraki Collective and the Marutuahu Collective. Such redress has been offered to Ngāi Tai ki Tāmaki without the Crown taking account of tikanga, and without undertaking a process to assess overlapping interests.

WAITANGI TRIBUNAL URGENCY APPLICATION

9. The Trust Board's concerns regarding the NTKT Deed of Settlement are the subject of a claim currently before the Waitangi Tribunal (Wai 2666). The Trust Board filed an application for an urgent inquiry regarding these concerns in July 2017.
10. As the Bill has been introduced to Parliament, those parts of the Trust Board's Waitangi Tribunal claim regarding the NTKT Deed of Settlement are no longer within the Tribunal's jurisdiction.
11. At the heart of the Trust Board's concerns is the Crown's overlapping claims policy and processes, which the Trust Board considers is inconsistent with the principles of the Treaty of Waitangi. As noted, that process has resulted in redress within the rohe of Ngātiwai being offered to other iwi. The Trust Board considers this, without an appropriate tikanga process, to be an affront to the mana of Ngātiwai. The Trust Board's specific concerns regarding the NTKT Deed of Settlement and Bill are set out below.

CONCERNS REGARDING THE BILL

12. The Trust Board's concerns on the Bill relate to cultural redress in the NTKT Deed of Settlement which the Bill gives effect to, as follows:
 - (a) **Statutory acknowledgement:** the Bill and Deed contains a statutory acknowledgement acknowledging NTKT's statements of association for defined statutory areas. The statutory acknowledgement is provided for in clauses 73 to 81 of the Bill. Certain of these areas overlap with the rohe of Ngātiwai in parts of the coastal marine area. The overlapping area extends from Te Arai Point on the mainland east across to Aotea (Great Barrier Island) and Te Hauturu-o-Toi (Little Barrier Island) and back to the mainland at Matakana.
 - (b) **Protocol redress:** the Bill and Deed provides for the issuing of protocols by the Minister for Primary Industries and the Minister for Arts, Culture and Heritage (the **Protocols**). The Protocols are provided for in clauses 87 to 92 of the Bill. Again, the areas covered by these Protocols overlap with the rohe of Ngātiwai as described in paragraph (a) above.

CONCERNS WITH STATUTORY ACKNOWLEDGEMENT

13. In general terms, a statutory acknowledgement is an acknowledgement in settlement legislation of a statement by a claimant group of their "special

association with an area or feature”.¹ The effect of a statutory acknowledgement is to “enhance the ability of a claimant group to participate in certain processes under the Resource Management Act 1991”².

14. The provisions giving effect to the statutory acknowledgement are clauses 73 to 81 of the Bill. In clause 74, the Crown acknowledges Ngāi Tai ki Tāmaki’s “statements of association” with the “statutory areas”, which are defined in clause 73.³ The statutory areas are listed in Schedule 2 of the Bill.
15. The particular legal obligations that flow from the statutory acknowledgement are set out in clauses 76 to 78 of the Bill and include:
 - (a) Consent authorities are required to have regard to the statutory acknowledgement when deciding whether the trustees of Ngāi Tai ki Tāmaki are affected persons (clause 76).
 - (b) In the case of proceedings in the Environment Court, the Environment Court is required to have regard to the statutory acknowledgement when deciding whether the trustees of Ngāi Tai ki Tāmaki have an interest greater than the general public (clause 77).
 - (c) Heritage New Zealand Pouhere Taonga is required to have regard to the statutory acknowledgement where there is an application for an authority to undertake an activity that may destroy or modify an archaeological site within the Coastal Marine Area (clause 78).
16. The Trust Board’s particular concern relates to the coastal marine area, one of the statutory areas (further detailed in OTS plan OTS-403-128, a copy of which is **attached** as Appendix 3) (the **Coastal Marine Area**). The Coastal Marine Area overlaps significantly with the rohe of Ngātiwai which is from Takapeka Point in the Bay of Islands in the north extending south to Matakana in the Mahurangi on the mainland and extending eastward across to Aotea, Te Hauturu-o-Toi and including all the offshore islands in between.

¹ Office of Treaty Settlements, *Ka tika ā muri, ka tika ā mua: Healing the past, building a future – A Guide to Treaty of Waitangi Claims and Negotiations with the Crown* [March 2015], page 122.

² Office of Treaty Settlements, *Ka tika ā muri, ka tika ā mua: Healing the past, building a future – A Guide to Treaty of Waitangi Claims and Negotiations with the Crown* [March 2015], page 122.

³ Clause 73 defines “statement of association” as:

“for a statutory area, means the statement—

(a) made by Ngāi Tai ki Tāmaki of their particular cultural, historical, spiritual, and traditional association with the statutory area; and

(b) set out in part 1 of the documents schedule.”

“Statutory area” is defined as “means an area described in **Schedule 2**, the general location of which is indicated on the deed plan for that area.”

17. In the Trust Board's view, in practical terms, the effect of the statutory acknowledgement will be that Ngāi Tai ki Tāmaki is more likely to be deemed to be an affected person in Resource Management Act processes. The Trust Board considers this elevates Ngāi Tai ki Tāmaki's status over other iwi that do not yet have a Treaty Settlement, such as Ngātiwai.
18. A key concern for Ngātiwai is that the statutory acknowledgement will entrench rights for Ngāi Tai ki Tāmaki without any regard to how those rights relate to, or impact on, the rights of Ngātiwai as the holder of manawhenua within the relevant area. Further, the Crown has offered this redress without first determining how this will practically be implemented by the relevant authorities, namely, the relevant consent authorities; the Environment Court; Heritage New Zealand Pouhere Taonga, the Environmental Protection Authority and any board of inquiry under Part 6AA of the Resource Management Act 1991, or without providing any guidance to those authorities in this regard.
19. It is the submission of the Trust Board that, where there are overlaps such as this, the Crown needs to first understand the relative interests of iwi and how the relative interests are most appropriately recognised. The Crown's failure to do this will entrench a further grievance and defer the issue to the authorities who are required to give effect to the statutory acknowledgements. Such an approach is not consistent with the Treaty of Waitangi.
20. There are currently no guidelines to local authorities or other mechanism to ensure that the local authorities understand the nature of the relevant interests and how those interests relate to other iwi. In the absence of these guidelines or mechanisms, there is no protection for mana whenua or clarity on how mana whenua interests are to be determined relative to iwi with lesser interests. For example it would not be appropriate for Ngāi Tai ki Tāmaki to have a power of veto over any resource consent that Ngātiwai or the Trust Board might apply for within the Ngātiwai rohe. To rush through settlements without proper regard to overlapping interests is, in the view of Ngātiwai, a breach of the Treaty and is creating further unnecessary grievances.
21. The interests of all parties could be more fairly dealt with if the Crown was willing to carve out overlapping claims issues (until it has a proper and fair process consistent with tikanga) while moving forward with those aspects of settlements that do not infringe the rights of other iwi. It is the Crown agenda of wanting to wrap all issues into one quick settlement that is creating this issue. That agenda is causing further grievances and damaging intertribal relationships.
22. The Trust Board has informed the Office of Treaty Settlements (**OTS**) of its concerns regarding the proposed statutory acknowledgement of Ngāi Tai ki Tāmaki within the overlapping area with Ngātiwai. A copy of the correspondence is **attached** at

Appendix 4. As the Trust Board has advised OTS, one particular concern is that the proposed areas for this redress includes the southern end of the rohe of Ngātiwai, between Matakana river on the mainland, Te Mau Tohora a Manaia, and Te Arai o Tahuhu, and further Te Hauturu o Toi, Aotea and its islands and rocky outcrops, and the surrounding seas of Te Moana nui-o-Toi, all areas of great significance to Ngātiwai.

23. The Trust Board has sought to engage directly with the negotiators for Ngāi Tai ki Tāmaki, and did meet with them prior to the Bill being introduced in July 2017. A copy of the minutes of this meeting are **attached** at Appendix 5. However, this discussion was not able to achieve any resolution of the Trust Board’s concerns.
24. Given the above concern, Ngātiwai submits that the relevant statutory area should be amended to remove that area that overlaps with the rohe of Ngātiwai until these matters can be resolved.

CONCERNS WITH PROTOCOLS (PRIMARY INDUSTRIES AND TAONGA TŪTURU)

Issue of Protocols

25. Clause 88(1)(a) of the Bill provides that each responsible Minister must issue a protocol on the terms set out in Part 3 of the documents schedule of the NTKT Deed of Settlement. “Responsible minister” is defined in clause 87 as:
 - (a) for the primary industries protocol, the Minister for Primary Industries; and
 - (b) for the Taonga Tūturu protocol, the Minister for Arts, Culture and Heritage.

Primary Industries Protocol

26. The protocol issued by the Minister for Primary Industries (the **Primary Industries Protocol**) sets out how the Minister, Director-General and the Ministry will exercise their functions, powers and duties in relation to matters set out in the Primary Industries Protocol. These matters include but are not limited to:
 - (a) input into and participation into the ministry’s national fisheries plans;
 - (b) input into the relevant forum fisheries plan; and
 - (c) assistance as may be necessary for the proper administration of the Fisheries (Kaimoana Customary Fishing) Regulations 1998, including discussions with the Ministry on the implementation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within the Protocol Area.
27. The area to which the Primary Industries Protocol applies is defined as “the land area as noted in the attached map at Appendix A” (the **Primary Industries Protocol Area**). A copy of the map showing the Primary Industries Protocol Area (as contained in the

NTKT Deed of Settlement) is **attached** as Appendix 6 to this submission. The Primary Industries Protocol Area overlaps considerably with the rohe of Ngātiwai.

28. A key concern for Ngātiwai and the Trust Board in terms of the Primary Industries Protocol is that it is yet another form of the Crown undermining Ngātiwai mana whenua within our rohe. It is a direct acknowledgement of the association of another iwi to our kainga, without any regard to Ngātiwai mana whenua and without any tikanga process that would enable Ngātiwai to understand the basis on which such interests are claimed.
29. The Trust Board has informed OTS of its concerns regarding the Primary Industries Protocol and the Taonga Tūturu Protocol issued by the Minister for Arts, Culture and Heritage (the **Taonga Tūturu Protocol**) of Ngāi Tai ki Tāmaki and other Hauraki iwi within the overlapping area with Ngātiwai. A copy of the correspondence is **attached** at Appendix 7. In relation to the Protocols for Ngāi Tai ki Tāmaki, the Trust Board notes that, as shown in the correspondence, it was only well after the NTKT Deed of Settlement was signed that OTS actually informed the Trust Board of the overlap with Ngāi Tai ki Tāmaki.

Taonga Tūturu Protocol

30. The Taonga Tūturu Protocol sets out how the Minister for Arts, Culture and Heritage and the Chief Executive for Manatū Taonga also known as the Ministry for Arts, Culture and Heritage will interact with the trustees of Ngāi Tai ki Tāmaki on a number of matters, including but not limited to:
 - (a) processes regarding ownership of Taonga Tūturu found in the protocol area or of Ngāi Tai ki Tāmaki origin;
 - (b) registration of the trustees of Ngāi Tai ki Tāmaki as a collector of taonga tuturu;
 - (c) engagement on policy and legislative development;
 - (d) engagement on operational activities affecting the protocol area;
 - (e) national monuments, war graves and historic graves in the protocol area.
31. The area to which the Taonga Tūturu Protocol applies is the area “identified in the map included in Attachment A of this Protocol together with adjacent waters” (the **Taonga Tūturu Protocol Area**). A copy of the map showing the Taonga Tūturu Protocol Area (as contained in the NTKT Deed of Settlement) is **attached** as Appendix 8 to this submission. Again, the Taonga Tūturu Protocol Area considerably overlaps with the rohe of Ngātiwai.

