



# Ngātiwai Trust Board

## Deed of Mandate

On behalf of Te Iwi o Ngātiwai

**Status of this Document: Public**

**Date: 8 July 2014**



*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.*

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## A. Introduction

### 1. *A Word From the Chair*

Tēnā koutou katoa

In March 2013 the Ngātiwai Trust Board signaled its intention to seek a mandate for direct negotiations with the Crown. This “pathway” effectively by-passes the Waitangi Tribunal and shortens the time it takes to achieve a Treaty settlement by comparison.

Given the growing number of Iwi who have completed their Treaty settlements we said it would not be responsible of us to sit back and not give you the opportunity to choose which pathway we should take. Therefore we committed to a four week hui and voting process and then extended the voting period to 8 weeks to ensure as many of you as possible would be able to formally choose by voting on it. We received a clear message from the voting result that 82% of you were in favor of direct negotiations and with that result are now able to seek an endorsement of your choice by the Crown - which is the purpose of this document.

We are now at the cusp of clarifying the origins and identity of Te Iwi o Ngātiwai in the history books. Detailed research will now be compiled to bring to light the breaches of the Treaty of Waitangi against our tūpuna and from it the research will form the basis upon which we can negotiate a settlement with the Crown. This is clearly a water-shed period in our history as a tribe and will mark the difference between vague acceptance that Ngātiwai exists as an iwi in its own right and our future development and growth as a strong and united people.

We look forward to engaging with you on this journey and have developed a number of “special purpose” supporting structures to enable you to do that - including dedicated opportunities for our kaumātua, hapū and marae representatives and an Ngātiwai research group to support negotiations.

After all the negotiations work is done, in the end you will decide again by vote if you consider any settlement offer put to us by the Crown is acceptable. Should this be the case we look forward to turning our full attention to the future wellbeing and development of us all as a people – Te Iwi o Ngātiwai – people of the sea.

Ngā Mihinui



## **B. Deed of Mandate**

### **2. Purpose of this Document**

This Deed of Mandate formally demonstrates that the Ngātiwai Trust Board (**NTB**) has obtained a robust mandate to represent Te Iwi o Ngātiwai in negotiations with the Crown for a comprehensive settlement of all remaining historical Treaty of Waitangi claims.

### **3. Statement of Mandate**

The people of Ngātiwai have mandated the NTB by majority vote to enter into direct negotiations with the Crown. The NTB achieved its mandate through a process that was fair, open and transparent. This Deed of Mandate addresses the mandate of NTB on behalf of Te Iwi o Ngātiwai to represent Ngātiwai in direct negotiations with the Crown.

### **4. Large Natural Grouping Status**

The Minister for Treaty of Waitangi negotiations and the Office of Treaty Settlements (**OTS**) have recognised Ngātiwai as a Large Natural Grouping (**LNG**) for the purpose of Treaty settlement negotiations.

### **5. Comprehensive Negotiations**

NTB seek to enter into direct settlement negotiations for the comprehensive settlement of all remaining historical Treaty of Waitangi claims:

- whether registered with the Waitangi Tribunal or not;
- for Crown breaches of the Treaty of Waitangi that occurred prior to 21 September 1992; and
- excluding claims already settled by Ngāti Manuhiri or claims in the process of being settled by Ngāti Rehua – Ngātiwai ki Aotea.

### **6. Limitations to this Deed of Mandate**

This Deed of Mandate will give the NTB the authority to enter into negotiations with the Crown to develop an initialled Deed of Settlement (**iDoS**). The NTB will then present the iDoS together with a proposal for a Post-Settlement Governance Entity (**PSGE**) to Te Iwi o Ngātiwai for approval and ratification.

## C. Te Iwi o Ngātiwai - Claimant Definition

### 7. *Background Context*

Te Iwi o Ngātiwai (**Ngātiwai**) includes the many related hapū and persons affiliated to the kāinga and marae occupying the eastern coastline of the North Island between Bay of Islands (Pēwhairangi) and Whangārei, and beyond southward to Pākiri, Ōmaha and Mahurangi, and including the off shore islands Aotea (Great Barrier), Hauturu (Little Barrier), and other smaller island groups within our rohe (tribal area).

