



**Ngātiwai Trust Board Deed of Mandate
Independent Analysis of Submissions**

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Summary

Ngātiwai Trust Board (NTB) has commissioned an independent summary and analysis of submissions received on the NTB Deed of Mandate. The analysis focuses on identifying the substantive matters raised in submissions.

The six main reasons given by submitters who support the Deed of Mandate are:

- 1) NTB is the only legitimate body to represent Ngātiwai interests;
- 2) NTB has appropriate skills and resources;
- 3) NTB has a good track record;
- 4) the Deed of Mandate has sound processes and structures;
- 5) the Mandate will help prevent fragmentation of the iwi; and
- 6) it is timely to settle now.

The six main themes identified in submissions opposing the Deed of Mandate are:

- 1) the submitters want to settle their own claims;
- 2) the submitters are not Ngātiwai and NTB does not represent them;
- 3) concerns about the structures in the Deed of Mandate;
- 4) procedural deficiencies, especially around consultation;
- 5) dissatisfaction with NTB governance; and
- 6) dissatisfaction with Crown policies.

By the closing date of 6 September, 242 submissions were received, comprising 233 written submissions, one petition signed by 119 people, and eight video submissions. Of the written submissions, 42% support the Deed of Mandate and 58% oppose it. The level of support is higher (54%) among registered Ngātiwai members. The petition signatories and video submitters oppose NTB's mandate.

The report concludes that:

1. NTB's Deed of Mandate is consistent with key Crown policies, including the Crown's strong preference to negotiate with large natural groupings (LNGs) of tribal interests rather than with individual claimants or whānau, and to negotiate comprehensive settlements;
2. With respect to those submitters who state that NTB does not represent them or that they are not Ngātiwai, NTB's Deed of Mandate is consistent with Crown policy on overlapping claims and clearly states that claims will be settled by a Ngātiwai settlement only insofar as they relate to descent from a Ngātiwai ancestor. While this assurance may not satisfy all submitters, the reviewer anticipates that these matters will continue to be worked through as the negotiations proceed;
3. With respect to those submitters who state that NTB's consultation and engagement processes have been deficient, NTB has implemented all the consultation and communication initiatives outlined in the Crown-endorsed Mandate Strategy and has also set out in the Deed of Mandate ongoing opportunities for consultation and engagement with the Ngātiwai community as the negotiations progress; and
4. No new substantive issues were identified from the submissions that have not already been addressed in the Deed of Mandate or associated documentation.

Introduction

Context

5. The Ngātiwai Trust Board (NTB) has sought a mandate from Iwi members to enter into direct negotiations with the Crown for the settlement of all remaining historical Treaty claims of Ngātiwai. As part of the mandating process, NTB:
 - Held information sharing hui and consulted Ngātiwai members on a draft mandate strategy in early 2013;
 - Prepared a final Mandate Strategy in July 2013 and a Supplementary in August 2013, which were endorsed by the Crown and on which the Office of Treaty Settlements (OTS) sought submissions;
 - Conducted a postal ballot in which 82% of respondents voted in support of the resolution:

That the Ngātiwai Trust Board is mandated to represent Te Iwi o Ngātiwai in direct negotiations with the Crown for the comprehensive settlement of all the remaining historical Treaty claims of Ngātiwai including registered and un-registered historical claims.
 - Prepared a Deed of Mandate in July 2014.

6. In August 2014 OTS invited members of Ngātiwai to make submissions on the Deed of Mandate. The submission deadline of 23 August was extended at the request of NTB to 6 September 2014. OTS continued to accept submissions after 6 September, but the late submissions are not included in this analysis.

Purpose and structure of this report

7. NTB has commissioned an independent analysis of the submissions received on the Deed of Mandate. The purpose of this report is to:
 - Summarise the main issues raised by submitters;
 - Analyse whether the issues raised by submitters have been adequately addressed or clarified in the Deed of Mandate and other material provided by NTB on its website; and
 - Identify any new issues raised in submissions, including any procedural concerns and substantive issues.

8. The report is in four main sections, as follows:
 - (1) **Summary of submissions** – identifying the main issues and themes raised in submissions;
 - (2) **Analysis of submissions** – evaluating how NTB has addressed the issues raised by submitters;
 - (3) **Quantitative analysis** – providing a breakdown of submissions by number and type; and
 - (4) **Conclusions** – assessing consistency with Crown policies and identifying any potential new issues for NTB to consider.

9. OTS has prepared a full index of written submissions and has given each submission a unique identifying number. These numbers are used to identify individual written submissions in this report – for example (2, 24) means that a particular issue was raised in submissions 2 and 24 on the OTS index. Video submitters are referred to as **V1, V2** etc using the index of video submitters attached to this report.

(1) Summary of submissions

Submissions in support

10. NTB's Deed of Mandate is supported by 98 submitters, or 42% of the written submissions received by the closing date of 6 September. Of these submitters:

- 89 used NTB's submission template, some adding their own comments;
- six provided a single sentence email indicating their support; and
- three provided original submissions (i.e., without using a template).

11. Submitters who support NTB's Deed of Mandate give the following reasons for their position:

- **Only legitimate body:** NTB is seen as the only legitimate and organised body to pursue Ngātiwai claims and look after the wider interests of Ngātiwai (128, 131, 132, 135, 138);
- **Skills and resources:** NTB has the resources, skills and professionalism to achieve the best outcomes for claimants and beneficiaries (44, 149, 170);
- **Prior mandate and track record:** NTB has already been recognised by other authorities such as the Maori courts and as a recipient of fisheries settlement assets (120, 128). NTB has a track record and business skills to manage settlement assets wisely (128, 170);
- **Sound process and structures:** Submitters acknowledge NTB's pre-mandate consultation processes and the post-mandate structures, policies and processes set out in the Deed of Mandate (128, 178). Some submitters attended hui at which the direct negotiation process and NTB's mandate were discussed (15, 149). One has witnessed positive changes in NTB over last five years, and believes the processes now in place will continue to progress in the future (170);
- **Kotahitanga:** The NTB mandate will prevent fragmentation of the iwi which would have a major impact on Ngātiwai's settlement and development aspirations (128, 171). This sentiment is also expressed by a submitter who says "NTB are working in everybody's interest - We are all Ngātiwai" (170);
- **Timeliness:** It is timely to settle now "while our old people are still here" and NTB can make that happen (170); and
- **Level of support:** One submitter considers that the 82% vote for direct negotiations is a large majority and relatively high in terms of percentage and turnout in comparison with other similar iwi granted mandate by the Crown (128). This submitter also comments that the claimant definition is correct and reflects Ngātiwai's distinct whakapapa, military and geographical history.

12. A submitter from Ngunguru marae (**124**) provides details of whakapapa and marae history to show how Ngunguru is within the Ngātiwai rohe. This submitter also discusses the relationships of some of the Ngātiwai hapū, stating:

We also acknowledge our whanaunga of Te Waiariki. We tautoko their right to choose the path they wish to follow in order to settle with the Crown. We all still bury our deceased here, our ahi-ka still burns on our lands and as representatives of our marae we acknowledge our aroha for our whanaunga of Te Waiariki and Ngātiwai through our common bonds through Ngāti Takapari... It has been a longstanding view by the people of Ngunguru and Tutukaka, in both tuturu Maori times and contemporary times that we share common tūpuna and strong whakapapa links between Te Waiariki and Ngātiwai.

13. The theme of the interconnectedness of Ngātiwai hapū is also reflected in other submissions. For example, a submission from the chair of Te Whānau ā Rangiwahakaahu records that “*many of our whānau also share whakapapa with Ngāti Takapari, Te Kapotai and Te Waiariki hapūs of Ngātiwai*” (**124**).