32. The Taonga Tūturu Protocol is a further acknowledgement by the Crown of Ngāi Tai ki Tāmaki's association within the rohe of Ngātiwai, through, inter alia, recognising that Ngāi Tai ki Tāmaki may have rights in relation to taonga tūturu found in the Taonga Tūturu Protocol Area. In this way the Trust Board considers it is a further erosion of Ngātiwai mana whenua in our rohe.

CONCLUSION

33. The Trust Board cannot support the inclusion of the above areas in another iwi's settlement on the basis that do so would undermine Ngātiwai mana whenua, mana moana and tikanga of Ngātiwai. It has also been done without following a fair and robust process consistent with tikanga as described above.
34. The Trust Board accordingly **strongly opposes** the enactment of the Bill in its current form and submits that the statutory areas be amended to remove those parts that are within the rohe of Ngātiwai.
35. In the event that the Crown were to undertake a fresh tikanga-based process to assess and resolve the areas of overlap between Ngātiwai and Hauraki iwi (as it has agreed to do in relation to Tauranga Moana), there is a chance that the Trust Board's concerns may be resolved. Unfortunately, the Crown has to date refused to commit to such a process. The Trust Board remains willing to take part in such a process should the Crown reconsider its decision.
36. The Trust Board confirms that it would like to be heard by the Select Committee in support of this submission.
37. The Trust Board would also be pleased to answer any questions or provide additional information as may be required by the Select Committee.

Ngā mihinui

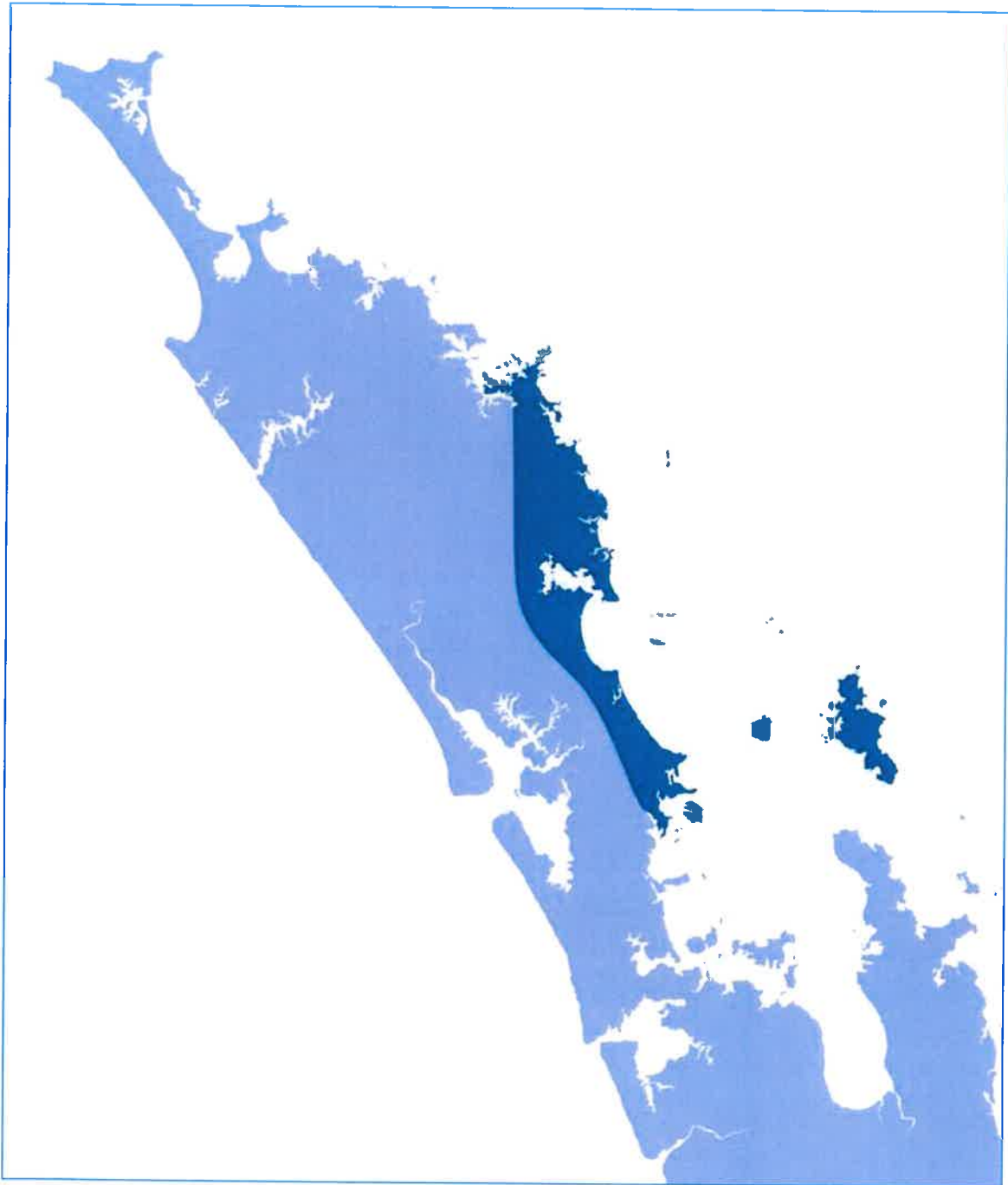


(pp – Tania McPherson, Treaty Claims Manager)

Haydn Edmonds

Chairman

Ngātiwai Trust Board



The area highlighted in dark blue (above) indicates the Ngātiwai rohe or Aot for the purpose of settlement negotiations and does not delineate exclusive Iwi boundaries. The NTB will settle only those aspects of claims located within this Aot in-so-far as they relate to Ngātiwai interests.

11. Background Hapū Context

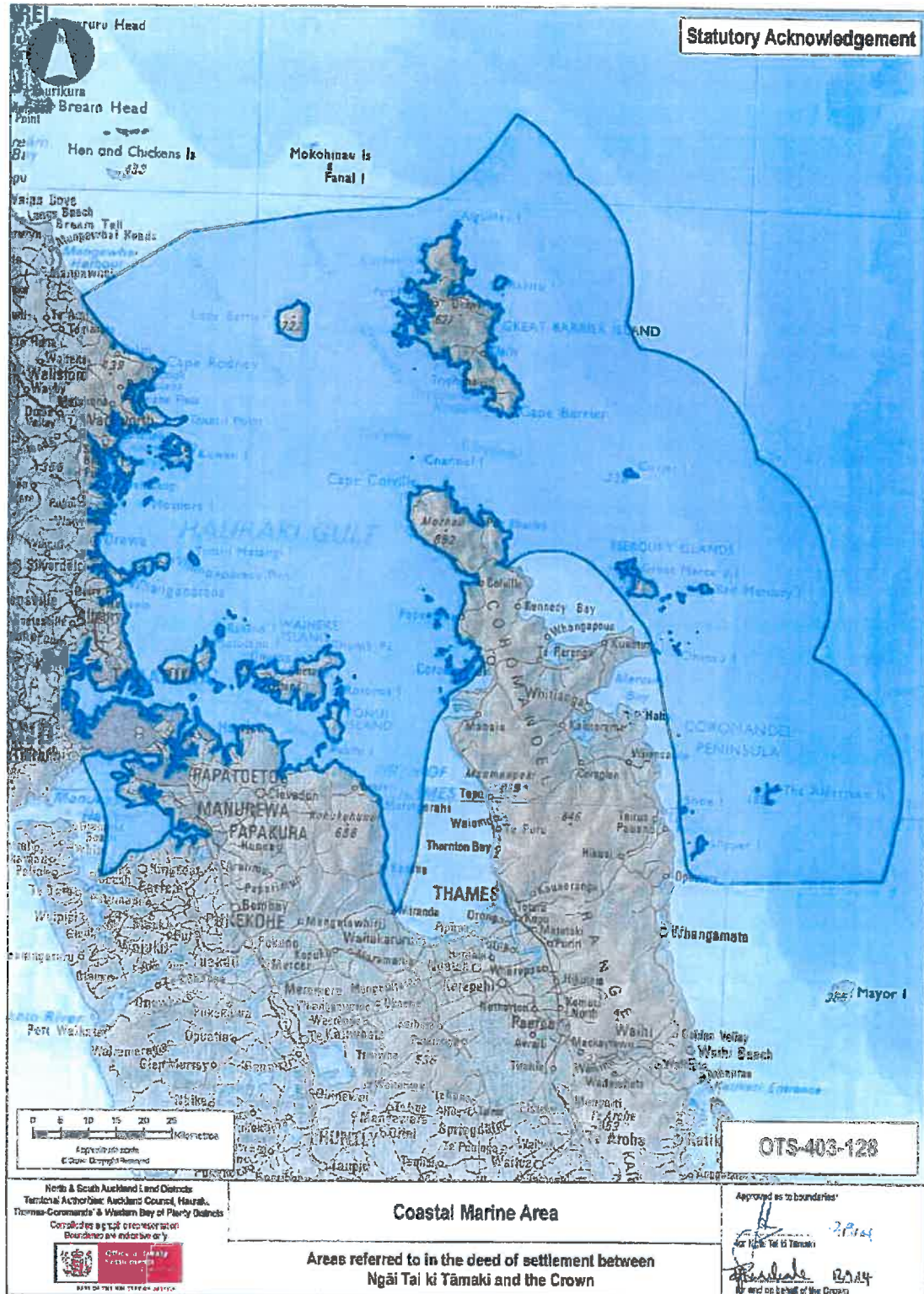
Appendix 2



Appendix 3

ATTACHMENTS

2: DEED PLANS



Appendix 4

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31 October 2013

Adam Levy
Office of Treaty Settlements
By email

Dear Adam

Further to our recent discussion I confirm that Haydn Edmonds and I met with Paul Majurey and Mike Dreaver on Thursday 31 October 2013. You will be aware of the areas of concern we have in relation to the draft Record of Agreement from the letter sent on our behalf to you by Wayne Peters Lawyers on 6 June 2013. At the meeting we discussed those concerns with Mr Majurey and advised that we would make the following observations:

1. The nature and extent of Marutuahu's interests in the draft Record of Agreement is not clear; and
2. The extent of the Statutory Acknowledgements sought and the significance/jurisdiction of those Acknowledgements with reference to the relevant consent authorities including the Environment Court is unclear. In respect of its commercial interests, Hauraki agreed to settle on a 55:45 basis with Ngatiwai Trust Board in relation to Aotea with the Hauraki interests extending no further north than Takatu Point. This was on the basis that that was the extent of Hauraki's commercial interests in relation to Aotea. It was implicit that Hauraki had no interests in Hauturu at all. The proposed Statutory Acknowledgement extends to Te Arai Point and incorporates both islands on the grounds of cultural and customary interests. An acknowledgement of that scope is incongruous with the acknowledged commercial position.

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3. There is no detail as to the extent of the particulars contemplated with respect to "fisheries management sustainability decisions" as contemplated in clause 4.10.
4. It is unclear to what extent any exclusivity is sought with respect to any redress.

Mr Mujurey agreed that we should advise you of our concerns and seek your response on the matters raised.

Yours faithfully

A handwritten signature in black ink, appearing to be "Jim Smillie", with a large loop at the start and a wavy line extending to the right.