Unlike surrounding Iwi, Ngātiwai has occupied the eastern coastline of lower Northland since the first period of human occupation, extending back to Māui-tikitiki-a-Taranga and Māui Pae. Through this, Ngātiwai has a unique right of “take whenua kite hou”- the right of discovery or first inhabitation.

### 8. *Founding Tūpuna - Ancestry*

Ngātiwai is unified in descent from one of the oldest descent groups in Te Taitokerau – Ngāti Manaia. Although Ngātiwai are an amalgam of a number of older Iwi groups, it is the unbroken line of descent from the eponymous ancestor Manaia; his descendant Manaia II and his people of Ngāti Manaia which gives the Iwi its unique and distinctive identity and ancient rights of “take tūpuna”.

From Manaia II come the Ngāti Manaia lines including Te Rauotehuia, descending to Te Rangikapikitia. From Te Rangikapikitia come key tupuna including Te Kura Makoha, Whāpapa and Te Wairua, Hikihi I, and Huruhurumaiterangi. From Whāpapa and Te Wairua come Toremātao, Te Rangapū and Te Rangihokaia and his descendants known as Ngāti Wai ki te moana.

These pūtake and take tūpuna are partly shared by other Iwi but collectively are unique to Ngātiwai. No other Iwi or LNG in the north can trace their ancestry directly to Manaia and Ngāti Manaia which makes these lineages exclusive to Ngātiwai alone.

The tribal name Ngātiwai applies collectively to all hapū who share descent from Manaia II and ngā kōpikopikotanga maha o Ngātiwai.

### 9. *Shared or Related Interests*

Ngātiwai also descend from Ngāi Tāhuhu, in particular through Tū (tupuna of Ngāti Tū), the son of Tāhuhunuiōrangi, from Mārua a descendant of Tāhuhunuiōrangi and also through the descent of Ngāi Tamatea and Ngare Raumati through Huruhuru.

Other Iwi in Te Taitokerau share lineage from Ngāi Tāhuhu, for example Ngāpuhi descendants whose tūpuna Rāhiri married Ahuaiti and Whakaruru - both of whom descend from Tāhuhunuiōrangi.

Other hapū in Te Taitokerau also whakapapa to Ngāi Tāhuhu such as Te Parawhau, Te Uriroroi (Ngāti Ruangaio), Ngāti Kahu-o-Torongare (Ngāti Hine), Te Patuharakeke and

others and it is a question as to whether these descendants today acknowledge their whakapapa links to Ngātiwai or Ngāpuhi or both.

Ngātiwai also has a unique (in Te Taitokerau), long and ongoing relationship with Tainui, in particular through its southern hapū of Ngāti Manuhiri and Ngāti Rehua who are part of the Te Whare o Kawerau tribal grouping which originated through Maki and his brother Mataahu from Kāwhia in the Waikato district. Through its long occupation of Te Moananui-ā-Toi (the Hauraki Gulf) Ngātiwai established a unique relationship through marriage with the Iwi of the Marutūahu confederation.