14. In addition to the implicit support for the NTB blanket claims Wai 244 and 262, seven of the claimants to the Waitangi Tribunal (referred to in the remainder of this report as “Wai claimants”) explicitly support the inclusion of their claims within NTB’s mandate and there is assumed support for the inclusion of a further six claims.¹ The 13 claims for which there is explicit or assumed support are:

- Wai 67 – Oriwa 1 B3;
- Wai 343 – Otetao A Block;
- Wai 511 – Matapōuri council sections;
- Wai 1308 – Pukekauri & Takahīwai;
- Wai 1384 – Whangaruru Lands;
- Wai 1711 – Te Whānau ā Rangiwahakaahua Hapū;
- Wai 1712 – Native Land Court: Toi Te Huatahi and Te Mawe;
- Wai 1717 – Native Land Court: Te Whānau Whero;
- Wai 1719 – ML Blocks: Hone & Erana Murphy;
- Wai 1726 – Paremata Mōkau A13 Block etc;
- Wai 1786 – Actions of the Crown: Reweti Whānau;
- Wai 1960 – Rangitiratanga: Tamihana & Kaupeka; and
- Wai 2243 – Little Barrier Is Acquisition Act.

15. Several of the supporting submissions make specific requests of NTB, as follows:

- The claimants in Wai 1726 (**178**) and Wai 2243 (**102**) expect NTB to involve them in all discussions with respect to that claim;²

¹ See section 3 of the report for further detail.

² Note that **102** is recorded as an opposing submission. The submitter supports the inclusion of Wai 2243 in NTB’s Deed of Mandate but opposes the inclusion of Wai 504.

- Ngāti Rehua-Ngātiwai Ki Aotea Trust are willing to discuss any potential overlaps between their own mandate and that of NTB, as well as issues and redress items that may arise as the respective negotiations progress (216). The submission identifies several specific matters for further discussion, including:
 - Kawa and Motairehe marae are included in NTB’s Deed of Mandate but this does not mean NTB has mandate to represent the hapū and whānau affiliated with those marae for the purpose of Treaty settlement negotiations (the submitter acknowledges that the Deed of Mandate makes this clear);
 - The Area of Interest in the Deed of Mandate is misleading as it shows the whole Ngātiwai rohe but the NTB mandate relates only to those hapū identified in the Deed of Mandate; and
 - Ngāti Rehua-Ngātiwai Ki Aotea will need to be included in matters related to the Post Settlement Governance Entity (PSGE) – for example, a fisheries protocol may be negotiated by NTB but will also affect the Aotea hapū, and any changes to NTB structures will need to involve Ngāti Rehua-Ngātiwai Ki Aotea.

Submissions in opposition

Overview

16. NTB’s Deed of Mandate is opposed in:

- 135 written submissions (58% of the written submissions received by the closing date of 6 September);
- a petition signed by 119 signatories; and
- eight video submissions.

17. If duplications are removed (i.e., submitters who responded more than once), a total of 246 people provided opposing submissions or signed the petition.

18. Many of the written submissions opposing NTB’s mandate use one of two templates (or, in some cases, both), which are referred to in this summary as *Template A* and *Template B*:

- Template A states that the submitter does not support the NTB Deed of Mandate and instead supports the rights of claimants to prosecute their claims before the Waitangi Tribunal in the Wai 1040 Te Paparahi o Te Raki Inquiry; and
- Template B states that the submitter opposes NTB’s Deed of Mandate. It includes an analysis of NTB’s ballot results and a list of procedural concerns.

19. Over half of the opposing written submissions (54% or 73 submitters) use Templates A or B, comprising:

- 36 Template A submissions;³
- 31 Template B submissions (some of which include more detailed comments);⁴ and

³ Submitters using Template A are numbers 26 – 28, 30, 48, 51, 52, 54, 59, 63, 69, 70, 77, 82, 96 – 99, 105, 106, 182 – 202, and 208.

- six submissions using both templates.
20. The petition is prefaced by a statement that is identical to the issues raised in Template A. Some signatories provide additional brief comments which are incorporated into the analysis below.
21. A further distinct set is those submitters who affiliate with Te Waiariki, Ngāti Kororā and Ngāti Takapari (referred to in the remainder of this report as “*the Te Waiariki grouping*”). In total 39 written submissions, four petition signatories, and two video submitters who affiliate with these hapū oppose NTB’s Deed of Mandate. The written submissions are a mix of:
- simple statements of opposition which follow a similar format along the lines of “*I [name] as a direct descendent of the three hapū Te Waiariki, Ngāti Kororā, Ngāti Taka oppose their inclusion in the Ngāti Wai mandate*” (25 submissions);
 - fourteen more detailed submissions. The thrust of these submissions is that Ngāti Kororā and Ngāti Takapari are hapū of Te Waiariki, and that the Te Waiariki grouping are not hapū of Ngātiwai and should therefore not be included in NTB’s Deed of Mandate. Submitters urge that the claims associated with these hapū, which are Wai 620, Wai 1411 – 1416 and Wai 2239, should be settled directly with the hapū and not with Ngātiwai.
22. The remaining 22 written submissions opposing the mandate follow no set format and in several cases are substantive. The video submissions also contain detailed historical information and whakapapa of the submitters, including details on the Peters whānau at Whananaki and the Ngātiwai Land Retention Committee (**V1**), and Whangaruru history and lands (**V8**).
23. The reasons given by submitters who oppose the Deed of Mandate can be loosely divided into:
- “Prospective” reasons – i.e., relating to matters that can be addressed as the negotiation process proceeds, including:
 - A. Claimants or hapū want to settle their own claims;
 - B. The submitter is not Ngātiwai and NTB does not represent them; and
 - C. Concerns about the processes or structures set out in the Deed of Mandate; and
 - “Retrospective” reasons – i.e., relating to the process undertaken to date, including:
 - D. NTB’s mandating processes;
 - E. Past and current governance and activities of NTB; and
 - F. Crown policies.
24. Of these main themes, those most commonly identified by submitters are themes A and B (which are closely related) and theme D, particularly in relation to a perceived lack of consultation and engagement. Each of the themes is described in more detail below.

⁴ Submitters using Template B are numbers 26, 30, 50, 53, 55 – 58, 60, 61, 77 – 82, 84, 95, 98 – 100, 110, 111, 203 – 207, 209 – 215, 226, and 229.

Theme A: Claimants or hapū want to settle their own claims

Te Waiariki grouping:

25. The submitters who affiliate with the Te Waiariki grouping consider that the Crown should settle with them directly (e.g., **1, 3**) or allow them to pursue their claims through the Waitangi Tribunal (**11**). The main reason given for this view is that Te Waiariki, Ngāti Kororā and Ngāti Takapari are not Ngātiwai hapū (see Theme B below).

Te Parawhau and Te Patuharakeke:

26. The Te Parawhau Hapū Authority Charitable Trust requests that all Wai claims and assets within the rohe of Te Parawhau hapū be removed from the NTB Mandate, but the submission does not identify specific claims (**24**).⁵ Claimants for Wai 504 seek a settlement for Whangarei Harbour and the seas and oceans off Bream Bay which acknowledges “*Ngaitahuhu and its hapū Parawhau and Patuharakeke as kaitiaki*” and also seek economic development support for the group (**102**). This submitter strongly opposes NTB’s mandate, stating:

NTB is an adversary. It is in conflict with the interest of the Parawhau and Patuharakeke people of the district and especially so in respect of claim 504. (102)

27. Te Patuharakeke acknowledges its whakapapa links to Ngātiwai through Manaia and through tūpuna such as Te Taotahi and Te Ao Hei-Awa but states that it holds its own mandate and has not given it to NTB (**47**). The submission notes that three overlapping claimant groups (NTB, Ngāti Whatua and Tuhoronuku) claim mandate over the Patuharakeke rohe. The claims associated with Patuharakeke are Wai 745 and Wai 1308.

Te Kapotai and Ngāti Pare:

28. Te Kapotai and Ngāti Pare’s claims are Wai 1464 and Wai 1546. They do not support NTB, Tuhoronuku or any other entity to represent their hapū in settlement discussions. Instead these hapū want to complete Stage Two Waitangi Tribunal hearings and will then decide for themselves who will negotiate and settle their claims (**112**).