Jim Smillie
Chief Executive

Appendix 5



Notes of a meeting between Ngāi Tai ki Tamaki and the Ngātiwai Trust Board Treaty Claims Committee held at Ngātiwai Trust Board 129 Port Road, Whangarei on Thursday 13th July 2017 commencing at approximately 11.00am.

Present: Haydn Edmonds, Gary Reti, Henry Murphy, Kris MacDonald, Hepi Haika, Tania McPherson, Barry Caldwell (Note taker), James Brown (Chairman of Ngāi Tai ki Tamaki and Treaty Negotiator), Lucy Steel (Ngāi Tai ki Tamaki Trustee and Treaty Negotiator).

Apologies: - Carmen Kirkwood (Ngāi Tai ki Tamaki Trustee and Treaty Negotiator), Laurie Beamish (Ngāi Tai ki Tamaki Trustee and Treaty Negotiator).

The meeting commenced at approximately 11:15 am with an opening karakia and mihi whakatau from Hepi Haika. James Brown also gave mihi in response.

Following this Haydn formally welcomed James and Lucy and everyone in attendance introduced themselves. Haydn also congratulated Ngāi Tai ki Tamaki (NTKT) on their Deed of Settlement and wished them well.

Purpose of the meeting:

- 1) To understand why Ngāi Tai ki Tamaki have claims that includes the South West of our rohe including Aotea and the surrounding islands, and right up to Te Arai Point.
- 2) To understand how these rights came about
- 3) To be clear to Ngāi Tai ki Tamaki that Ngātiwai Trust Board oppose their claim and redress into our rohe.

Meeting Notes:

1. Haydn – Explained that we have questions and concerns around NTKT's redress being offered by the Crown, particularly with the MPI Protocol area that come up into the Southern boundary of Ngātiwai. We want to understand how this came about and how NTKT justify these rights into our rohe.
2. James – In this context, this is a construct that was innovated by the Crown. Initially our take was around the mineral Greywacke in our rohe that is used in roads and in concrete. We also have a mineral called Red Chert Rock, this is also quarried from an Island in front of Kawakawa Bay. For us the driver was about underpinning future activities in these areas. I can assure you that none of these are in your rohe.
3. James – This started out with our own, but we are also part of the Tamaki settlement with 12 other iwi. We are also part of the Hauraki Collective Settlement with 12 iwi involved in that. What happened was with the Hauraki dynamic and because of their historic evidence around gold, so when this was added to the Hauraki korero things changed. Our initial interest was just around minerals, as opposed to forestry, fisheries etc, and actually for us, that is still our interest, especially Red Chert and Greywacke.

4. James – We do not have an interest in the sand as we would acknowledge Ngāti Manuhiri and Ngātiwai in regards to the Pakiri mahi, which we supported and that time and still continue to support that. So sand was not our interest in terms of minerals.
5. James – But what has happened is, within the belly of Hauraki whether we liked it or not, the Crown through our redress driver there under what they termed the protocol area of Hauraki as we had 10 of the 12 iwi arguing about the gold and manganese and other minerals, which out of that came the greater protocol area around MPI. We find ourselves caught up in a construct that is not preferable, and I would like to say to you today, kanohi ki te kanohi, we would have also come to you to discuss.
6. Kris – We have always had a really warm relationship with Ngāi Tai over the years, particularly with our tūpuna in regards to the Resource Management areas. We certainly think alike and operate alike in terms of all those old school pre-Treaty days.
7. James – What does this all really mean? My initial view is nothing. Because today I can't actually tell you what it means, other than we know its relativity to MPI, and whether it is them or us we need to explore that relationship over a number of things. Those will be explored regardless of this i.e. our own farming, forestry, fisheries, investments and businesses we already have. My view and team view is it is business as usual.
8. James – however what we are anticipating is the rohe moana of Ngātiwai is ok, we are not here to judge or instruct, we assume that would be for Ngātiwai to continue to beat the Crown up about.
9. James – I am not excusing the construct of the Crown as we have participated in it in the end actively, and subsequently to this is our customary maps that have come out.
10. James – Has our map grown? Yes it has, as far as Ngāi Tai are having to protect its interests from 11 other Hauraki iwi. I can say that we have not done that great a job, because if you think about our whanau of Marutūahu, it is a lot great than that.
11. James – When we started out with the three Greywacke pits on the mainland and the one island with the Red Chert as our driver, it wasn't our initial motive or agenda to grow it to what you're seeing today. That has come about from having to defend our interests and integrity against our relatives out of Hauraki.
12. Kris – How does the Hauraki / Marutūahu Collective work?
13. James – It doesn't!
14. Lucy – We signed our deed nearly two years ago, and we were supposed to go through the house in six months, but the Crown has held us back because of the Hauraki collective. They have wanted us to go as an "Omnibus" with the Collective, but we have always fought that. From the beginning it was always our own claim that we wanted to go through by itself, not to be part of the Collective. However they held off and held off until recently and actually we are now in court with the Crown. We have taken to court for holding us off, for not introducing our Bill 18 months ago.
15. Haydn – We do object. We have gold and we take sand at Leigh.
16. Haydn – We are also about to take litigation against the Crown because of their process and the lack of conversation that they have provided. Some of the Hauraki Collective have also indicated they will not come and talk to us. We want to give them an opportunity to talk with us, because we want our area of interest taken out of these maps so we have an opportunity to redress like NTkT have done and to look at the commercial aspects of it. There are a number of activities that go on in our areas that jointly we have supported each other on over the years. We don't have an issue with Hauraki as such, as we have collaborated a lot in the past, but over the cultural redress areas is one thing, but then to come in with the Government inserting what's happened to you guys has effectively created a land grab, where other parties can become interested in terms of commercial activity there. This redress area cuts into all the commercial activities we are exploring in our area.

17. Lucy – The MPI protocol is not about control or ownership for us. It's all about just being notified of activities in that area. So from our point of view it's not about any ownership or saying we want something for it, that is not our intention. In terms of the MPI protocol, it is our intention because that is the way it is with the Crown to ensure, because that is our area of interest map, that we are notified, that is all. What we then do, from our point of view and the way that we operate, is that we will add our voice to yours, but you lead it not us. We will not take ownership of anything that is not what we want.
18. Kris – That is from a NTkT perspective.
19. Lucy – Yes.
20. James – It is actually an instrument as opposed to a free title. I encourage you to consider this also when you are ready for it being valuable for information on existing activities and new activities that you are informed about. It's like a statutory acknowledgement, that's its only real value in a practical sense that we will be informed about things. The Crown must inform us about anything happening in this protocol area.
21. Lucy – We are not Mana Whenua here, we have our own area.
22. James – If any NTkT think they are going to be getting a free title property out of this, they are pretty deluded. All it is, is an email or formal letter advising of a roll over or a new application in our area of interest.
23. James – We have a strong focus, as you do, and that is Fisheries in terms of MPI. But under the Fisheries Act, hence why we are in this Hauraki space is because our interests and our benefits of the Fisheries Act are actually with the Hauraki Maori Trust Board and our fisheries company.
24. Lucy – However we have applied to extrapolate ourselves from that. We are the only iwi fishing. We are the only iwi that made an application to withdraw, but when we went down the track to do so, but it was going to be so expensive that we have put that on hold.
25. There is still a discussion to be had with NTB and NTkT around fisheries, but I would prefer to have Laurie Beamish with us so he can share our history to this, our customs and our traditions.
26. Lucy – In terms of who we are as people as fishers, we are a people with no boundaries, same as you same as others.
27. Tania – We are opposed to that Fisheries map, we too are fishing people, and it extends right up into our area where we haven't really known what your interests are in that area. It also creates a visual impression that is offensive. We don't have any worry with NTkT having fisheries RFR but we are offended by this map. But the way to get around that is just to rely on the calculation that is in your quota protocol. Historically these have been done on percentages. There would be nothing lost to anyone to have this map removed, and I understand that is being negotiated at your Collective level. We thought we would take the opportunity to explain why this map is a problem for us. To some extent the other map is similar. We would like you to change that map, you may not want to, but we want to ask you to change it.
28. James – No offence was intended. I am still confident about our tikanga of keeping in touch, kanohi ki te kanohi. Our preference was not to have any line on the map. But of course from the scope of which that could have been exploited at some future point could have been unmeasurable.
29. Tania – Can you explain a little bit more, you explained at the beginning the reason you have gone to this protocol area map was because of some competition you had within your Collective.
30. James – not a competition, its preserving our history. We didn't close our eyes and went like this. Particularly for Ngāti Rehua and Ngātiwai, it's Awana Pa on Aotea. Every time we visit Aotea the hau kāinga acknowledge Ngāi Tai Mountain and we respond by acknowledging the hau kāinga as kaitiaki. There is a degree of interest in that why would you oppose at Aotea,

and then when we visit you acknowledge us at Awana Pa, because it is named after our tūpuna – Te Wana. We have had that mai rā anō. In terms of [te Tai Tonga ki a koutou rohe], puta mai nei te ingoa “Te Ārai”. Ko Wainui, ko Māpu, ko Te Ārai o Kahu. Ko Waiokahu, ko Kahupuhi nō Tōrere - ko te Puhitanga o Tainui waka. Ā, Kamoea nō Ngāi Tai, kei a rātou he [hapū], ka puta mai nei ko te ingoa “Te Ārai o Kahu” (translation: in terms of the [southern tides to your region], the name “Te Ārai” comes about. From Wainui, to Māpū, then to Te Ārai o Kahu. From Waiokahu, then to Kahupuhi from Tōrere – te Puhitanga o Tainui waka. Kamoea from Ngāi Tai, they have a [hapū], of which the name “Te Ārai o Kahu comes about”) that is the whakapapa as to why the line on this map extends to Te Arai. It wasn’t preferable to put these lines on the map, but it’s not as if we don’t know why it is. This explains why Aotea and why Te Arai and why those lines are there.

31. James – There are issues that we have to manage. Our cousins of Marutūahu came 400 years after we were already there, and now have a bigger rohe than us. Our whanaunga cannot use those things, those are ours, because if we didn’t do that, they would have and they still will. So if you see their historical account and the evidence they have adopted from Tony Bellgrave (Marutūahu), on the front page it says Marutūahu and Ngāi Tai in Mahurangi, Tamaki and Hauraki. If you take Ngāi Tai out of that korero, then all of this starts to fall down for them. They desperately need Ngāi Tai in that whakapapa. They have tweaked and twisted it so that it looks like theirs but in the end it was only us that could stand up to that korero, hence why those lines are there.
32. Haydn – The value in the conversation that we are having today is understanding who we can work with and what we can do together. Particularly in our southern Boundary. We thank you for coming to meet with us kanoahi ki te kanoahi to discuss these issues.
33. Haydn – You will also understand that we have to take the Crown on over this, so we can make our point heard. We have asked the Crown to substantiate these lines. Our push to the Crown is to dispute having a line in favour of having an understanding.
34. Haydn – We are letting you know face to face that we will be putting our issues on the table, we will be signalling to the Minster that we are going to push back by way of litigation.
35. James – We understand, no offence to us on that. Only you can uphold the risk that you see as being risks to address. We welcome that as and when things occur. We are thankful that you were able to see us today. We are happy to come back for more korero and we are happy to host you, if you need a marae in Tamaki, just let us know.
36. James – You should know that our Bill is being introduced on the 26th July on the last sitting, feel free to ensure that your own processes are upheld. Thank you for the opportunity today.

Closing Karakia from Henry Murphy.

The meeting ended at approximately 12:15 pm followed by a shared lunch.