## **10. Rohe - Area of Interest**

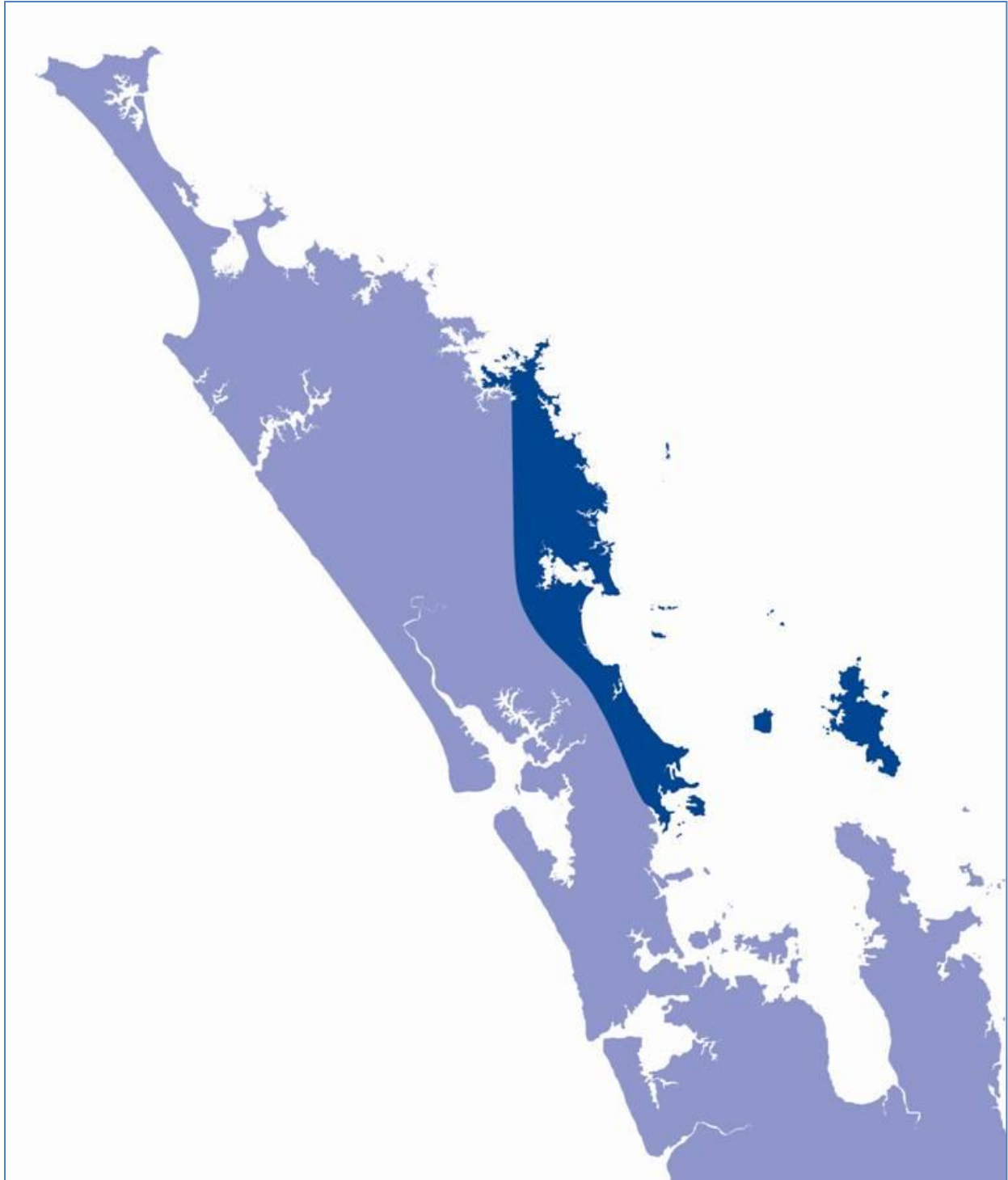
The Ngātiwai tribal rohe or Area of Interest (**AoI**) extends along the eastern coastline of the North Island from Rākaumangamanga (Cape Brett) in the north to Matakanakana (the Matakana River) in the south. Ngātiwai also has ancestral interests in the coastal area extending south of Matakanakana to the Okura River.

Ngātiwai has mana whenua, mana moana over the chain of islands extending from Motukōkako off Te Rāwhiti, Rimuriki off Mimiwhāngata, to Tawhiti-rahi and Aorangi (The Poor Knights), High Peak Rocks, Sugar Loaf Rocks, the Marotiri Islands and Tāranga (The Hen and Chickens Group), Tūturu (Sail Rock), Pokohinu and Motukino (The Mokohīnau Islands), Te Hauturu o Toi (Little Barrier), Aotea (Great Barrier), Te Kawau-tūmaro-o-Toi (Kawau Island) and Te Mau Tohorā-o-Manaia (Motuora Island).

The land, rivers, ocean and islands along this coastline have a unique and special significance for Ngātiwai. They contain sites of cultural significance (i.e. traditional food sources, lanes of travel, islands sites of ancient occupation and wahi tapu).

The Ngātiwai area of influence extends well beyond the core tribal estate described (above) and reaches into the far-north (i.e. Cape Reinga) and south (i.e. East Cape) and north-east (i.e. Kermadec Islands) and the entirety of the Territorial Sea and Exclusive Economic Zone therein for Fisheries, Conservation, Resource Management and other relevant legislative purposes.





The area highlighted in dark blue (above) indicates the Ngātiwai rohe or Aol 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 Aol in-so-far as they relate to Ngātiwai interests.