Other claims:

29. Claimants for Wai 1544, 1528, 1529, 1530, 1961, 1677, 1945 and 1973 oppose NTB’s mandate as the negotiations would prejudice the claimants in preparing their claims for the Tribunal (**108**). Wai 156 claimants also prefer to have their claim reported by the Waitangi Tribunal and to then deal with the Crown (**227**). Another submitter advocates for a parallel hearings process, stating:

our Tiriti o Waitangi Claims are absolutely personal. The Mana and Tino Rangatiratanga of our Hapu voice has been ignored in every possible way. (233)

30. The submitters using Template A and those who signed the petition also support the rights of claimants to prosecute their claims before the Waitangi Tribunal in the Wai 1040 Te Paparahi o Te Raki Inquiry. The template and petition state that a Waitangi Tribunal Report is essential so that claimants can then

⁵ Te Parawhau hapū is not included in NTB’s Deed of Mandate

decide how best to negotiate and settle their claims. Template B states that the mandate process potentially undermines the Te Paparahi o Te Raki Inquiry and that NTB has ignored the voice of the people by continuing to include hapū groupings who have actively sought to withdraw from the mandate.

Theme B: We are not Ngātiwai / NTB does not represent us

31. The submitters who affiliate with the Te Waiariki grouping state that they are not Ngātiwai. In some cases submitters state Te Waiariki is a sovereign entity (11), while others emphasise the links with Ngāpuhi (25, 46, 218, 219). Many of the submissions in the Te Waiariki grouping are brief statements of opposition, but there is also considerable strength of feeling and detailed arguments, including documented evidence, in the more substantive submissions and in two video submissions (V4, V5). For example, one submitter writes to:

oppose the erroneous use of the Ngātiwai Mandate whakapapa to assist Ngātiwai [to] pillage, loot and steal the burial grounds, pa sites, maunga, sites of significance, eel weirs and bird snares, cultivations, herenga waka, tūpuna pitopito korero, tikanga and customary practices, resources, land and waterways of the people of Te Waiariki. (29)

32. Several submitters in the Te Waiariki grouping include details of whakapapa to demonstrate that they and their hapū are not Ngātiwai (23, 25, 29, 46, 219). Several note that their tūpuna Te Mawe is not named in the NTB Deed of Mandate. Another states that Te Tuatahi (described in the Mandate Strategy as a Ngātiwai tūpuna) was actually of Ngai Tahu, an ancient iwi that predates Ngātiwai and Te Waiariki in the Whangarei area (11). Others provide documented evidence in the form of Maori Land Court proceedings or Waitangi Tribunal hearings to support the argument that they are distinct from Ngātiwai (11, 23). One provides a list of Te Waiariki lands (29).

33. The submission on behalf of Te Kapotai and Ngāti Pare⁶ states that they are not hapū of Ngātiwai and that:

Te Kapotai and Ngāti Pare ... refuse to be forced into the Ngātiwai settlement process by their inclusion in the Ngātiwai Deed of Mandate... If the claims are not removed, we [the legal representatives of Te Kapotai and Ngāti Pare] have instructions to file an application for an urgent inquiry with the Waitangi Tribunal into the Ngātiwai Deed of Mandate process. (112)

34. One submission provides details of whakapapa showing the connections of the Wai 1544 claimants to Ngāpuhi hapū Ngāti Rehia and Ngāti Hau (103). The submission identifies areas in the Deed of Mandate that are specific to the traditional customary rohe of Ngāpuhi:

These areas are Tapeka Point along the coastline to Taupiri, and from Taupiri the entire coastline down to Mangawhau, and then down to the Mahurangi. The only acknowledged Tauranga Waka for Ngātiwai, with the hapū Ngāti Rehua, in the rohe of Ngāpuhi, are Tuparehuia, Taupiri and Whananaki. We dispute this mandate and challenge it in the claims of Ngāpuhi.

⁶ Ngāti Pare is not included in the NTB Deed of Mandate

35. Other submitters state that NTB has no claim to:

- Mahurangi (45);
- Takahiwai marae, which is said to be a Te Parawhau marae (75). The same submitter provides details of Parawhau history, describing how the Crown, through the current mandating process, is recognising Ngātiwai, Ngāti Whatua and Ngāpuhi as claimant groups even though these people “never took a loss on Parawhau lands” (V6);
- Whangarei Harbour or the CBD of Whangarei (75, V6, petition signatories 20 and 118);
- Oriwa at Whananaki (V6); and
- All lands in the Pakiri area, which belong only to Ngāti Manuhiri iwi descendents (104).

36. Further comments on the lineage set out in the claimant definition are that:

- It does not include the submitter’s descent line through Ngāti Manaia (158); and
- NTB is erroneously promoting the line of Eruana Maki (“a well known seller of land”) through a Ngare Raumati whakapapa (V1, V3).

Theme C: Concerns about the processes or structures proposed in the Deed of Mandate

37. Relatively few submitters provide comment on the post-mandate processes and structures described in the Deed of Mandate. Submitters’ comments fall into four clear sub-themes.

38. The first is a desire for a greater level of involvement and influence in post-mandate processes for hapū (47, 49, 83, Template B submissions), kaumātua (49, 83, 233), the research group (49), claimants (83), and youth (233). Submitters propose specific mechanisms to achieve this, including:

- hapū involvement in appointing negotiators (49);
- setting up the kaumātua kuia taumata and the research group before the Deed is recognised (49, 181);
- greater representation on the Treaty Committee for claimants, hapū and kaumātua (83); and
- increasing the size of the kaumātua group to better reflect the length of the coastline and number of coastal communities (V8).

39. One submitter challenges the research structures in the Deed of Mandate because “outsiders” are not appropriate people to write her history. This submitter considers that research can be undertaken only by someone who is familiar with the area and has lived there for many years (V8).

40. The second theme is how overlapping claims will be dealt with. Although some submitters acknowledge NTB’s statement that claims will be settled only to the extent they relate to Ngātiwai, one says it is not clear how that qualifier will work in practice (85). Another refers to the “pretense that extinguishment of claims will only go so far as the claim relates to Ngātiwai or Ngātiwai tūpuna” (23).

41. Lack of detail on the Independent Mandated Authority (IMA) and PSGE is the third main theme. A couple of submitters suggest that the Deed of Mandate should have contained more detail on what the

IMA would look like **(181, 233)** and the Template A submissions note the lack of detail on PSGE structure in the NTB Deed of Mandate.

42. The final theme relates to resolving disputes. One submitter does not wish to participate in mediation and states that the disputes resolution process in the Deed of Mandate does not provide the hapū with any clear equitable or representational status **(47)**. Another considers that the “withdrawal process” in the Deed of Mandate is not fair because NTB is large organisation with greater resources and cannot expect Wai claimants or hapū to progress their claims without Crown or NTB funding **(181)**.

Theme D: Past processes undertaken by NTB in seeking a mandate

43. Some submitters identify concerns about processes undertaken by NTB during the pre-mandate period and official mandate process. These concerns can be broken down into concerns about (a) consultation and communication, (b) research into claims, (c) voting, and (d) the summary of submissions on the Mandate Strategy.

Consultation and communication:

44. Some of the Wai claimants are aggrieved that their claims were included (at OTS direction) in NTB’s Mandate Strategy without the agreement of the hapū or named claimants **(11)** and that they were not given the same opportunity as Ngāti Manuhiri and Ngāti Rehua to seek a separate settlement **(47)**.
45. A relatively large number of submitters are dissatisfied with the level of consultation between NTB and hapū, Wai claimants or the Ngātiwai community **(11, 45, 83, 108, 181, 230, Template B submissions, two petition signatories and several video submissions)**. A few provide more detailed reasons, including: NTB’s process was not open and transparent **(47, 108, video submissions)**, the mandating process was rushed **(83, 108)**, young people were not invited to the hui **(233)** and petition signatories 9, 12 and 63, video submissions), people were selectively invited to kaumātua hui **(V7)**, and a lack of social media forums and hui **(233, video submissions)**.
46. A contrasting attitude to engagement is provided by the legal representatives of the Te Waiariki grouping who state that their clients “*have no desire to meet with the Ngātiwai Trust Board as part of any engagement with the Crown*” **(23)**.

Research:

47. Some of the Wai claimants state that NTB knows nothing about their claims **(47, 85, 181, 233)**. These submitters are concerned that NTB has not completed historical research on Treaty breaches whereas the claimants have done comprehensive research **(47)** and the incomplete research will prejudice attempts to negotiate **(85)**. A video characterises the NTB trustees and staff as “newcomers” **(V1)**.
48. Four submitters state that claimants have been denied access to NTB research **(108, 181, 233, V4)** and two complain that NTB has not supported the claimants’ preparation for Tribunal hearings **(108, 233)**. One notes that the NTB research group has not invited Wai claimants together to discuss research **(181)**.