Barry Caldwell
Communications Advisor

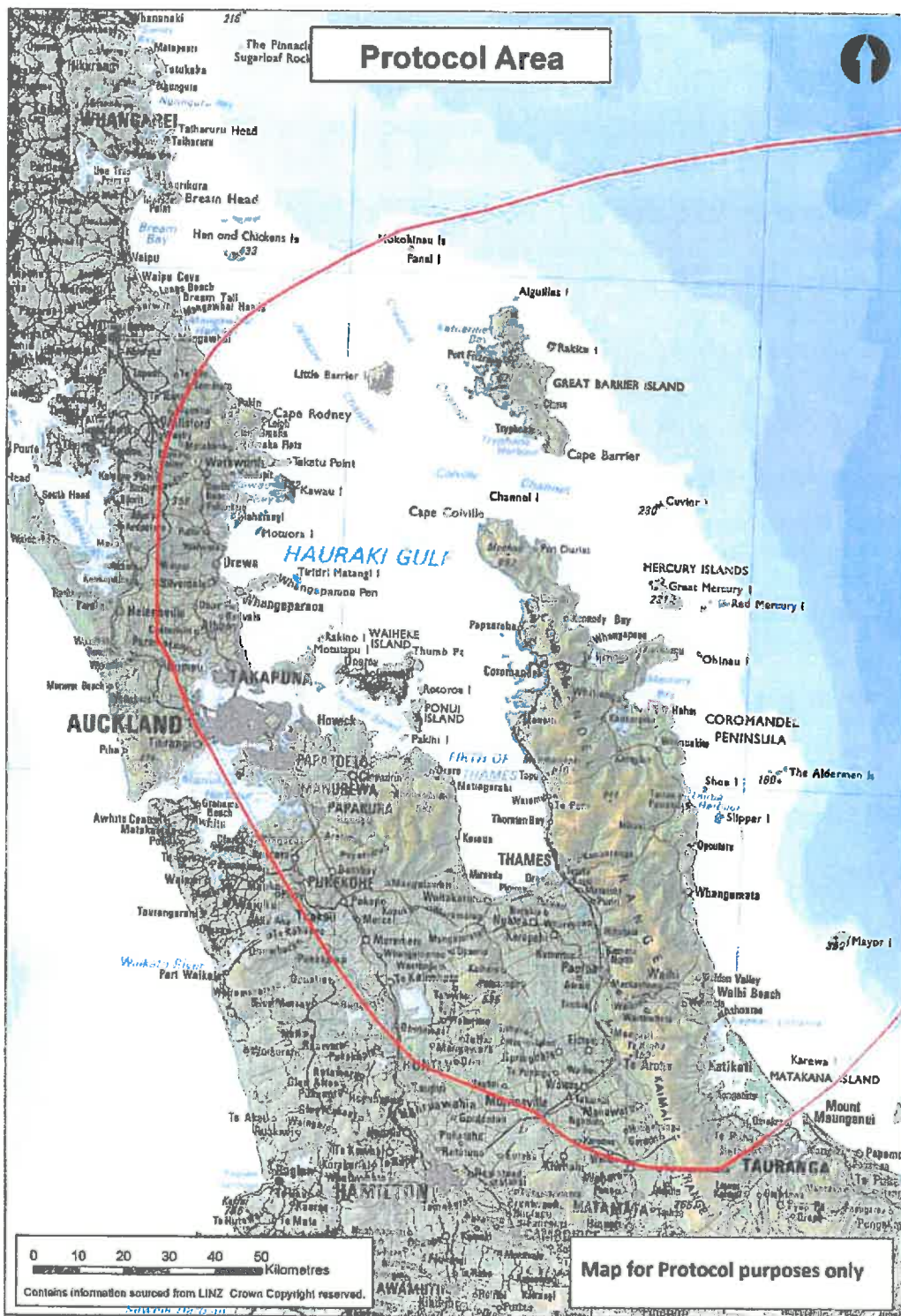
Tania McPherson
Treaty Claims Manager

Appendix 6

DOCUMENTS

3: PRIMARY INDUSTRIES PROTOCOL

APPENDIX A: PROTOCOL AREA



Appendix 7



Office of Treaty Settlements
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13 January 2017

Haydn Edmonds
Chairman
Ngatiwai Trust Board
ngatiwai@ngatiwai.iwi.nz

Tēnā koe

Overlapping claims regarding the proposed Protocol Area map for the Taonga Tūturu and Primary Industries protocols

As you may be aware, the Hauraki Collective initialled a redress deed with the Crown on 22 December 2016. This deed is available at <https://www.govt.nz/dmsdocument/6830.pdf>.

The Hauraki Collective comprises of Hako, Ngāi Tai ki Tāmaki, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Ngāti Porou ki Hauraki, Ngāti Pūkenga, Ngāti Rāhiri Tumutumu, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngaati Whanaunga and Te Patukirikiri. These iwi are also in negotiations with the Crown for the settlement of their individual historic Treaty of Waitangi claims.

The Crown's iwi-specific redress offer to each member of the Hauraki Collective includes a Taonga Tūturu protocol and a Primary Industries protocol (the **protocols**). For the avoidance of doubt, the protocols are not Hauraki Collective redress. The purpose of this letter is to seek your comment on the proposed Protocol Area map for the protocols (refer to **Appendix one**).

The Taonga Tūturu Protocol

The Taonga Tūturu Protocol sets out how the Minister and the Chief Executive for Manatū Taonga will interact with the relevant governance entity within the protocol area. This is non-exclusive redress and includes, but is not limited to:

- a. the process by which the Chief Executive will engage with Taonga Tūturu;
- b. discuss proposed policy or operational changes;
- c. notification of ministerial appointments to Boards; and
- d. engage on proposed national monuments, war graves, historic graves and history publications.

The Primary Industries Protocol

The Primary Industries Protocols sets out how the Minister for Primary Industries and the Director-General of the Ministry of Primary Industries will establish and maintain an enduring relationship with the relevant governance entity. This is non-exclusive redress. The protocol applies to agriculture, forestry, fisheries, biosecurity and food safety within the protocol area. It does not cover the allocation of aquaculture space of Crown Forestry assets held by the Ministry of Primary Industries.

Overlapping claims process

Final agreement on any redress is subject to the resolution of overlapping claims to the Crown's satisfaction. The Crown is therefore seeking your feedback on the proposed Protocol Area map. We request your feedback in writing, whether that be confirming you support or no objection to the protocol map, specifying the outcome of any discussions you have with any of the iwi of Hauraki relating to the proposed Protocol Area map, or identifying issues for discussion. Please provide your response by **5pm on Thursday 19 January 2017**.

It is the Crown's preference that groups engage directly if there are any concerns with the proposed Protocol Area map and, where possible, resolve any issues arising themselves. I encourage you to engage directly with Hauraki iwi listed at Appendix Two to discuss any matters you may wish to raise. The Crown acknowledges such discussions can be complex and should the need arise the Crown is able to assist in these discussions if both parties agree. The Office of Treaty Settlements is also available to meet with you during this process if necessary.

We recognise that sometimes all avenues of engagement are exhausted and matters remain unresolved between groups. In this event, as the Crown is ultimately responsible for the overall overlapping claims process, the Minister for Treaty of Waitangi Negotiations may be required to make a decision. If this step becomes necessary, the Minister will take into account the feedback provided by the iwi of Hauraki and other claimant groups.

The table below sets out the next steps in the process and timeframes:

Timeframe	Next steps
13 January 2017	OTS writes to all overlapping groups advising of proposed redress and seeking a written response
13 January – 31 January	Hauraki iwi engages directly with overlapping groups. Groups provide information and views to OTS
2 February 2017	OTS reports to the Minister for Treaty of Waitangi Negotiations on overlapping claims engagement progress and to seek a preliminary decision, if required. NB: a preliminary decision from the Minister is only sought if groups raise concerns with the proposed redress, and if the concerns could not be resolved through direct engagement with Hauraki iwi.
3 February 2017	The Minister writes to groups and Hauraki iwi either to confirm that overlapping claims are closed, or to advise the outcome of his preliminary decision and seek further information
20 February 2017	Where preliminary decisions have been made, overlapping groups have the opportunity to provide further information and views to OTS
23 February 2017	If required, OTS reports to the Minister to seek a final decision on overlapping claims
24 February 2017	The Minister writes to inform groups of his final decision

Contact details for the mandated negotiators for the Hauraki iwi are attached to this letter at Appendix 2.

If you have questions regarding the overlapping claims process for the proposed Protocol Area map, or would like further information, please contact Ryan Bogardus at ryan.bogardus@justice.govt.nz or on 04 918 8727.

Nāku noa, nā



Leah Campbell
Deputy Director, Negotiations and Settlements

Appendix One: Proposed Protocol Area map



Appendix Two: Contact details for the Hauraki iwi

Hauraki iwi	Contact person and details		
Hako	Josie Anderson Negotiator josie.anderson@rocketmail.com	John Linstead Negotiator kenlinstead@yahoo.com	-
Ngāti Hei	Joe Davis Negotiator ngatihei@xtra.co.nz	Peter Johnston Negotiator pelroy@xtra.co.nz	-
Ngāti Maru	Paul Majurey Negotiator paul.majurey@ahmlaw.nz	Wati Ngamane Negotiator ngakoma@xtra.co.nz	-
Ngāti Paoa	Hauāuru Rawiri Negotiator kaihautu@ngatipaoaiwi.co.nz	Morehu Rawiri Negotiator morehuw@gmail.com	-
Ngāti Porou ki Hauraki	Pineamine Harrison Negotiator pineharrison@xtra.co.nz	John Tamihere Negotiator john.tamihere@waiwhanau.com	Fred Thwaites Negotiator fred.npkh@gmail.com
Ngāti Rāhiri Tumutumu	Jill Taylor Negotiator jilltaylor@vodafone.co.nz	Nicki Scott Negotiator nick.scott@xtra.co.nz	-
Ngāti Tamaterā	Liane Ngamane Negotiator liane.ngamane@hotmail.com	John McEnteer Negotiator mcenteer@actrix.co.nz	-
Ngāti Tara Tokanui	Amelia Williams Negotiator amelia.w@vodafone.co.nz	Russel Karu Negotiator russellnegotiations@xtra.co.nz	-
Ngaati Whanaunga	Tipa Compain Negotiator tipa@xtra.co.nz	Nathan Kennedy Negotiator nkennedy@ihug.co.nz	-
Te Patukirikiri	William Peters Negotiator william@patukirikiri.iwi.nz	David Williams Negotiator david@patukirikiri.iwi.nz	-

Ngatiwai Trust Board



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15 March 2017

Leah Campbell

Deputy Director, Negotiations and Settlements

Office of Treaty Settlements

SENT BY EMAIL TO: Leah.Campbell@justice.govt.nz

Tena koe Leah

Feedback on Proposed Redress for Hauraki Iwi

I write in response to the Office of Treaty Settlements (OTS) letters requesting written feedback from the Ngatiwai Trust Board (the "Board") on the following overlapping claims and proposed redress:

- 22 November 2016 Hako Treaty settlement negotiations with the Crown
- 13 January 2017 Overlapping claims regarding the proposed Protocol Area map for the Taonga Tuturu and Primary Industries protocols
- 18 January 2017 Overlapping claims regarding the proposed area over which the Hauraki Collective Fisheries Quota RFR applies
- 27 February 2017 Overlapping claims for the Taonga Tuturu and Primary Industries protocol areas
- 1 March 2017 Treaty Settlement negotiations with Ngaati Whanaunga: Overlapping claims

This response is preliminary only

I wish to stress that this is a preliminary response made on behalf of Te Iwi o Ngātiwai. This is the case as the Board has been working to complete its triennial Trustee election process and has yet to fully brief the incoming Board members on overlapping claims matters. That said the Board held its quarterly hui a iwi at Otetao Marae in Whangaruru on 4 March 2017 where the nature and type of overlapping claims redress was presented and discussed with our members as a preliminary step.