## 11. *Background Hapū Context*

There are a number of Ngātiwai hapū, and Ngātiwai related hapū, both historic and present-day that form ngā kōpikopikotanga maha o Ngātiwai whānui. Ngātiwai hapū hold their primary identity as descendants of Manaia I and II. Ngātiwai related hapū are descendants of Manaia I and II, who also hold primary identity with tūpuna of other Iwi groupings. This section provides background information on the context of these hapū. However, the hapū covered by this Deed of Mandate are those listed in the next section of this document (see below). The Ngātiwai hapū, and Ngātiwai related hapū that reside on the coast from Bay of Islands to Whangārei include:

- Ngāti Tū\* (from Tu, son of Tāhuhunuiorangi)
- Te Kapotai (named after Te Whiti, who fell from his canoe out at sea blinded by the night, but also descended from his siblings Pare and Horahia)
- Ngāti Pare\* (from Pare)
- Ngāti Horahia\* (from Horahia)
- Ngāti Paeahi\* (from Te Ahi, and his dog lying by the fire)
- Ngāupaiaka\* (from the descendants of Pakaraka)
- Te Whanau Whero-mata-mamoe (a hapū in Whananāki originally from Tautoro)
- Te Uri Rata\* (from Ratakītahi)
- Te Uri o Te Aoheiwā\* (from Te Aoheiwā)
- Ngāti Tautahi (from the stillborn Tautahi II)
- Ngāti Rongo\* (from Rongopatutaonga)
- Ngāti Te Rāhingahinga\* (from Te Rāhingahinga)
- Ngāti Tai\* (from Taimango)
- Te Uri o Hikihiki (from Hikihiki I)
- Ngāti Kiripakapaka\*
- Te Irirata\* (from the hanging of Parāoa from a rata tree)
- Te Akitai, Te Uri Hakū\*, and Ngāti Taura\*, hapū of Ngāre Raumati
- Ngāti Toki ki te moana (from Te Toki settling at Poor Knights and Matapōuri)
- Te Whānau ā Rangiwakaahu (from Rangiwakaahu Te Awa of Matapōuri)
- Te Kainga Kurī (from Ngāti Toki traditions at Matapōuri)
- Ngāti Kura\* (from Raninikura, wife of Tāhuhunuiorangi, or Kuramangotini)
- Ngāti Takapari (after the falling of Rangitūkiwaho I from a bluff at Koheriki, Tutukākā)
- Ngāti Kororā (from Te Māhanga)
- Te Waiariki (from Te Mawe and Te Kahuwhero of Ngāi Tāhuhu and Ngāti Manaia)
- Ngāti Toremātao/Ngāti Tao\* (from Torematao of Ngāti Manaia).

The Ngātiwai hapū, and Ngātiwai related hapū, in Takahīwai, Ruakākā and Mahurangi include:

- Te Patuharakeke (from Te Taotahi of Te Parawhau, Ngāi Tāhuhu and Ngātiwai, and his wife Te Aoheiwā of Ngātiwai)
- Ngāti Manuhiri and Te Uriokātia\* (after Manuhiri and his sons Iriwata and Taihamau)

The Ngātiwai hapū of Aotea include:

- Ngāti Rehua (from Rehua, son of Mataahu)
- Te Uri Papa\* (from Hikihiki and his son Ranginui II)
- Te Ure Whakapiko or Te Whakapiko\* (descendants of Te Ika-ā-Mimirua, the son of Rehua and Waipahihi), and
- Ngāti Kahuerueru\* (from Kahuerueru, wife of Te-Ika-ā-Mimirua)

Hapū indicated with an asterix above (\*) are historic.

## ***12. Hapū included in this Deed of Mandate***

The Ngātiwai claimants include those members of the hapū listed below who have exercised or descend from those who have exercised customary rights within the Ngātiwai rohe:

- Ngare Raumati\*
- Te Kapotai\*
- Ngāti Tautahi\*
- Te Uri o Hikihiki
- Te Whānau Whero-mata-mamoe\*
- Te Aki Tai
- Te Kainga Kurī
- Ngāti Toki ki-te-moana\*
- Te Whānau ā Rangihakaahu
- Ngāti Takapari
- Ngāti Kororā\*
- Te Waiariki\*
- Te Patuharakeke\*

Hapū indicated with an asterisk above (\*) are also included in the claimant definitions of other LNGs. The NTB will only negotiate the settlement of historical claims of these hapū to the extent that they are descended from Ngātiwai tupuna. In relation to shared or related hapū, the claimant definition will be further developed to identify the extent to which the claims of each shared hapū will be settled through a Ngātiwai settlement. See letter from OTS confirming this approach at Attachment 1.