Mandate Voting:

49. Concerns about NTB's voting procedures and results are raised in Template B submissions. These submitters claim NTB has distorted the true level of support for the mandate (**108**) as 636 positive votes out of 4693 adult registered members does not constitute "overwhelming support" (Template B). There is also a suggestion that NTB pursued and signed up hapū who support the mandate and ignored those who don't and failed to provide all registered members with voting packs (Template B submissions). One submitter felt humiliated because her whakapapa and registration was initially rejected by NTB and there was no process to address this or inform her so that the problems could be rectified (**233**).⁷ A video submitter wonders whether poor administration of the iwi register prevented others from participating in the mandate process (**V7**).

Summary of submissions on mandate strategy:

50. One submitter is concerned that the independent summary of submissions should not have determined that the Trust's work was fair, open and transparent without first discussing it with claimants (**227**).

Theme E: NTB structure and performance

51. A small number of submitters, including several video submitters, express a lack of confidence in NTB, based on either its current governance or past performance. With respect to NTB's governance, two submitters suggest there is inadequate hapū input because NTB is set up on marae lines (**108, 181**). Others are concerned about the criteria for appointing representatives to NTB and whether the trustees represent genuine marae (**227/V1, 279/V3, V8**). A signatory to the petition states that:⁸

It is not so much the Trust Board entity as it is the people who have been there for too long. I say they have become self serving and they need to go.

52. Performance-related concerns include: NTB only became an iwi as a result of the fisheries settlement⁹ (**11/V5, 29**), the mandate and settling of claims is nothing more than a means for NTB to access money (**108**), NTB lacks the skills and knowledge to represent the submitter's interests (**230, V1, V3**), concerns about financial management and transparency (**V7**), and lack of faith in NTB's decision-making (**227**). Some of the video submitters have never received any benefits from NTB (e.g., **V6**). A video contains allegations of misappropriation of funds, poor trusteeship, irregular meetings, inadequate record keeping, non-existent audits and the lack of a marae building (**V5**).
53. One submitter proposes a review of NTB past performance should be undertaken before any mandate is approved (**49/107**) and another proposes an independent review of NTB's Trust Deed (**233**). A signatory to the petition also requests a review of the Trust Deed and a revised trust structure that "enables benefits for all" (petition signatory 17). Another signatory suggests that "the board needs to have one representative from each marae and they should stand for 1 term only of 2 years" (signatory 43). Calls for a review of the Trust Deed are also made in some of the video submissions.

⁷ The submitter's registration was confirmed on further investigation.

⁸ Signatory 23

⁹ One submitter claims to have received nothing from the fisheries settlement (**230**) and this is repeated in the comments of several of the signatories of the petition and some of the video submissions

Theme F: Crown policy

54. Several submitters comment on the Crown’s Treaty settlement policies. A signatory to the petition adds the comment “*Why should we be settling down a pakeha process for Maori?*” (petition signatory 43). A video submitter comments that the NTB is following a Crown agenda of forcing people together as a large natural grouping despite their different experiences and expectations (V2). One written submission says that there is no basis for the Crown’s imposition of a negotiating framework because the submitter (a Wai claimant) never ceded sovereignty to the Crown (85). Two submitters are of the view that it is not up to the Crown to determine matters of hapū and iwi relationships (23, 227), for example:

The Crown’s involvement in saying “who belongs to, or with, whom” in this instance can only be described as uninformed intermeddling... if this trouble continues, there is clearly a case for Te Wairiki to make against the Crown for Treaty breach including in failing to actively protect this great hapū. (23)

55. The perception that Ngāti Manuhiri and Ngāti Rehua have been able to negotiate their own settlements but other hapū are prevented from doing so is taken by at least one submitter as an indication that the Crown’s policies are divisive (49).

(2) Analysis: How NTB has addressed issues raised in submissions

56. This section of the report describes and evaluates how NTB has addressed each of the main sets of issues raised in submissions. The analysis follows the six themes identified in the summary of submissions in opposition. Notably, the analysis:

- Focuses on questions of process – for example, has NTB complied with relevant Crown policies and implemented the undertakings in the Mandate Strategy?
- Relies on publicly available documentation provided by NTB – including the Deed of Mandate and associated documentation and the FAQs on NTB’s website;¹⁰ and
- Does not address questions of substance – for example, it draws no conclusions on whether or not particular hapū should be included within NTB’s Deed of Mandate.

Claimants or hapū want to settle their own claims

57. The NTB Deed of Mandate:

- Identifies a comprehensive list of claims to be settled by NTB through direct negotiation with the Crown (DoM page 13 and 14);
- States that the identified claims will be settled only to the extent that they relate to Ngātiwai (DoM page 13); and
- Notes that additional Ngātiwai-related claims may be added if new information becomes available in order to ensure comprehensive negotiations (DoM page 14).

¹⁰ FAQs: <http://www.Ngātiwai.iwi.nz/downloads?view=category&id=16>

58. While the approach in NTB's Deed of Mandate may not satisfy the expectations of all Wai claimants, it is entirely consistent with the Crown's "strong preference" to:

- Negotiate with a large natural grouping (LNG) of tribal interests rather than with individual claimants or whānau within an iwi. The Crown has recognised Ngātiwai as a suitable LNG to enter into settlement negotiations;¹¹ and
- Negotiate comprehensive settlements that cover all historical Treaty claims of a LNG at the same time. This means that all claims, whether they relate in full or in part to Ngātiwai, need to be listed in the claimant definition of NTB's Deed of Mandate.¹²

59. In addition to complying with the Crown's policies for negotiated settlements, in response to submissions on the Mandate Strategy, NTB has:

- Amended the list of claims included in the Deed of Mandate (DoM page 37);
- Developed a more detailed disputes resolution process to be used in the event of any dispute between NTB and a claimant group (DoM page 38); and
- Responded to submitter requests for a parallel Waitangi Tribunal hearings process by noting that there is no consensus among Wai claimants for a parallel hearings process, and that only seven active Wai claimants currently remain unheard by the Tribunal (DoM page 38).

The submitter is not Ngātiwai and NTB does not represent them

60. The NTB Deed of Mandate contains a claimant definition that identifies the founding tūpuna and lines of descent unique to Ngātiwai, describes the Ngātiwai rohe (Area of Interest, or Aoi), and clearly identifies hapū, marae and historical claims that are included in the Deed of Mandate (DoM pages 11 to 13). The claimant definition does not gloss over or ignore the intricacies of iwi and hapū relationships in the Aoi. The Deed of Mandate acknowledges the complexity of relationships and the need to address overlapping interests and makes it clear that these issues will be discussed and resolved as the settlement process proceeds. In particular, the Deed:

- Makes it clear that other iwi in the region share parts of the Ngātiwai lineage (DoM page 7);
- Acknowledges that "*it is a question as to whether these descendants today acknowledge their whakapapa links to Ngātiwai or Ngāpuhi or both*" (DoM page 8);
- States that the Aoi for the purpose of settlement negotiations does not delineate exclusive iwi boundaries and that NTB will settle only those aspects of claims located in the Aoi insofar as they relate to Ngātiwai interests (DoM page 9);
- Acknowledges that some of the hapū are also included in the claimant definitions of other LNGs and that NTB will only negotiate the settlement of historical claims of these hapū to the extent that they are descended from Ngātiwai tūpuna (DoM page 12);¹³ and

¹¹ Letter from OTS to NTB, 11 April 2013. NTB Mandate Strategy, Appendix A.

¹² See letter from OTS to NTB, 26 September 2013. NTB Deed of Mandate, Attachment 1.

¹³ These hapū are identified as Ngare Raumati, Te Kapotai, Ngāti Tautahi, Te Whānau Whero-mata-mamoe, Ngāti Toki ki-te-moana, Ngāti Kororā, Te Waiariki and Te Patuharakeke (DoM page 11).

- Provides that NTB will engage with overlapping iwi or LNGs to discuss a process for resolving overlapping interests (DoM page 15).