The next Board meeting is due to take place on Friday 24 March 2017 where Trustees will be provided with a copy of this preliminary response and briefed on these matters. Once that has occurred I will update you on any developments.

Please contact Tania McPherson our Treaty Claims Manager should you wish to discuss any aspects of this feedback.

Nga mihi



Haydn Edmonds
Chairman
Ngātiwai Trust Board

cc. Hon Christopher Finlayson, Minister for Treaty of Waitangi Settlements
c.finlayson@parliament.govt.nz
Trina Dyll, Negotiation and Settlement Manager
Trina.Dyall@justice.govt.nz
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Nicola MacDonald, Chair and Negotiator, Ngati Rehua-Ngatiwai ki Aotea
Ngati_rehua_chairperson@xtra.co.nz
Terrance Hohnneck, Chief Executive Officer, Ngati Manuhiri
mook@ngatimanuhiri.iwi.nz



Ngātiwai Trust Board

Preliminary Response to Crown offers of Redress for Hauraki Iwi with Overlapping Claims in the Ngātiwai Rohe

On behalf of Te Iwi o Ngātiwai

Date: 15 March 2017

Kia Tūpato!

*Ka tangi a Tūkaiaia kei te moana, ko Ngātiwai kei te moana e haere ana;
Ka tangi a Tūkaiaia kei tuawhēnua, ko Ngātiwai kei tuawhēnua e haere ana.*

Beware!

*When Tūkaiaia calls at sea, Ngātiwai are at sea;
When Tūkaiaia calls inland, Ngātiwai are inland.*

Contact Person	Representative Body
Tania McPherson Treaty Claims Manager Phone: (09) 283 9553 Mobile: (021) 6677 98 e-mail: tania.mcpherson@ngatiwai.iwi.nz	Ngātiwai Trust Board 129 Port Road P.O. Box 1332 Whangarei 0140 Phone: (09) 430 0939

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Introduction

1. In making this response the Board wishes to reiterate to OTS that once again it finds itself in an unsatisfactory, last minute, reactive situation responding to the final stage of Treaty settlement for a number of neighbouring Iwi. These matters require considerable internal consultation and consideration at a time when:
 - a. the Board was in the midst of a lengthy and complex Waitangi Tribunal Inquiry into its Deed of Mandate and
 - b. is currently part way through the process of Board elections.
2. The ongoing demand from OTS for last minute Ngātiwai reactive responses to the completion of the many separate components of cultural and commercial Treaty settlements for the 'individual and collective iwi of Hauraki', is not 'just or proper' from the Board's perspective. This relates in particular to OTS requests for last minute consultation with a large number of iwi who are geographically isolated from Ngātiwai, and with a paucity of detailed information.
3. It should be noted that the Board have not been able to organise hui with any of the overlapping groups concerned and nor have any of them made any real attempts to contact us for the purpose of discussing their overlapping claims. On the basis that no hui have taken place to discuss these matters consistent with tikanga Māori and no research or historical advice has been provided to the Board to support the proposed redress this is a preliminary response only.
4. The Board finds itself considerably 'out of step' in this critically important process. This rushed and last minute uninformed process fails to meet the Crown negotiating principles of 'transparency' and 'fairness between claims'. It impacts on the mana of Ngātiwai and puts in jeopardy the 'protection of potential settlement assets'. Most importantly this process does not fit with tikanga Māori and does not meet the Crown and OTS guideline that - 'Treaty settlements should not create further injustices to claimant groups'.

Hako Statement of Association

5. On 22 November 2016 the Board received a letter from OTS concerning a proposed 'Statement of Association' (attached to the letter) between Hako and Tamaki and in particular to Aotea (Great Barrier Island) to be included as redress in a Hako Treaty Settlement with the Crown.
6. On 9 December 2016 the Board responded with its preliminary views stating that '...Hako did not appear as part of the Hauraki Maori Trust Board claim to Aotea in the 1990s...' and noting that '...the Court ruled in its Decision regarding the Papa Tupu lands at Aotea, 23 February 1998, p. 2, that in relation to Aotea, Ngati Hako, 'have not established any separate interests within the context of this enquiry'.
7. In that same letter the Board also requested any further documented evidence to allow a more fulsome response to be provided however no such information has been forthcoming.
8. The Board did initially received a phone call from one of the Hako negotiators on 20 January seeking to engage with the Board to discuss its statement of association. However when date options for such a meeting were made available the meeting had to be postponed by the Hako negotiators until a more suitable date could be found. Following several follow up requests from the Board to the Hako negotiators for a date to arrange the engagement hui no response was received.
9. Given that this process began in November 2016 and no further information has been provided by Hako and no contact has been made by the Hako negotiators since 20 January 2017 the Board feel there is little point postponing a final response at this time.
10. The Board consider that the 'Statement of association' is not substantiated by any tikanga Maori process (i.e. discussion and agreement by way of hui kanohi ki te kanohi) or evidence contrary to that already provided by the Board. As a result the Board must object to the statement of association at this time.

Proposed protocol areas for the individual iwi of Hauraki' in relation to Taonga Tuturu and MPI protocols

11. In relation to 'the proposed protocol areas for the individual iwi of Hauraki' the Board makes the following comments on the basis of the very limited information provided by OTS and the total lack of information provided by the Hauraki Iwi concerned. It should also be noted that not one of these groups have made any attempt to contact the Board to arrange engagement hui to discuss their redress.

- a. The Board is adamant that the establishment of 'protocol areas for the individual iwi of Hauraki' must not diminish the mana whenua and mana moana and kaitiakitanga exercised, at and since 1840, and down to the present day by Ngātiwai and its constituent hapū in the 'Mahurangi' district between Te Ārai o Tāhuhu (Te Arai Point), Tāwharanui, and Matakana, and extending south to Te Mau Tohora a Manaia (Motuora Island). The Board is concerned that the inclusion of 'individual iwi of Hauraki' in 'protocol areas' at Mahurangi, and particularly north of Matakana, would create a new iwi Māori dynamic not seen in the area in any form since 1820.
- b. The Board has a major concern with the northern extent of the proposed Hauraki iwi protocol areas of interest. This relates in particular to the fact that the 'proposed protocol areas' for three Hauraki iwi, namely Ngāti Maru, Ngāti Whanaunga and Ngāti Paoa extend north to Te Ārai Point. This boundary has no traditional or historical basis and appears to be taken from the north eastern boundary of the infamous Mahurangi and Ōmaha Crown purchase of 1841, which it is important to note, was transacted with non-resident Marutūahu rangatira at Auckland and Thames.
- c. The Board insists that Te Hauturu o Toi (Little Barrier Island) and the surrounding ocean not be included in the 'proposed Hauraki iwi protocol areas', as mapped for Ngāti Maru and indicated for Ngāti Whanaunga.
- d. The Board has a major concern with the north western terrestrial boundaries indicated in the proposed Hauraki iwi protocol areas, for the same reasons set out above.
- e. The Board reminds OTS that Ngātiwai and its constituent hapū have long-established existing protocols and formal relationships with the Crown, local government and tertiary institutions within the 'overlapping proposed protocol

area'. This position must not be compromised or diminished by the introduction of a new tribal dynamic that has not existed in the area for almost two centuries.

- f. The Ngātiwai Trust Board concludes that OTS and the four 'iwi of Hauraki' concerned with the establishment of protocol areas to give careful consideration to this Board response and to re-evaluate the north and north western boundaries of these areas with aroha and according to tikanga Māori.

12. **The Board is adamant that the establishment of 'protocol areas for the individual iwi of Hauraki' must not diminish the mana whenua and mana moana and kaitiakitanga exercised, at and since 1840, and down to the present day by Ngātiwai and its constituent hapū in the 'Mahurangi' district between Te Ārai o Tāhuhu (Te Arai Point), Tāwharanui, and Matakanakana, and extending south to Te Mau Tohora a Manaia (Motuora Island). The Board is concerned that the inclusion of 'individual iwi of Hauraki' in 'protocol areas' at Mahurangi, and particularly north of Matakanakana, would create a new iwi Māori dynamic not seen in the area in any form since 1820.**
13. The Board notes here that in the coastal area between Paepae o Tū (Bream Tail) and Te Ārai o Tāhuhu, and between Matakanakana and Waihē (the Mahurangi River), mana whenua has been exercised over the generations in conjunction with Te Uri o Hau and the Ngāti Rongo hapū of Ngāti Whātua, and to a lesser degree Te Kawerau a Maki.
14. The Board is well aware of the historical association of Ngāti Paoa with the southern Mahurangi district, and with Ngātiwai whānui, from the mid seventeenth century until 1820. That said, it is the Board's position that there is no evidence that the Marutūahu iwi occupied the Mahurangi area after the the Ngāpuhi attacks on Te Kohuroa (Matheson's Bay) 1820, Mauinaina (Panmure) 1821 and Te Ika a Ranganui in 1825. It should be remembered here that Ngātiwai hapū often fought beside Ngāpuhi in this period, in particular to avenge the death of the Ngāre Raumati rangatira Te Koriwhai.
15. No information has been provided to the Board by the four 'Iwi of Hauraki' concerned with this matter of 'proposed protocol areas' that sets out the basis for any enduring customary rights that these iwi hold in the entire Mahurangi area, in particular in regard to the northern Matakanakana – Te Ārai area, or extending east to Hauturu.

16. As with Hauraki claims to Aotea, the documentation of any customary rights held by Hauraki iwi, as provided to the Ngātiwai Trust Board, has relied, not on tikanga Māori but on archival material associated with old private land transactions, and highly flawed 1841 Mahurangi and Ōmaha Crown purchase transacted by the non-resident 'United tribes of Thames' from Thames and Auckland.
17. In relation to Mahurangi the Crown has already conceded in five completed Treaty settlements, including with the Ngātiwai constituent hapū Ngāti Manuhiri, that the early Mahurangi private land transactions, the 1841 Mahurangi and Ōmaha Crown purchase and the subsequent Crown land purchases in the district were highly flawed Treaty breaches that had a devastating ongoing impact on the resident iwi of the district. The Crown has apologised for these Treaty breaches. The Board submits that this matter should be central to a consideration of the establishment of protocol areas in the Mahurangi district. That is, their implementation should not introduce a tribal dynamic that has not existed in the area since 1840, thus creating a further injustice.
18. In regard to enduring mana whenua and mana moana in the 'overlapping proposed protocol areas' at Mahurangi, the Board states that it is fundamentally important to acknowledge that on no occasion subsequent to the final resolution of the Mahurangi and Ōmaha Crown purchase in the 1850s did the Hauraki tribes make any claim to land in the Mahurangi district. In spite of ample opportunity they did not take part in any of the Native Land Court investigations of title to any land in the Mahurangi district or of the offshore islands from 1865. This included the investigation of title to the Motutere in the upper Waiwera River, the thirteen land blocks contained in Te Hemara's Reserve, Pūhoi, the Te Ngaere block (Lagoon Bay), the extensive Tāwharanui and Mangatāwhiri blocks between Matakana and Whāngateau, the Ōmaha and Wakatūwhenua blocks north of Ōmaha tūturu (Leigh Harbour), Motu Hāwere (Goat Island), the Taumata block or the 35,000 acre Pākiri block extending from the Pākiri coast inland to present day Wellsford.
19. How the 'iwi of Hauraki' claim extant customary rights within the 'proposed protocol areas' between Matakana and Te Ārai Point is a mystery to the Board. It is significant that from 1853 the Crown accepted that this land was under the mana of the Ngātiwai rangatira, Parihoro and Te Kiri. All of the remaining Māori land in this area in the Ōmaha, Taumata and Pākiri blocks is in the ownership of the Ngātiwai constituent hapū, Ngāti Manuhiri.