**13. Hapū excluded from this Deed of Mandate**

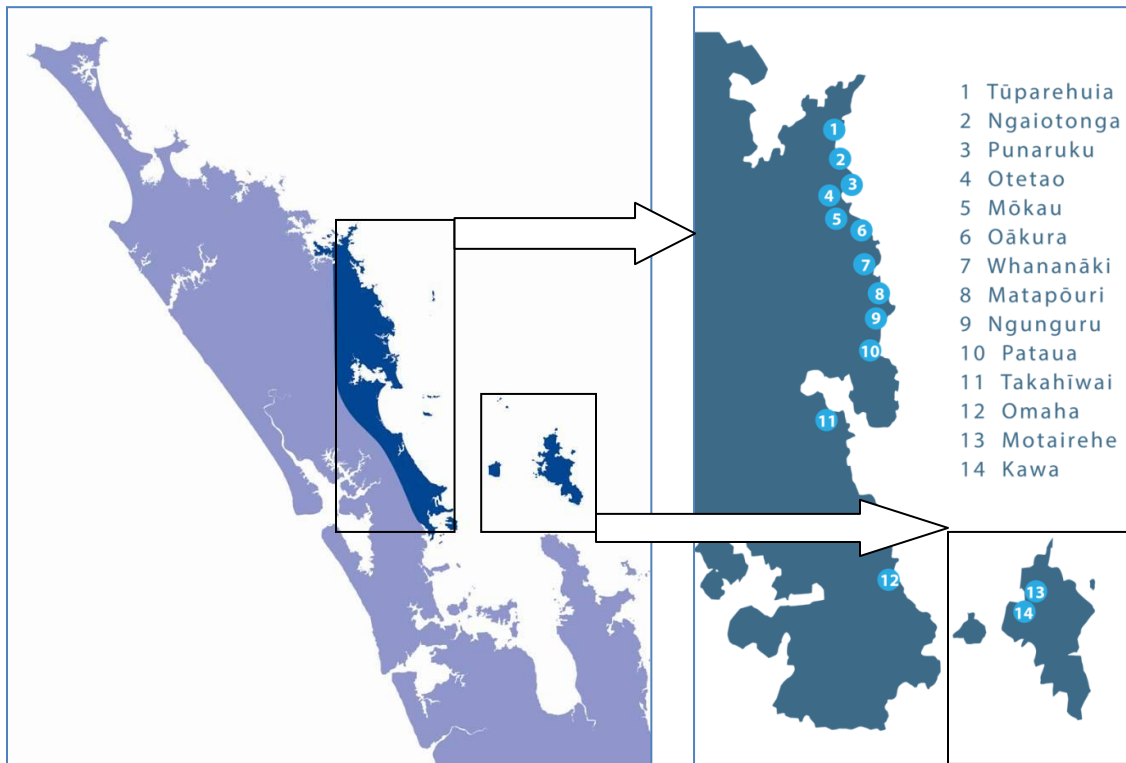
The NTB acknowledge that both Ngāti Manuhiri and Ngāti Rehua – Ngātiwai ki Aotea are Ngātiwai hapū and are precious to us. However, due to separate settlement negotiations via the Tāmaki collective, this Deed of Mandate applies to all remaining claims other than those claims that have been prosecuted or are in the process of being prosecuted by the Ngāti Manuhiri Settlement Trust and Ngāti Rēhua – Ngātiwai ki Aotea Trust.

**14. Marae included in this Deed of Mandate**

The following Marae are affiliated with Te Iwi o Ngātiwai and are recognised in the NTB Trust Deed<sup>1</sup>.

**Ngātiwai Rohe or Area of Interest**

**Ngātiwai Marae**



<sup>1</sup> Schedule 2

## D. Historical Claims

### 15. Claims to be Settled by NTB

Claims to be settled by the NTB include all remaining historical Treaty of Waitangi claims of Ngātiwai:

- whether registered with the Waitangi Tribunal or not;
- for Crown breaches of the Treaty of Waitangi that occurred prior to 21 September 1992; and
- excluding claims already settled by Ngāti Manuhiri or claims in the process of being settled by Ngāti Rehua.