61. These undertakings are consistent with Crown Policy relating to shared hapū and Wai claims, as set out in correspondence between NTB and OTS appended to the Deed of Mandate.¹⁴

62. In addition to complying with relevant Crown policy, NTB met with representatives from Te Waiariki, Ngāti Kororā and Ngāti Takapari to discuss their concerns on 9 October 2013 and has issued a more general invitation to other hapū and related Wai claimants to meet to discuss the NTB mandate approach (DoM page 36).

Concerns about the processes or structures set out in the Deed of Mandate

63. Four main concerns about NTB's post-mandate processes and structures were raised by submitters, as follows:

- Need for more involvement of hapū, kaumātua, the research group, claimants and youth;
- Lack of clarity on how overlapping claims will be dealt with;
- Lack of detail on the Independent Mandated Authority (IMA) and PSGE; and
- Unfair processes for dispute resolution and withdrawal of mandate.

Involvement of hapū, kaumātua, research group, claimants and youth

64. The Deed of Mandate sets out the following processes for involving the Ngātiwai community in the post-mandate structures and processes:

- **Hapū:** NTB will invite hapū and marae representatives to discuss their inclusion in the settlement process and how this can best be achieved (DoM page 21);
- **Kaumātua:** NTB will enable an advisory group of a maximum of four kaumātua to provide advice, oversight, direction and guidance to NTB, particularly on matters of Ngātiwai tikanga, and to assist NTB to keep all kaumātua informed of developments. The details of how NTB will enable and provide for kaumātua participation are not specified in the Deed, but "*may involve a process consistent with Ngātiwai tikanga to support their involvement*" (DoM page 21);
- **Claimants and researchers:** NTB will enable and provide for all Ngātiwai claimants and researchers to participate in an alternative research group to advance Ngātiwai claims under negotiation. Claimants and researchers will be invited to attend research meetings with the Treaty Claims Committee and the claimant historian (DoM pages 21 and 22); and
- **Appointment of negotiators:** Representatives of Ngātiwai kaumātua, hapū and marae also have a role in interviewing negotiators as part of the appointment process (DoM page 22).

65. Once they are established, these mechanisms – with one exception discussed below – should address most of the concerns submitters raise about participation in post-mandate processes. Details of the membership and operation of the above groups are still to be worked through and the participants will

¹⁴ Letter from OTS to NTB, 26 September 2013. NTB Deed of Mandate, Attachment 1.

be invited to discuss how they can most effectively engage with the settlement process. To an extent, the level of participation cannot be determined by NTB but will instead be determined by the participants themselves. NTB acknowledges that it “cannot compel people to participate but can provide an opportunity for those who are willing to participate” (DoM page 21). It should also be noted that NTB provided a more explicit role for kaumātua in relation to matters of tikanga in response to submissions on the Mandate Strategy (DoM page 37).

66. The only issue raised by submitters that has not been explicitly addressed in the Deed of Mandate is provision for the participation of rangatahi. This matter was raised by a single submitter (**233**) but was also identified as a concern in relation to past NTB mandating processes by several more submitters.¹⁵ NTB may therefore wish to give further consideration to explicit strategies for youth engagement.

Overlapping claims

67. The Deed of Mandate sets out NTB’s approach on overlapping claims in numerous places, as outlined above. The provisions in the Deed of Mandate are consistent with Crown Policy on overlapping claims. It would not be appropriate for NTB to set out more detailed mechanisms for resolving overlapping claims in the Deed of Mandate, as these processes depend on discussions with claimants, other iwi and LNGs which have yet to be held. Instead, NTB has provided:

- a general undertaking to engage with relevant groupings to develop a process for resolving overlapping interests (DoM page 15); and
- a letter from OTS outlining Crown policy on overlapping claims. Among other matters, the letter notes earlier settlements in which the Crown policy on overlapping claims has been applied, including in negotiations with Ngāti Pahauwera and Ngāti Kahungunu ki Wairoa.¹⁶

IMA and PSGE

68. The NTB Deed of Mandate does not refer to an “IMA” (Independent Mandated Authority) and it is not clear what the submitters who raise this concern are referring to. It is possible that submitters are confusing NTB’s structure with Ngāpuhi’s Tuhoronuku structure which has a legal identity independent of the Ngāpuhi Rununga.
69. The Deed of Mandate does not contain details on the PSGE. This is appropriate as NTB cannot advance negotiations and settlement, including a detailed proposal for a PSGE, until the mandate is accepted by the Crown. As explained in the Deed of Mandate, details of the PSGE will be developed alongside the initialed Deed of Settlement (iDoS). The iDoS and proposed PSGE will then be presented to Te Iwi o Ngātiwai for approval and ratification (DoM page 6). The process and timing for developing and confirming the details of the PSGE was initially explained in the Crown-endorsed Mandate Strategy.¹⁷

Dispute resolution and withdrawal of mandate

70. NTB strengthened the dispute resolution process following feedback from submitters on the Mandate Strategy (DoM page 38). The tiered approach in the revised dispute resolution process reflects standard

¹⁵ See submission **233**, petition signatories 9, 12 and 63, and video submissions.

¹⁶ Letter from OTS to NTB, 26 September 2013, included as Attachment 1 to the NTB Deed of Mandate

¹⁷ See page 9 of the NTB Mandate Strategy, and letter of Crown endorsement in Deed of Mandate Attachment 13

good practice for dispute resolution. It should be noted that NTB cannot compel other parties to participate in mediation or other dispute resolution processes, but by providing such a process it has afforded claimants an opportunity to mutually resolve disputes in good faith.

71. The mandate amendment and removal process is a multi-step process entailing documentation of written concerns signed by at least 100 adult registered members, nine publicly notified hui, a consistent presentation of concerns, a paper with proposed alternative proposals or amendments, a resolution put to the claimant community, and voting under the oversight of an independent returning officer (DoM page 39). This process contains numerous checks and balances to protect the interests of the Ngātiwai community, and is appropriately rigorous as it mirrors the steps taken by NTB to obtain the mandate.

Past processes undertaken by NTB in seeking a mandate

72. Submitters raised four main concerns about the processes NTB used to obtain a mandate, as follows:

- Insufficient or inadequate consultation and communication;
- Lack of research into claims and allegations that NTB has failed to release research to claimants;
- Voting, including concerns relating to the iwi register and interpretation of voting results; and
- The independent summary of submissions should have included consultation with claimants.

Consultation and communication

73. NTB's proposed approach to consultation and communication was set out in the NTB Mandate Strategy.¹⁸ Key elements of the process were:

- Nine mandating hui held throughout New Zealand, with one additional hui held in Whangarei and three additional hui held in Australia in response to requests from Ngātiwai members (DoM page 29 and 32);
- The hui were publicly notified and extensively advertised (DoM page 30 and Attachment 19); and
- A standard and consistent presentation was used at the hui (DoM page 32 and Attachment 22).

74. An independent observer from Te Puni Kōkiri was present at each of the mandate hui to observe the process and ensure it was fair, open and transparent. The observer concluded that:

*The Trust Board conducted each mandate hui in a consistent, fair and transparent manner. All questions were answered fully, and as clearly as possible. The information was delivered in a way that was easy for all to understand. Hui locations and venues were appropriate for the size and location of the Ngātiwai population.*¹⁹

75. Prior to the official mandate process in the period March to July 2013, NTB undertook additional preparatory consultation and communication initiatives, including three preliminary information sharing hui, the preparation of a draft Mandate Strategy followed by a six week consultation period on the draft,

¹⁸ Attachment 12 to the Deed of Mandate

¹⁹ Overview Report for the Ngātiwai Trust Board mandate hui. Deed of Mandate Attachment 18

active recruitment of members to the tribal register and updating of details of existing registered members, as well as early briefings for kaumātua, Wai claimants and hapū (DoM pages 25-28). As a result of this early engagement, NTB made changes to the Mandate Strategy, particularly in relation to processes for inclusiveness and communications during the mandating and negotiations stages.²⁰ NTB also provided additional opportunities for participation by extending timeframes for the mandate voting process by four weeks (DoM page 33).

76. The Mandate Strategy was reviewed by OTS and Te Puni Kōkiri and formally endorsed by the Crown.²¹ The endorsement implies that the Crown considers the consultation and communication approach set out in the Mandate Strategy was appropriate for the purpose of obtaining a mandate. NTB implemented all the consultation and communication activities in the Mandate Strategy and can therefore be assumed to have met the Crown's expectations on these matters.