20. The Board has a major concern with the northern extent of the proposed Hauraki iwi protocol areas of interest. This relates in particular to the fact that the 'proposed protocol areas' for three Hauraki iwi, namely Ngāti Maru, Ngāti Whanaunga and Ngāti Paoa extend north to Te Ārai Point. This boundary has no traditional or historical basis and appears to be taken from the north eastern boundary of the infamous Mahurangi and Ōmaha Crown purchase of 1841, which it is important to note, was transacted with non-resident Marutūahu rangatira at Auckland and Thames.
21. The 'proposed protocol areas for the individual iwi of Hauraki' extend well north of Mahurangi to Te Ārai Point. This is inconsistent with the stated and often quoted Marutūahu pepeha setting out their traditional rohe – 'Mai i Mahurangi ki Ngā Kurī o Whārei' (Waihi, Coromandel Peninsula). Traditionally the name Mahurangi was associated with the arrival of the Tainui canoe in the area and was applied solely to the sacred conical island of Mahurangi standing off the mouth of Waiwerawera (the Waiwera River). The name Mahurangi has been misapplied elsewhere since European settlement, for example to the Mahurangi River which is more correctly known as Waihē.
22. The 'proposed protocol areas' also extend well beyond the modern Marutūahu saying defining their rohe as, 'Matakana ki Matakana', that is from Matakana in the north to Matakana Island in the south. In regard to this saying the Ngāiterangi Iwi of Matakana island, Tauranga, do not accept that the Marutūahu rohe includes their ancestral home of Matakana Island. Ngātiwai do not accept this either in relation to the Matakana River. To Ngātiwai, Matakana is the pā located just north of the rivermouth on land which was accepted by the Crown (when dealing with the 1841 Mahurangi and Ōmaha block fiasco and the 1845 'Matakana muru') as being Parihoro's Portion'. Parihoro was a Ngātiwai and Te Parawhau rangatira resident at both Matakana and in the vicinity of Whāngarei. This was not opposed by the Marutūahu tribes at the time or when the Māori reserves of Te Ngaere, Tāwharanui and Mangatāwhiri were set aside on the land. Matakana along with Te Mau Tohora a Manaia (Motuora Island) still demarcates the south western boundary of Ngātiwai as shown on the 'proposed protocol areas' map and on existing Ngātiwai protocols long agreed with the Crown.
23. The Board reiterates is a particular concern that the 'proposed protocol areas for Iwi of Hauraki' include: all of the land remaining in the ownership of the Ngātiwai hapū, Ngāti Manuhiri, between Pākiri and Ōmaha tūturu (Leigh). This includes Ōmaha Marae

which is represented on the Ngātiwai Trust Board. It also includes the papakāinga settlement and farm properties of Pākiri and the Mangawhai State Forest (south) block returned to the hapu as part of its Treaty settlement. It should be noted that the area between Te Ārai o Tāhuhu (Te Ārai Point) and Te Mau Tohora a Manaia (Motuora Island) contains many landmarks and wāhi tapu of documented significance, not just local resident hapū, but to Ngātiwai whānui.

- 24. The Board insists that Te Hauturu o Toi (Little Barrier Island) and the surrounding ocean not be included in the 'proposed Hauraki iwi protocol areas', as mapped for Ngāti Maru and indicated for Ngāti Whanaunga.**
25. In this regard the Board respectfully acknowledges that the Ngāti Paoa and Ngāti Tamatera proposed protocol areas do not include Hauturu. The two Hauraki Iwi concerned have no documented customary relationship with Hauturu. They did not contest its ownership during the long nineteenth century Native Land Court investigation of title on the basis of Marutūahu whakapapa or customary rights. Ngātiwai alone, including its constituent hapū, were granted sole title to the island which is iconic to Ngātiwai whānui. The Ngātiwai Trust Board has been formally and actively involved in the management and ecological restoration of the island with the Crown for many years.
- 26. The Board has a major concern with the north western terrestrial boundaries indicated in the proposed Hauraki iwi protocol areas, for the same reasons set out above.**
27. It is remarkable that these boundaries differ so widely between the four named Hauraki iwi and that they extend so far west, and in the case of Ngāti Maru to the centre of the Kaipara Harbour. Again this area includes the extensive Pākiri block to which the Ngātiwai hapū, Ngāti Manuhiri, gained title in the Native Land Court, and all of the Māori land which remains in the ownership of Ngāti Manuhiri including that gained during the recent Treaty settlement process. In addition this land within the overlapping 'proposed protocol areas' includes numerous iconic coastal and inland land marks of wider significance to Ngātiwai whānui. They include, for example: Te Ārai o Tāhuhu, Wakatūwhenua, Te Kohuroa, Tamahunga, Tohitohi o Rei, Tokatū, Hāwera, Whāngateau, Matakanakana, Te Kawau Tūmārō o Toi and Te Mau Tohora a Manaia.
28. These highly varying northern and north western 'protocol area' boundaries claimed by the 'individual iwi of Hauraki cannot be justified and must be re-thought by the parties

involved in regard to tikanga Māori including ahi kā roa. Except in the case of Ngāti Tamaterā, they extend well beyond the boundaries of the infamous 1841 Mahurangi and Ōmaha Crown purchase block, and have no basis according to tikanga Māori. In this regard the Board reiterates that it is a particular concern that information provided to the Board to date by all parties relating to Marutūahu associations, with Mahurangi (or for that matter Aotea (Great Barrier island) is not based on tikanga Māori. Rather in relation to Mahurangi it relates almost entirely to documentation associated with early private land transactions and subsequent and directly associated Crown land purchases.

29. The Board reiterates that it understands Marutūahu, and in particular Ngāti Paoa historical associations with 'Mahurangi' extending from the late 1700s to 1820. This however, is not a basis for the application of enduring mana whenua over part or all of the area through the demarcation of a 'protocol area' with the Crown. Ngātiwai retain treasured knowledge of where our tūpuna lit their fires, married, fought and died within the Marutūahu rohe, for example at Whakanewha on Waiheke Island, Mauinaina near Panmure, Kawakawa Bay, and Waiomū and Te Tōtara near Thames. In spite of this Ngātiwai does not seek to extend its 'protocol areas' beyond Mahurangi to these places within the Marutūahu rohe. Ngātiwai ask that the Hauraki iwi concerned respect this and follow the same course in regard to Mahurangi in accordance with tikanga Māori and in particular ahi kā roa.
30. **The Board reminds OTS that Ngātiwai and its constituent hapū have long-established existing protocols and formal relationships with the Crown, local government and tertiary institutions within the 'overlapping proposed protocol area'. This position must not be compromised or diminished by the introduction of a new tribal dynamic that has not existed in the area for almost two centuries.**
31. The Ngātiwai policy context for these partnerships is set out in the 'Ngātiwai Iwi Environmental Policy, December 2015 which can be downloaded at www.ngatiwai.iwi.nz. This important document sets out Ngātiwai policy approaches relating to wāhi tapu and taonga tūturu, customary materials, indigenous flora and fauna, air and water quality, minerals, taniwha, exotic plantation forestry and genetically modified organisms, among other things.

This policy document and its predecessors has been applied across the Ngātiwai rohe for many years, including in the Mahurangi area and on the offshore islands, and is presently given regard by a wide range Crown and local government agencies in the Northland and Auckland regions.

32. The Board reiterates that it is a major concern that OTS has rushed this process of consultation over overlapping 'proposed protocol areas. It has not enabled appropriate consultation to be undertaken with other iwi. Most importantly OTS has not attempted to frame discussion of this fundamentally important expression of mana whenua, mana moana and kaitiakitanga, within the context of existing protocols and agreements held between Ngātiwai and the Crown, local government and tertiary institutions within Mahurangi and Te Moana nui o Toi (the northern Hauraki Gulf).
33. In addition it is of particular concern that this process concerning individual 'iwi of Hauraki' has not had regard to existing and clearly demarcated Ngātiwai and Hauraki Iwi 'coastal entitlements' held in the proposed protocol area under the Fisheries Act 2004, or to, for example, licences and royalties held by Ōmaha Marae in relation to offshore sand mining on the Mangawhai-Pākiri coastline.
34. The Board reminds OTS and the Hauraki iwi concerned that Ngātiwai and its constituent hapū, co-ordinated by the Ngātiwai Trust Board Resource Management Unit, have engaged in many partnerships with the Crown since the 1980s, including in the overlapping portion of the 'proposed protocol areas' (Mahurangi and northern Hauraki Gulf). The Iwi of Hauraki concerned have not been involved in or questioned this process even during the operation of the long established Hauraki Gulf Forum.
35. This work has included many significant partnerships undertaken within the 'overlapping protocol areas' between Ngātiwai and DoC Northland and Auckland, as well as with other Government Departments and local government (Auckland Regional Council, Rodney District Council and Auckland Council). This nationally recognised work has related to taonga tūturu, and all elements of primary industries and the natural environment. It been undertaken within major catchments like the Hoteo River and Waihē (the Mahurangi River),

throughout the Mahurangi coastal environment, and in the coastal marine area including in the offshore island groups of Pokohinu and Motukino (the Mokohinau Group), Te Hauturu o Toi (Little Barrier Island) and Aotea (Great Barrier Island).

36. These partnerships with the Crown and local government within the 'overlapping proposed protocol area' have included, for example: the establishment and management of Te Ārai Regional Park, the establishment and management of Pākiri Regional Park, the establishment and management of the Leigh Marine Reserve (Wakatūwhenua and Motu Hāwere), the establishment and management of the Tāwharanui Open Sanctuary and the Tāwharanui Marine Reserve, the planning and implementation of significant species management and ecological restoration projects on the coastline and on the offshore islands including Hauturu, and numerous coastal restoration projects between Te Ārai, Tāwharanui, Kawau Island and Motuora Island.
37. It is the Board's clear position that the 'protocol areas for iwi of Hauraki' should not apply to these areas north of Matakanakana where Ngātiwai and its constituent hapū have continuously exercised kaitiakitanga for generations both with and without partnerships with the Crown, local government and the community.
38. Of particular relevance to the issue under discussion is the fact that the Board's Resource Management Unit has worked on many occasions with Crown agencies, Te Papa Tongarewa, and Auckland War Memorial Museum in relation to taonga tūturu found throughout the Ngātiwai rohe, including in the wider northern Mahurangi area and offshore islands.
39. In addition the Board has taken a lead in working with the Crown and other agencies in the development and implementation of whale stranding protocols under the Marine Mammals Protection Act 1978. This nationally recognised work with marine mammals has been undertaken by Ngātiwai since the 1980s, in partnership with DoC, throughout the Ngātiwai rohe extending south to Tāwharanui, Matakanakana and Whāngapāraoa. It included the establishment of a burial place for stranded marine mammals at Waimaru, Tāwharanui.