The claims to be settled (to the extent that they relate to Ngātiwai) are set out in the table below. Where a claim relates only in part to Ngātiwai tūpuna, only that part of the claim will be settled by the NTB.

Wai No.	Claim Title	Claimants
67	Oriwa 1 B3	Jean Applehof & and Ors
156	Oriwa Block (Whananāki)	Marie Tautari
244	Te Iwi o Ngātiwai historical claims	Uru Palmer/Ngātiwai Trust Board
245	Hinetapu Maihi Mahanga whanau	Hoori George Moanaroa Munro Parata
262	Flora & Fauna	Saana Murray, Te Witi McMath & Ors
343	Otetao A Block	Wayne Peters
504	South Whangārei Land & Seabed	Tamihana Paki
511	Matapouri Bay Council sections	Chris Koroheke & Ors
620	Te Waiariki/Ngāti Korora Hapū	Colin Malcom & Ors
745	Patuharakeke Hapū Lands & Resources	Luana Pirihi & Ors
1308	Pukekauri & Takahīwai	Grant Ngāwaka Pirihi & Ors
1384	Whāngaruru Lands	Merepeka Henley & Ors
1392	Pukekauri 1A, 2A & 2B. Wiki Te Pirihi & ors	Ephie Pearly Pene
1411	Te Waiariki/Ngāti Korora/Ngāti Taka	Violet Sade & Ors
1412	Te Waiariki/Ngāti Korora/Ngāti Taka	Violet Sade & Ors
1413	Te Waiariki/Ngāti Korora/Ngāti Taka	Violet Sade & Ors
1414	Te Waiariki/Ngāti Korora/Ngāti Taka	Violet Sade & Ors
1415	Te Waiariki/Ngāti Korora/Ngāti Taka	Violet Sade & Ors
1416	Te Waiariki/Ngāti Korora/Ngāti Taka	Violet Sade & Ors

1464	Te Kapotai and Ngāti Pare	Te Riwhi Whao Reti & Ors
1512	Descds of Wiki Pirihi & Raiha Te Kauwhata	Michael Leulua'i
1528	Native Land Court: Te Kauwhata	Carmen Hetaraka
1529	Native Land Court: Hetaraka & Herewini	Toru Hetaraka
1530	Native Land Court: Hetaraka & Herewini	Te Rina Hetaraka
1539	Native Land Court: D Kereopa & S Pirihi	Te Aroha Going
1544	Ngātiwai Land Blocks	George Davies & Ors
1546	Te Kapotai	Edward Henry Cook
1677	Orokawa 3B Perpetual Lease	Hūhana Seve
1711	Te Whānau ā Rangiwakaahu Hapū	Kris MacDonald, James Mackie & Ors
1712	Native Land Court: Toi te Huatahi & Te Mawe	Marino Māhanga
1717	Native land Court: Te Whānau Whero	Alan Moore & Takapari Waata
1719	ML Blocks: Hone & Erana Murphy	Henry Murphy
1726	Paremata Mōkau A13 Block etc	Robin Paratene
1786	Actions of the Crown: Reweti whānau	Ike Reti, Gary Reti & Ors
1954	Native Land Court: Haika & Te Kauwhata	Eta Haika
1955	Partitioning land: Patu Harakeke & Ngātiwai	Juanita De Senna
1960	Rangātiratanga: Tamihana & Kaupeka	Kapotai Tamihana
1961	Native Land Court: Pita Tunua & ors	David Carpenter
1973	Native Land Court: Hone Pita & Marara Pita	Robert Carpenter
2022	Foreshore Seabed Motukokako Island	Edina Coulston (Patuone Hoskins on behalf of the Ahuwhenua Trust and owners of Motukokako)
2239	Glenbervie Forest	Ngaire Brown
2243	Little Barrier Is Land Acquisition Act	Tamihana Paki

Note that Wai 244 and 262 are blanket comprehensive claims lodged by the NTB on behalf of Te Iwi o Ngātiwai.

**Disclaimer:** The NTB have taken reasonable care to ensure the list of Wai claims is accurate and complete in-so-far as claims relate to Ngātiwai interests. Should further information come to light indicating additional Ngātiwai related claims have not been included in this list NTB reserve the right to include them as appropriate to ensure comprehensive negotiations including all Ngātiwai interests can be achieved.