77. Nevertheless, it is apparent that some submitters still feel insufficiently informed and engaged. NTB recognises that consultation and engagement are ongoing components of the negotiation and settlement process – this is demonstrated in the NTB Chair's introductory statement (DoM page 5), the supporting structures (DoM page 20), and the requirement for Ngātiwai approval and ratification of the iDoS and PSGE proposal (DoM page 6). The Deed of Mandate also specifies how NTB will ensure that Ngātiwai members are regularly informed and updated on the negotiations, including through monthly newsletters, e-panui and website updates, hui or wānanga on particular topics, the AGM and Special General Meetings as required, and reports from the negotiators (DoM page 39).

Research

78. As discussed above, NTB will enable and provide for all Ngātiwai claimants and researchers to participate in an alternative research group to advance Ngātiwai claims under negotiation (DoM page 21). The Deed of Mandate also describes how in 2009, NTB provided funding of \$225,000 for research commissioned and managed by project teams established by three marae clusters. NTB's *Policy regarding access to marae cluster commissioned Treaty Settlement research in 2009*²² makes it clear that access to this research is to be authorised directly by the leaders of the marae cluster groups, rather than by NTB itself. NTB has made summaries of the research available on its website and provided guidelines (in the Policy) on how to request access to the research from the marae clusters.

79. More recently, NTB has been working to clarify the gaps in the research completed to date and a work programme to achieve it (DoM page 23). A claimant historian will be appointed and NTB will seek further funding from the Crown Forest Rental Trust (CFRT) to support local research assistance (DoM page 23). Research funding arrangements are also explained in the FAQs on the NTB website.²³

80. These undertakings indicate that:

- There is a documented policy to guide those who wish to access NTB-funded research commissioned by the marae clusters;

²⁰ NTB Mandate Strategy page 25

²¹ Letter from OTS to NTB, 24 July 2013. Deed of Mandate Attachment 13

²² Available on NTB website here: <http://www.ngatiwai.iwi.nz/downloads?view=category&id=3>

²³ FAQ page 12

- NTB is prepared, funded and equipped to undertake the historical research necessary for the comprehensive settlement of Ngātiwai claims; and
- Mechanisms will be provided for Wai claimant and researcher involvement in the researching and presentation of claims.

Voting

81. NTB went to considerable effort to encourage members to register prior to the mandate voting. The process for members to register on the NTB tribal register is set out in the Trust Deed²⁴ and summarised in the Deed of Mandate (DoM page 19). During the pre-mandating phase, NTB actively recruited members to the tribal register and has recently employed a full time administrator to maintain and improve the register (DoM page 27). An additional 395 registrations were received during the eight week voting period, of which 213 were potential voters aged 18 or over.²⁵
82. Voter eligibility, voting methods (including special votes) and the voting period are all clearly set out in the Deed of Mandate (pages 33 and 34) and are consistent with the procedures described in the Crown-endorsed Mandate Strategy. The results of the voting are described accurately in the Deed of Mandate (DoM page 34) and reflect the declaration of the result of the mandate poll by the independent returning officer.²⁶

Independent summary of submissions

83. NTB commissioned an independent analysis of submissions on the Mandate Strategy to help it assess whether the mandate process was fair, open and transparent and consistent with key Crown policies, and to ensure it was aware of all issues raised in submissions (DoM page 35). In order to preserve an independent perspective, the analysis of submissions was based on publicly available documentation and did not entail consultation with submitters, NTB or any other party.

Past and current activities and structure of NTB

84. Some submitters question whether NTB has provided benefits to its members (including from the fisheries settlement) and, therefore, whether members will receive benefits from the settlement of historical claims. NTB has provided responses to these concerns in the FAQs on the NTB website, including an explanation of current benefits available from NTB.²⁷
85. The Deed of Mandate describes the structure and key governing documents of NTB, including processes for the election of trustees (DoM pages 16 and 17). Relevant documents, including the NTB Trust Deed and election-related notices, are attached to the Deed of Mandate.²⁸ Submitters' concerns about NTB performance are explicitly addressed in the "Accountability Measures" (DoM pages 17 and 18). Some of the accountability measures are set out in the Trust Deed (e.g., ensuring trustee appointment is representative of the claimant community and ensuring annual reporting to members,

²⁴ Deed of Mandate Attachment 3

²⁵ Explanation of Ngātiwai Trust Board's Mandate Vote Results, Deed of Mandate Attachment 26.

²⁶ Deed of Mandate Attachment 27.

²⁷ FAQs page 12

²⁸ Deed of Mandate, attachments 2 – 6.

including presentation of Audited Financial Statements) and some are additional provisions made by NTB and explained in the DoM. Together, these provisions should give members confidence that mechanisms are in place to safeguard their interests during the negotiations.

86. It should also be noted that the current structure of NTB will not necessarily be carried forward into the PSGE. The FAQ document indicates that a representational review will be undertaken before proposals for a PSGE are developed. While NTB currently has a marae based representative structure, this arrangement does not predetermine the structure of the PSGE and NTB has indicated that options will be considered before a final proposed structure is voted on by Ngātiwai members as part of the settlement process.²⁹

Crown policies

87. As noted above, NTB's Deed of Mandate is consistent with Crown policies and expectations with respect to mandating and the settlement of claims through direct negotiation. It is acknowledged that submitters may not agree with the Crown policies, but NTB is nevertheless obliged to take account of Crown policies because although the mandate is conferred on NTB by Ngātiwai members, ultimately Ministers will decide whether or not to recognise NTB's mandate and enter into direct negotiations.

(3) Quantitative analysis

88. This section of the report provides a quantitative summary of submissions by number and type. While the reviewer notes that NTB's primary interest is in understanding the substantive content of the submissions, the following quantitative analysis is provided in the interests of completeness.
89. A total of 242 submissions were received on the Deed of Mandate by the closing date of 6 September. These submissions comprise:
- 233 written submissions (including letters, submission forms, and emails);
 - One petition signed by 119 people; and
 - Eight video submissions.³⁰
90. Of the 233 written submissions, 98 support the Deed of Mandate and 135 oppose it (i.e., 42% supporting and 58% opposing). The 119 petition signatories and the eight video submitters oppose the Deed of Mandate. As always, care should be taken in interpreting the level of support or opposition from these numbers as some submissions represent the views of an individual or several signatories, whereas others are made on behalf of a marae, Wai claimants, or a hapū. Some are substantive but many are a single line of text.
91. There is a certain amount of duplication among the written submissions, petition signatories and video submissions. Two submitters wrote two submissions each (**11/25** and **49/107**). Six of the petition

²⁹ FAQs page 13

³⁰ List of videos can be found here:

<https://plus.google.com/u/0/b/114755326013061030198/114755326013061030198/about>. Videos posted after the closing date of 6 September were not reviewed

signatories also prepared written submissions (**81, 109, 126, 181, 183, 201**) and one prepared a video submission (**V2**). Of the eight video submitters, five also prepared written submissions (**11/25, 26, 75, 227, 229**). Among the 119 petition signatories three are confirmed minors,³¹ two people signed twice,³² and two did not provide their full names.³³ If the duplicate submitters are removed from the analysis, the Deed of Mandate is supported by 98 submitters (all in written submissions), and opposed by 129 submitters (written submissions and videos) and 117 petition signatories.

92. Submission templates are used by 164 submitters, with or without additional personalised comments, including:

- NTB's submission form, which is used by 89 submissions supporting the Deed of Mandate and two submissions in opposition (**47, 85**);
- Two templates used by 73 submitters who oppose NTB's mandate (e.g., **26** uses both templates).

93. Three submissions are from legal firms representing Wai claimants or hapū, as follows:

- Corban Revell Lawyers acting for Te Waiariki, Ngāti Kororā and Ngāti Takapari (**23**);
- Te Mata A Maui Law acting for Wai claimants 1040, 1544, 1528, 1529, 1530, 1961, 1677, 1954, and 1973 (**108**); and
- McCaw Lewis Solicitors acting for Te Kapotai and Ngāti Pare (**112**).