40. Ngātiwai policy in this regard is set out in 'Protocol for the management of marine mammal strandings in the Ngatiwai rohe', May 2010. This protocol was signed by both the Doc Northland and Auckland Conservators, under delegated authority of the Director General of Conservation.
41. The protocols associated with this document and earlier iterations are applied within the Ngātiwai rohe which is defined and mapped within the document as extending south to Matakanakana. This policy document and its application has been supported by other iwi throughout Aotearoa and has never been questioned by any of the Marutūahu iwi. It is important to note that this document has been formally ratified by the DoC Northland and Auckland conservancies.
42. In relation to protocols relating to exotic forestry the Board notes that the Crown has transferred ownership of Mangawhai State Forest (southern portion) extending from Ngāroto (Tomorata lakes) to Pukeariki to Ngāti Manuhiri. The northern portion of Mangawhai State Forest extending from Ngāroto to Te Ārai Point has been transferred to Te Uri o Hau by the Crown. Both of these properties lie south of Te Ārai and are within the 'proposed protocol area' boundary asserted by three Hauraki iwi.
43. **The Ngātiwai Trust Board concludes that OTS and the four 'iwi of Hauraki' concerned with the establishment of protocol areas to give careful consideration to this Board response and to re-evaluate the north and north western boundaries of these areas with aroha and according to tikanga Māori.**
44. At very least Hauturu should be excluded from the area claimed by Ngāti Maru and Ngāti Whanaunga.
45. In addition the northern 'protocol area' boundaries for 'iwi of Hauraki' should be consistent with the traditional Marutūahu pepeha, 'Mai i Mahurangi ki Ngā Kurī o Whārei.' That is from Mahurangi Island, Waiwera, to the northern end of Te Katikati o Tamatekapua (Katikati).

The proposed area over which the Hauraki Collective Fisheries Quota RFR applies

46. This map relates to proposed provision in the Hauraki collective settlement which would give the Hauraki Iwi a right of first refusal to purchase quota held by the Crown for any nominated species that is introduced into the Quota Management System (QMS) in the future. This is in addition to the first 20% of any such quota which would be allocated to iwi, via Te Ohu Kaimoana, through the Maori Fisheries Settlement. Although the practical value of this mechanism may be limited, given the fisheries species that currently remain outside the QMS, this mechanism must comprise exclusive redress, although that is not acknowledged in the letter from OTS.
47. This response should be read in conjunction with our views provided (above) in relation to the 'Proposed protocol areas for the individual iwi of Hauraki in relation to Taonga Tuturu and MPI protocols'. The Board currently has very deep misgivings about the proposed area over which all of the Hauraki Collective seek redress in the form of Fisheries Quota RFR's. Those concerns were expressed directly to OTS at a meeting held on 31 January 2017 in Whangarei with our representatives.
48. Clearly, the proposed area overlaps extensively with the Ngātiwai rohe moana and the Board cannot agree that all Hauraki groups have interests within the whole of that area without providing any evidence to show that is the case.
49. It is deeply distressing to some of our long term Board members that the Crown appear to be entertaining a re-negotiation of coastline agreements established under the provisions of the Maori Fisheries Act 2004 for fisheries allocation purposes. Those agreements were not arrived at without considerable discussions and whanaungatanga and should be taken into account when ministers are advised on this proposed redress.
50. Another issue which is unclear in the documents is whether it is the Crown or Hauraki iwi who nominates whether any new species coming into the QMS will be subject to the RFR. The Board seeks further clarification on these matter before making a final response.

Ngaati Whanunga Proposed Redress

51. This response from the Ngātiwai Trust Board (the Board) is preliminary only because of the unreasonable timeframes imposed by OTS, the complete lack of information provided by Ngāti Whanaunga and the lack of any consultation between that iwi and Ngātiwai over the matter.
52. The Board makes the following comments on the proposed 'overlapped redress' for Ngāti Whanaunga at Ōrewa and Ōtanerua (Hadfields Beach).
53. Ngātiwai know of no documented customary relationship of Ngāti Whanaunga with this area, or for that matter with any part of the Whāngaparāoa – Mahurangi district post 1820.
54. Ōtanerua was one of the ancestral homes of Tukituki, the wife of the renowned ariki of Ngātiwai ki te moana, Rangihokaia. Their descendants gained title to parts of the only remaining Māori reserve land left after the infamous 1841 Mahurangi and Ōmaha Crown purchase. They are also represented in almost every Ngātiwai hapū/marae community represented by the Board today.
55. Ngātiwai do not understand the basis of the Ngāti Whanaunga claim to land at Ōrewa, and specifically to the land banked property at 2 Riverside Road, Ōrewa. This land was traditionally known as Te Tahuna (Te Taruna) and Ōrewa extending inland to Ōkahu and Puketaniwha. Both before and after 1840, it was one of the ancestral homes of Ngāti Kahu who were closely related to the Ngātiwai constituent hapū of Ngāti Manuhiri, as well as to Ngāti Whātua, and Te Kawerau a Maki who descend directly from the eponymous ancestress Kahu. The land including the 'land banked property' at Ōrewa was occupied by and sold by the Ngāti Kahu rangatira Taipau to Europeans in 1845.
56. Ngātiwai do not understand the reference to this property as being 'Te Waimai a Te Tumu,' which was a 'residence' or 'fishing reserve' set aside by the Hauraki tribes during the infamous 1841 Mahurangi and Omaha Crown purchase for which the Crown has already apologised for in five Treaty settlements to date. The author Barry Rigby noted in his 1998 report 'The Crown, Maori and Mahurangi 1840-1881', at page 20, - "Today the location and area of this reserve remains a mystery." It is significant that the formal creation

of this reserve was not pursued by the Hauraki tribes over the ensuing decades that it took to sort out the mess created by this transaction and its massive impact on the resident tribes. Ngātiwai tradition associates locates 'Te Waimai a Te Tumu' a considerable distance away from Ōrewa in the southern Matakana area and associates it with Ngāti Paoa.

57. The Board see the Ngāti Whanaunga claim to land at Ōtanerua as opportunistic, completely unsubstantiated, and inappropriate according to tikanga Māori.



PART OF THE MINISTRY OF JUSTICE

13 June 2017

Haydn Edmonds
Chairman
Ngātiwai Trust Board
ngatiwai@ngatiwai.iwi.nz

Office of Treaty Settlements
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Tēnā koe

Primary Industries protocol area for Ngāi Tai ki Tāmaki's comprehensive settlement

I write to you to seek your views on the Primary Industries protocol area (the protocol area) for Ngāi Tai ki Tāmaki that may overlap with your area of interest.

As you may be aware, Ngāi Tai ki Tāmaki signed a deed of settlement with the Crown in 2015 for the settlement of their individual historic Treaty of Waitangi claims. The Deed contains a Primary Industries protocol and associated protocol area as part of Ngāi Tai ki Tāmaki's comprehensive settlement. A Primary Industries protocol is standard, non-exclusive relationship redress between an iwi group and the Ministry for Primary Industries. A protocol is a statement issued by a Minister of the Crown setting out how a Crown agency intends to interact with a claimant group on a continuing basis and sets out how a government agency will exercise its functions, powers and duties in relation to specified matters within the protocol area.

I am writing to you now because Ngāi Tai ki Tāmaki's Primary Industries protocol area has recently been amended to reflect the Crown decision for protocol areas to be specific for each individual Hauraki iwi, rather than using the same area for the Pare Hauraki Collective. In mid-January 2017, we wrote to you about the protocol areas for other Hauraki iwi. We note the concerns you raised in your letter of 29 March 2017 about those protocol areas. The Minister for Treaty of Waitangi Negotiations will soon make a preliminary decision about overlapping claims relating to the Hauraki iwi. This letter about recent amendments to Ngāi Tai ki Tāmaki's Primary Industries protocol area forms part of that wider process.

The protocol area broadly reflects the area of interest included in the Ngāi Tai ki Tāmaki Deed of Settlement. The map of the protocol area that may overlap with your area of interest is attached at **Appendix One**, as well as a copy of Ngāi Tai ki Tāmaki's previous Primary Industries protocol area that was included in the Deed of Settlement, for your reference. The Crown seeks your views on the amended protocol area.

It is the Crown's preference that groups engage directly with each other in the first instance if there are queries or concerns about the protocol area and, where possible, resolve any issues arising themselves. I encourage you to engage directly with the negotiators for Ngāi Tai ki Tāmaki about the Primary Industries and any overlap with your area of interest. The negotiators are available in the coming weeks to meet with you. The contact details for the Ngāi Tai ki Tāmaki Tribal Trust are: James Brown, Chair, Ngāi Tai ki Tāmaki Tribal Trust, PO Box 59, Beachlands, Auckland 2147, or james.brown@ngaitai-ki-tamaki.co.nz.

The Office of Treaty Settlements requests your written feedback on the protocol area, specifying the outcome of any discussions you have with Ngāi Tai ki Tāmaki or identifying any issues. Please also provide

feedback even if you support or have no objection to the protocol area. Please provide your response in writing by **Tuesday 27 June 2017** to Briony Carew at OTS on briony.carew@justice.govt.nz.

The Crown acknowledges such discussions can be complex and, should the need arise, the Crown is able to assist in these discussions if the parties agree. OTS is also available to meet with you during this process if necessary.

We recognise too that sometimes all avenues of engagement are exhausted and matters remain unresolved between groups. In this event, as the Crown is ultimately responsible for the overlapping claims process, the Minister for Treaty of Waitangi Negotiations (**the Minister**) may be required to make a decision. If this step becomes necessary, the Minister will take into account the feedback provided by relevant claimant groups.

The table below sets out the next steps in the process and timeframes.

Timeframe	Next steps
13 June 2017	OTS writes to overlapping groups advising of the Primary Industries protocol area and seeking views
13 June to 27 June 2017	Overlapping groups engage directly with Ngāi Tai ki Tāmaki
27 June 2017	Overlapping groups provide views in writing to OTS by this date
3 July 2017	OTS reports to the Minister on overlapping claims engagement progress and to seek a preliminary decision, if required
4 July 2017	The Minister writes to groups and Ngāi Tai ki Tāmaki either to confirm overlapping claims are closed, or to advise the outcome of his preliminary decision and to seek further information
5 July to 18 July 2017	Where preliminary decisions have been made, overlapping groups and Ngāi Tai ki Tāmaki have the opportunity to engage directly and to provide further information and views to OTS, , if required
24 July 2017	If required, OTS reports to the Minister to seek a final decision on overlapping claims
25 July 2017	The Minister writes to inform groups of his final decision

If you have questions regarding this overlapping claims process, or would like further information, please contact Briony Carew at OTS on briony.carew@justice.govt.nz or 04 978 7042.

Nāku noa, nā



Tessa Buchanan

Negotiation and Settlement Manager

cc: James Brown, Chair, Ngāi Tai ki Tāmaki Tribal Trust, james.brown@ngaitai-ki-tamaki.co.nz

Ngāi Tai ki Tāmaki Primary Industries Protocol Area and Ngātiwai Area of Interest



Legend

- Ngāi Tai ki Tāmaki Primary Industries Protocol Area
- Ngātiwai Area of Interest

0 10 20 30 40 50
Kilometres

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Ngātiwai Trust Board



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22 June 2017

Tessa Buchanan

Negotiation and Settlement Manager

SENT BY E-MAIL ONLY TO: briony.carew@justice.govt.nz

Tēnā koe Tessa,

Overlapping Claims Process: Ngai Tai ki Tamaki - Ministry for Primary Industries and Ministry for Culture and Heritage Protocol Area

I write in response to your letter dated 13 June 2017 but received in our office on 19 June 2017 by post. For the record please copy all correspondence with our Chairman Haydn Edmonds to me by e-mail please. This will help to reduce response times.