94. The eight sets of video submissions range in size from one video to fourteen videos and cover similar themes to those expressed in the written submissions.

95. Analysis of submissions by category of submitter (Ngātiwai members, marae, hapū, Wai claimants) is complicated by the fact that many submitters identify themselves with more than one of these categories and others do not identify their affiliations at all. The main features of the analysis by category of submitter are summarised below.

Ngātiwai members

96. Around two thirds of the written submissions (157 in total) are from registered Ngātiwai members. This figure is based on the annotated submission index provided by NTB which records registration numbers against submissions. It is unknown how many of the remaining 76 written submissions are made by Ngātiwai submitters and how many by other tribal groupings, including those associated with the Paparahi o te Raki Northern Inquiry.

97. The Deed of Mandate has a higher level of support among submitters who are registered members than among submitters who are not able to be identified as members. More than half of the submissions from registered Ngātiwai members support the Deed of Mandate, with 85 such submissions in support and 72 in opposition.

³¹ As determined by NTB based on the iwi register

³² Signatories 103/104 and 53/55.

³³ Signatories 54 and 113.

98. Of the 119 signatories of the petition opposing the NTB Deed of Mandate, 23 are registered adult Ngātiwai members and an additional 8 signatories are confirmed non-registered members,³⁴ making a total of 31 confirmed members who signed the petition. Of the eight video submissions, four are made by registered Ngātiwai members.

Marae

99. Written submissions were received from chairpersons of marae committees for Tūparehuia (**144**), Ngaiotonga (**44**), Oākura (**171**), Matapōuri (**151**) and Ngunguru (**124**). All five submissions support the Deed of Mandate although it is not always clear whether these submissions are made on behalf of the marae committee or the individual author.
100. **Table 1** summarises the positions of the submitters who identify their marae in a written submission. Among this group of submitters, 61 percent support the Deed of Mandate and 39 percent oppose it. Support and opposition is mixed across different marae and within single marae. The highest levels of support are recorded from submitters who identify their marae as Ngunguru, Ngaiotonga or Matapōuri, whereas submitters who state their marae is Mōkau, Otetao or Tūparehuia are more likely to oppose the Deed of Mandate. However, as not all submitters identify their marae it is difficult to draw any firm conclusions about the spread of support and opposition for the Deed of Mandate at marae level.

Table 1: Analysis of written submissions by marae

* An asterix indicates a submission from a marae chairperson

Marae	Number of submitters supporting	Number of submitters opposing
Tūparehuia	3 *	6
Ngaiotonga	12 *	6
Punaruku	4	-
Otetao	-	8
Mōkau	1	11
Oākura	5 *	-
Whananaki	1	1
Matapōuri	10 *	-
Ngunguru	15 *	-
Pataua	-	-
Takahīwai	4	2
Omaha	-	1
Motairehe	1	-
Kawa	-	-
TOTAL	56	35

³⁴ Analysis provided to the reviewer by NTB

101. Three of the video submitters come from Whananaki and the others do not identify their marae. Of the 119 signatories to the petition, 26 identify their marae as Mōkau, Oākura, or Whakapaumahara (Whananaki), with a majority of these signatories listing all three marae. No other marae are identified by signatories.

Hapū

102. Four submissions were received from representatives on behalf of hapū included in the NTB Deed of Mandate. Of these, the Chair of Te Whānau ā Rangiwakaahu Hapu Trust (**128**) supports NTB's mandate, whereas the mandate is opposed by the Chair of Patuharakeke Te Iwi Trust Board (**47**) and legal representatives for Te Kapotai (**112**) and Te Waiariki, Ngāti Kororā and Takapari Hapu Iwi (**23**).
103. A submission from Ngāti Rehua–Ngātiwai ki Aotea Trust (a Ngātiwai hapū not included in the Deed of Mandate) supports the mandate of NTB to represent the hapū included in the Deed of Mandate (**216**).
104. Among the individual submitters who identify hapū that are included in the NTB Deed of Mandate, support and opposition is mixed, both between and within hapū. For example, although the majority of submitters who affiliate with Ngāti Takapari, Ngāti Kororā or Te Waiariki oppose the NTB mandate, there are also individual submitters from these hapū who support the mandate. Aside from the Te Waiariki grouping, opposition to the Deed of Mandate is greatest among submitters who identify as Te Uri o Hikihiki. For the remaining nine hapū in the Deed of Mandate, the balance of submitters is either neutral or in support of NTB's Deed of Mandate. **Table 2** provides a summary of the positions of submitters who identify their hapū in written submissions.

Table 2: Analysis of written submissions and petition by hapū

* An asterix indicates a submission made on behalf of a hapū

Hapū	Number of submitters supporting	Number of submitters opposing
Ngare Raumati	-	-
Te Kapotai	6	3 *
Ngāti Tautahi	10	1
Te Uri o Hikihiki	5	19
Te Whānau Whero-mata-mamoe	3	-
Te Aki Tai	6	-
Te Kainga Kurī	-	-
Ngāti Toki ki-te-moana	6	-
Te Whānau ā Rangiwakaahu	8 *	-
Ngāti Takapari	7	
Ngāti Kororā	-	39 *
Te Waiariki	1	
Te Patuharakeke	3	4 *
TOTAL	55	66

105. Of the 119 signatories to the petition, 22 identify that they affiliate to Te Uri o Hikihiki, four to Te Waiariki, and two to Te Whānau Whero. Two video submitters affiliate to Waiariki.

106. Submitters in all formats occasionally identify hapū that are not listed in the Deed of Mandate. These affiliations are not included in the above analysis.

Wai claimants

107. The Deed of Mandate identifies 42 Wai claims that will be settled through the direct negotiation process insofar as the claims relate to Ngātiwai. Excluding the two NTB generic claims (Wai 244 and 262), of the remaining 40 Wai claims, submitters support the inclusion of 13 claims and seek the removal of 26 claims from NTB's mandate. The submitters' views on the Wai claims included in the Deed of Mandate are detailed in **Table 3**.

108. Of the total 42 claims:

- Most submitters do not comment on the two NTB blanket claims that form the foundation of the Deed of Mandate but it can be assumed that there is support for the inclusion of Wai 244 and 262 from those Wai claimants who support NTB's mandate generally. The position on Wai 244 and 262 among Wai claimants who oppose NTB's mandate cannot generally be determined from the submissions although one named claimant (**85**) explicitly objects to the inclusion of Wai 244 in the Deed of Mandate;
- Submitters explicitly oppose the inclusion of 25 claims within the NTB Deed of Mandate, including one group who originally supported the inclusion of their claim in a submission on the NTB Mandate Strategy.³⁵ Based on submissions made on the NTB Mandate Strategy in 2013, the reviewer has assumed opposition to one further claim.³⁶ Therefore, in total there are 26 claims for which NTB mandate is opposed either explicitly or by assumption;
- Submitters explicitly support the inclusion of seven claims within the NTB Deed of Mandate, including in one late submission (**245**) that is not otherwise included in this analysis. The reviewer has assumed support for a further six claims on the basis of submissions (including late submissions) from claimants on the NTB Mandate Strategy in 2013 (see Table 3 for details). Therefore, in total there are 13 claims for which NTB mandate is supported explicitly or by assumption;
- In the case of two claims (WAI 1308 and 1384), registered claimants have submitted conflicting positions with one or more claimants supporting the NTB mandate and one opposing;³⁷ and
- Three of the claims were not mentioned in submissions on the 2013 Mandate Strategy or the 2014 Deed of Mandate.

³⁵ Wai 1954. The claimant is deceased. The whanau supported the inclusion of Wai 1954 in the NTB Mandate Strategy in a late submission lodged in May 2014 and opposed the inclusion of the claim in a subsequent submission on the Deed of Mandate (**108**).

³⁶ The claimants for Wai 2022 opposed the inclusion of this claim in their 2013 submission on the NTB Mandate Strategy and did not submit in 2014.

³⁷ These two claims are recorded twice in this breakdown (i.e., as both "support" and "oppose"), meaning that the number of claims included in the mandate that submitters support (11), oppose (26), or are silent on (7) adds up to 44, two more than the total number of claims (42).