The purpose of this letter is to clarify and correct a few process and date issues and to seek an extension of time to respond to your request for the Ngātiwai Trust Board (the "Board") views on the proposed "Protocol Area" for Ngai Tai ki Tamaki.

Clarification and Corrections

Leah Campbell from the Office of Treaty Settlements (the "OTS") first wrote to our Board on 13 January 2017 as alluded to in your letter of 13 June 2017. That letter set out the then proposal for a single Protocol Area map for the Ministry for Culture and Heritage - Taonga Tuturu and the Ministry for Primary Industries Protocol Area. Attached was a map showing one protocol area to be shared by all the Hauraki Iwi as part of the "Hauraki Collective". This letter provided a list of 10 Hauraki Iwi contacts which at that time did not include Ngai Tai ki Tamaki. Nor did it include Ngāti Pukenga although we understand Ngāti Pukenga is also part of the Hauraki Collective.

On the 31st of January Leah Campbell and Ryan Bogardus along with Matua John Clark met with our Treaty Claims Committee (the "TCC") in our offices located in Whangarei. The purpose of this meeting was largely to gain some clarification over the Iwi included in each of the Marutūahu and Hauraki "Collectives" and what precisely was the nature of the proposed redress contemplated in relation to both the Protocol Area and the Fisheries Quota RFR Area. At that meeting the TCC raised a number of concerns. One of those concerns was the single Protocol Area proposal suggesting that

all of the Hauraki Iwi had equal interests within the whole of that entire area rather than their own discrete rohe, some of which would not necessarily overlap with the Ngātiwai Area of Interest.

On 27 February 2017 the Board received an amended proposal for several Protocol Areas for each of four groups that had specific overlapping claims/rohe within the Ngātiwai Area of Interest. These groups included:

- Ngāti Maru
- Ngāti Whanaunga
- Ngāti Paoa and
- Ngai Tamatera

At this point the proposal was that each of the groups identified above would have their own protocol areas included in their individual settlements rather than in the Hauraki Collective settlement. It should be noted also that those groups are a substantial part of the Marutūahu Collective (with only Te Patukirikiri not included) rather than the Hauraki Collective and this fact has caused a good amount of confusion subsequently with reference to “Pare Hauraki” further confusing matters. The Board would like to understand who Pare Hauraki are if they are not the Hauraki Collective and why is there a different map for this area contained in the Summary of Collective Redress found on your website?

At paragraph 3 of the same letter dated 27 February 2017 it states:

“We are yet to receive protocol areas for Ngāti Rahiri Tumutumu, Hako and Ngāti Porou ki Hauraki. We will seek your comments on the protocol areas for these iwi at a later date should they overlap with your area.”

For clarity the Board had not been advised of any other groups (e.g. Ngai Tai ki Tamaki) that might claim an overlap within the Ngātiwai Area of Interest at this point and we are still not clear where Ngāti Pukenga sits on this matter. This was despite several e-mails I sent to OTS (which I can provide if necessary) requesting confirmation on this matter.

On the **15 March 2017** the Board provided its preliminary response (**Attached**) to a number of overlapping claims matters – **not 29 March 2017** as stated in your letter. This included our written feedback on the proposed Protocol Areas for those groups listed above and which remains relevant to the current consultation process concerning the protocol area proposed for Ngai Tai ki Tamaki. As you now appear to be the person responsible for this current proposal the Board requests that you read our written feedback of 15 March 2017 and take it into account when advising the Minister.

On the 6th of April 2017 the Board received a letter from the Minister for Treaty of Waitangi Negotiations entitled “Overlapping claims regarding the Hauraki Collective Fisheries RFR Deed over Quota area. While this letter’s key focus was on the Quota RFR it stated at paragraph 2:

*“I am advised my officials met with you on 31 January 2017 to discuss overlapping claims regarding individual and collective redress offers to the iwi of Hauraki. I am advised you also wrote to my officials on **1 March 2017** to provide feedback on the Fisheries RFR area, **the protocol areas offered to individual iwi of Hauraki** and redress offered to Ngaati Whanaunga. **My officials or I will respond to you separately in relation on your feedback on the protocol areas and the redress offer to Ngaati Whanaunga.** However, I note the*

points you raise in this feedback that are relevant to overlapping claims in relation to the Fisheries RFR area.”

At this point I wish to again clarify that that Board’s response to various requests from OTS for written feedback on proposed redress for the Marutūahu and Hauraki iwi was dated **15 March 2017** – **not 1 March 2017** as set out in the letter from the Minister dated 6 April 2017.

It has also been noted that your letter requests feedback on the Primary Industries protocol area but there is no mention of the Ministry for Culture and Heritage Taonga Tuturu matter. Can you please confirm if this is an omission?

Request for extension of time to provide written views

As indicated above we received your letter dated 13 June 2017 on 19 June 2017. If it had been sent by e-mail we would have received it the same day. You have requested our written feedback by 27 June 2017. This allows us just over one week to respond despite the fact that the attached map is dated 26/05/2017 in the bottom left hand corner. This would indicate that OTS has had this map for three weeks prior to seeking our views on it.

On 20 June 2017 the Board requested urgent meetings with all of the Hauraki and Marutūahu Iwi to discuss overlapping claims including Ngai Tai ki Tamaki. We received a positive response to this request from James Brown negotiator for Ngai Tai ki Tamaki on 21 June 2017 but are yet to settle on a date and venue.

It is of concern that OTS has provided so little time for this process to take place and for our views to be provided in writing. In fact this would be the shortest amount of time provided for resolving overlapping claims matters that our Board has ever seen. Given that the Board has experienced date errors of this type in the past it can only be assumed that another mistake has been made.

Despite that, for the reasons provided above I would like to request on behalf of the Board that another two weeks be provided for a written response to be provided. This will allow time for you to consider our earlier written response dated 15 March 2017 and for our engagement with Ngai Tai ki Tamaki to take place before providing any supplementary views in writing.

Please call me on 021 667798 or 09 283 9553 if you have any questions about the content of this letter.

Ngā mihinui



Tania McPherson
Treaty Claims Manager
Ngātiwai Trust Board
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19 July 2017

Tessa Buchanan
Negotiation and Settlement Manager

SENT BY E-MAIL ONLY TO: briony.carew@justice.govt.nz

Tēnā koe Tessa,

OVERLAPPING CLAIMS: NGĀI TAI KI TĀMAKI - MINISTRY FOR PRIMARY INDUSTRIES AND MINISTRY FOR CULTURE AND HERITAGE PROTOCOL AREA

I write on behalf of the Ngātiwai Trust Board (the "Board") in response to your letter dated 13 June 2017 and e-mail dated 28 June 2017.

The purpose of this letter is to respond to your request for written feedback on the proposed Protocol Area for the establishment of relationships between Ngāi Tai ki Tāmaki and the Ministry for Primary Industries and the Ministry for Culture and Heritage.

We have had the pleasure of engaging with both the Chairman, James Brown and Trustee, Lucy Steel of Ngāi Tai ki Tāmaki yesterday and appreciate their earnest discussion and their perspective. We hold talks like these in high regard. We understand and respect where they are coming from, however we indicated to them that we would put our concerns forward.

The Board has concerns with the considerable extent of the mapped boundaries of the proposed Protocol areas for Ngāi Tai ki Tāmaki.

In particular, the Board is concerned that the Ngāi Tai ki Tāmaki proposed Protocol Area includes the south west of the Ngātiwai rohe, between Matakanakana, Te Mau Tohorā a Manaia, and Te Ārai o Tāhuhu. We respect that they have their own kōrero for Te Ārai o Tāhuhu, however this area is named after Tāhuhunuiorangi, son of our tupuna Manaia II.

It is also of concern that the proposed Ngāi Tai ki Tāmaki protocol areas include Te Hauturu o Toi (Little Barrier Island), Aotea (Great Barrier island), and Rakitū (Arid Island), and the surrounding seas of Te Moana nui-o-Toi.

The Board understands the ancient, pre-seventeenth century association of Ngāoho and Ngāti Tai and their many hapū, that is, the early Tainui iwi and hapū who occupied the wider Hauraki Gulf and its offshore islands. Ngātiwai holds valued whakapapa associations with these tūpuna.

Ngāti Tai did not in our view, however, occupy Mahurangi or Hauturu and Aotea from this time. Nor did they at any time in the nineteenth or twentieth centuries make claim to ancestral land in this

area in the Native or Māori Land Court. We respect that Ngāi Tai may have had associations with Te Pā Awana prior to the phased conquests of Rehua, Te Rangituangāhuru, Te Whaiti and Te Awe, on the other hand Ngātiwai and its constituent hapū claimed, held and still hold title to ancestral land at Mahurangi, Hauturu, Aotea, Rangīāhua and Rakitū, and still maintain marae/papakainga in the district.

The Board understands that Ngāi Tai ki Tāmaki are based at Umupuia Marae, Te Wairoa (Clevedon) and Whatāpaka Marae, Karaka, with extant ancestral interests extending north to the Tamaki River, Motukorea, Rangitoto and Motutapu.

It appears that the proposed protocol area as mapped by Ngāi Tai ki Tāmaki cover the entire area being asserted by the Marutūāhu confederation, rather than the extant rohe generally described by Ngāi Tai ki Tāmaki.

On this basis the Board must object to the propose Protocol Area as it is not firmly connected to an ongoing customary association within the overlapping area as at 1840 or beyond.

Please do not hesitate to call me if you have any questions about the content of this letter.

We thank Ngāi Tai Tāmaki for their views and position and hope that the goodwill shared in our hui will extend beyond the trials and tribulations of these Treaty claims processes.

Ngā mihinui



Haydn Edmonds
Chairman

Cc: Mr James Brown james.brown@ngaitai-ki-tamaki.co.nz

6 October 2017

Haydn Edmonds
Chairman
Ngātiwai Trust Board

By email: ngatiwai@ngatiwai.iwi.nz

Tēnā koe

Taonga Tūturu and Primary Industries protocol areas

I write to update you on the overlapping claims process for the proposed protocol areas for Hauraki iwi.

Ngāi Tai ki Tāmaki Primary Industries Protocol Area

We wrote to you on 13 June to seek your views on the proposed Ngāi Tai ki Tāmaki Primary Industries protocol area. You provided feedback to the Office of Treaty Settlements on 19 July and we understand you have met with Ngāi Tai ki Tāmaki to discuss the matter.

Hauraki iwi protocol areas: preliminary decision

The Minister for Treaty of Waitangi Negotiations wrote to you on 12 July with his preliminary decision on the proposed Primary Industries and Taonga Tūturu protocol areas for other Hauraki iwi and to invite feedback. Thank you for your feedback of 20 July in response to the Minister's preliminary decision and for your further response on 22 August.

Update on overlapping claims process

I am aware it has been some time since you received an update on these overlapping claims processes. We have discussed feedback received with individual Hauraki iwi and are carefully considering the information you and other groups provided.

Once a new government has formed we will update the Minister on the feedback and engagement to date. We will be in contact with you before seeking any further decisions from the Minister on the protocol areas.

If you would like to provide any further feedback please send your comments by **13 October**.

If you have questions or seek further information please contact Lisa Gooch at lisa.gooch@justice.govt.nz or on 04 494 1083.

Nāku noa, nā



Leigh McNicholl
Negotiation and Settlement Manager

CC: Tania McPherson, Treaty Claims Manager, Ngātiwai Trust Board, tania.mcpherson@ngatiwai.iwi.nz

Appendix 8

DOCUMENTS

3: TAONGA TŪTURU PROTOCOL

ATTACHMENT A: PROTOCOL AREA