Table 3: Submitters' views on the Wai claims included in the Deed of Mandate

WAI #	Claim title	Claimants	Position on NTB mandate	Submitter #
67	Oriwa 1 B3	Jean Applehof & Ors	Assumed support ³⁸	2013 sub
156	Oriwa Block (Whananāki)	Marie Tautari	Oppose	227, 229, ³⁹ 230
244	Te Iwi o Ngātiwai historical claims	Uru Palmer/NTB	Various	Various
245	Hinetapu Maihi Mahanga whānau	Hoori George Moanaroa Munro Parata	Oppose	85
262	Flora & Fauna	Saana Murray, Te Witi McMath & Ors	Various	Various
343	Otetao A Block	Wayne Peters	Assumed support ⁴⁰	2013 sub
504	South Whāngarei Land & Seabed	Tamihana Paki	Oppose	102
511	Matapōuri Bay council sections	Chris Koroheke & Ors	Support ⁴¹	245 (late)
620	Te Waiariki/Ngāti Kororā Hapū	Colin Malcolm & Ors	Oppose	23, 46
745	Patuharakeke Hapū lands and resources	Luana Pirihi & Ors	Oppose	47
1308	Pukekauri & Takahīwai	Grant Ngāwaka Pirihi & Ors	Oppose / Support	47 141
1384	Whāngaruru Lands	Merepeka Henley & Ors	Support / Oppose	44, 171 107
1392	Pukekauri 1A, 2A & 2B	Elphie Pearly Pene	-	
1411	Te Waiariki/Ngāti Kororā/Ngāti Taka	Violet Sade & Ors	Oppose	23
1412	Te Waiariki/Ngāti Kororā/Ngāti Taka	Violet Sade & Ors	Oppose	23
1413	Te Waiariki/Ngāti Kororā/Ngāti Taka	Violet Sade & Ors	Oppose	23
1414	Te Waiariki/Ngāti Kororā/Ngāti Taka	Violet Sade & Ors	Oppose	23
1415	Te Waiariki/Ngāti Kororā/Ngāti Taka	Violet Sade & Ors	Oppose	23
1416	Te Waiariki/Ngāti Kororā/Ngāti Taka	Violet Sade & Ors	Oppose	23
1464	Te Kapotai and Ngāti Pare	Te Riwhi Whao Reti & Ors	Oppose	112
1512	Descendents of Wiki Pirihi & Raiha Te Kauwhata	Michael Leulua'i	Oppose	63
1528	Native Land Court: Te Kauwhata	Carmen Hetaraka	Oppose	108
1529	Native Land Court: Hetaraka & Herewini	Toru Hetaraka	Oppose	108
1530	Native Land Court: Hetaraka & Herewini	Te Rina Hetaraka	Oppose	108
1539	Native Land Court: D Kereopa & S Pirihi	Te Aroha Going	-	
1544	Ngātiwai Land Blocks	George Davies & Ors	Oppose	103, 108, 181

³⁸ Claimant deceased but her son lodged a late submission supporting the inclusion of Wai 67 in the NTB Mandate Strategy

³⁹ Submitter 229 also prepared a video submission which refers to Wai 156

⁴⁰ Claimant supported inclusion of Wai 343 in 2013 submission on NTB Mandate Strategy

⁴¹ Late submission supports inclusion of Wai 511 in NTB Deed of Mandate

1546	Te Kapotai	Edward Henry Cook	Oppose	112
1677	Orokawa 3B perpetual lease	Hūhana Seve	Oppose	108, 181
1711	Te Whānau ā Rangiwakaahua Hapū	Kris MacDonald, James Mackie & Ors	Support	128
1712	Native Land Court: Toi te Huatahi & Te Mawe	Marino Māhanga	Assumed support ⁴²	2013 sub
1717	Native Land Court: Te Whānau Whero	Alan Moore & Takapari Waata	Assumed support ⁴³	2013 sub
1719	ML Blocks: Hone & Erana Murphy	Henry Murphy	Support	161, 171
1726	Paremata Mōkau A13 Block etc	Robin Paratene	Support	178
1786	Actions of the Crown: Reweti Whānau	Ike Reti, Gary Reti & Ors	Assumed support ⁴⁴	2013 sub
1954	Native Land Court: Haika & Te Kauwhata	Eta Haika	Oppose	108
1955	Partitioning Land: Patu Harakeke & Ngātiwai	Juanita De Senna	-	
1960	Rangatiratanga: Tamihana & Kaupeka	Kapotai Tamihana	Assumed support ⁴⁵	2013 sub
1961	Native Land Court: Pita Tunua & Ors	David Carpenter	Oppose	106, 108
1973	Native Land Court: Hone Pita & Marara Pita	Robert Carpenter	Oppose	98, 108
2022	Foreshore and Seabed Motukokako Island	Edina Colston, Patuone Hoskins on behalf of the Ahuwhenua Trust and owners of Motukokako	Assumed oppose ⁴⁶	2013 sub
2239	Glenberrie Forest	Ngaire Brown	Oppose	23
2243	Little Barrier Is Acquisition Act	Tamihana Paki	Support	102

(4) Conclusions

109. NTB's Deed of Mandate is consistent with key Crown policies, including the Crown's strong preference to:

- Negotiate with LNGs of tribal interests rather than with individual claimants or whānau; and
- Negotiate comprehensive settlements to address all historical claims of a LNG at the same time.

110. Some submitters affiliating to Te Waiariki, Ngāti Kororā, Ngāti Takapari, Patuharakeke and Te Kapotai state that NTB does not represent them and, in some cases, that they are not Ngātiwai. The Crown's policy in these circumstances is that all claims, whether they relate in full or in part to a claimant group, need to be listed in the Deed of Mandate for that claimant group and that any overlapping claims would be settled only to the extent they relate to that claimant group. NTB's Deed of Mandate

⁴² Claimant supported inclusion of Wai 1712 in 2013 submission on NTB Mandate Strategy

⁴³ Claimant supported inclusion of Wai 1717 in 2013 submission on NTB Mandate Strategy

⁴⁴ Claimant supported inclusion of Wai 1786 in 2013 submission on NTB Mandate Strategy

⁴⁵ Claimant supported inclusion of Wai 1960 in 2013 submission on the NTB Mandate Strategy (late submission lodged in October 2013)

⁴⁶ Claimant opposed inclusion of Wai 2022 in 2013 submission on NTB Mandate Strategy

is consistent with this requirement and clearly states that overlapping claims will only be settled by a Ngātiwai settlement insofar as they relate to descent from a Ngātiwai ancestor. While this assurance may not satisfy all submitters, the reviewer anticipates that if NTB's mandate is accepted, these matters will continue to be worked through by discussion among the relevant parties as the negotiations proceed.

111. The second major concern of submitters is whether NTB's consultation and engagement processes have been sufficient to obtain a mandate. NTB has undertaken in full the consultation and communication initiatives outlined in the Crown-endorsed Mandate Strategy and has also set out in the Deed of Mandate ongoing opportunities for consultation and engagement with the Ngātiwai community as the negotiations progress. The details of many of these processes are yet to be confirmed, and the Ngātiwai community will be able to help determine mechanisms for participation. Importantly, while NTB can provide opportunities and facilitate engagement, it cannot compel people to participate.
112. No substantive "new" issues were identified from the submissions that have not already been addressed in the Deed of Mandate or associated documentation. However, NTB may wish to consider whether it would be desirable to make specific provision for youth engagement.

Attachment A

Index of video submitters

	Submitter (no. of videos)	NTB Register	Claim	Hapu	Marae	Other submissions
V1	Marie Tautari (8)	YES		Te Whakapiko hapū o Manaia	Whananaki	227
V2	Maudie Palmer (3)	-		Ngāti Hine, Te Orewai		Petition
V3	David Peters (3)	-	Wai 156	Te Whakapiko hapū o Manaia	Whananaki	229
V4	Aorangi Kawiti (1)	YES		Ngāti Hine, Waiariki		-
V5	Violet Sade (4)	-		Waiariki		11/25
V6	Mira Norris (6)	-		Te Parawhau		75
V7	Sarah Burkhart & Cathleen Caldwell (6)	YES			Whananaki	-
V8	Bella Thompson (14)	YES		Ngāti Kuta, Patukeha		26