## 16. *Overlapping Iwi/Claims and Engagement with the Crown*

The NTB acknowledge that the Ngātiwai rohe or Area of Interest described earlier in this document overlaps and in some instances is shared with other Iwi or LNGs including Ngāpuhi and Ngāti Whātua.

The NTB will take responsibility for engaging these Iwi or LNGs to discuss a process to resolve overlapping interests. This process may include developing an overlapping Iwi engagement strategy to establish clear lines of communication, develop an understanding of how other Iwi are progressing their Treaty settlements and foster positive working relationships for the future.

NTB has previously engaged with the Crown in response to overlapping interests in association with Ngāpuhi, Ngāti Pukenga and Marutuahu.

## 17. *Waitangi Tribunal Progress with Claims*

The Waitangi Tribunal has inquired into and reported on Wai 262 the flora and fauna claims in which Ngātiwai has a shared interest.

To the best of NTB's knowledge the Wai claims set out in the table below and included in this Deed of Mandate have been heard by the Waitangi Tribunal but have not yet been reported on.

Wai.	Claim Title	Claimants
156	Oriwa Block (Whananāki)	Marie Tautari
245	Hinetapu Maihi Mahanga whanau	Hoori George Moanaroa Munro Parata
262	Flora & Fauna	Saana Murray, Te Witi McMath & Ors
504	South Whangarei Land & Seabed	Tamihana Paki
620	Te Waiariki/Ngāti Korora Hapū	Colin Malcom & Ors
745	Patuharakeke Hapū Lands & Resources	Luana Pirihi & Ors
1308	Pukekauri & Takahīwai	Grant Ngāwaka Pirihi & Ors
1384	Whāngaruru Lands	Merepeka Henley & Ors
1411 to 1416	Te Waiariki/Ngāti Korora/Ngāti Taka	Violet Sade & Ors
1464	Te Kapotai and Ngāti Pare	Te Riwhi Whao Reti & Ors
1546	Te Kapotai	Edward Henry Cook
2022	Foreshore Seabed Motukokako Island	Edina Coulston (Patuone Hoskins on behalf of the Ahuwhenua Trust and owners of Motukokako)

## **E. The Ngātiwai Trust Board – Mandated Representative Body**

### **18. Structure and Key Governing Documents**

In 1945 the identity of Ngātiwai as a tribe was defined for the first time in a modern context when a Trust was formed for the administration of the Tamati Mokaraka lands. The Tamati Mokaraka lands relate to the Whangaroa – Ngaiotonga 4A3A block of 95 acres which was a small partitioned parcel of the original 4404 acres Whangaroa – Ngaiotonga block.

In 1945 the block was placed under the management of a Trust appointed to manage the land for the benefit of the “Ngātiwai tribe”. The original 18 trustees were representative of the hapū that made up the Iwi. Importantly from this Trust came the Whangaruru – Ngātiwai Trust Board in 1964, and from it came the Ngātiwai Trust Board of which it is today. The Whangaruru-Ngātiwai Trust Board was incorporated under the Charitable Trusts Act 1957 on 22 November 1966 and changed its name to the Ngātiwai Trust Board on 7 December 1984 (see Attachment 2).

While the original Trust was hapū based the NTB has its current governance and management arrangements set out in a Trust Deed (see Attachment 3). The Trust Deed has been developed in a manner that aims to embrace the members of Ngātiwai wherever they live today but with a clear linear relationship between each member, their nominated marae for voting purposes and the NTB. The NTB acknowledge that most (if not all) members can affiliate to more than one Ngātiwai Marae but can only nominate one marae for voting purposes.

### **19. NTB Trustees – Elected Representatives**

Today the NTB is governed by 14 Trustees each elected by adult registered members of one of the 14 Ngātiwai marae. Each marae may also elect an alternate. Any adult member (18 years or older) of Ngātiwai descent is eligible to put themselves forward for election. Each Trustee may hold office for a term of no longer than three years without having to face re-election.

The mandate to represent Te Iwi o Ngātiwai is held by the trustees in office of the NTB on the terms set out in the Trust Deed and in this Deed of Mandate.

The mandate to negotiate the settlement of historical claims on behalf of Te Iwi o Ngātiwai shall continue to be held by the Trustees in office of the Trust for the time-being despite any changes in the identity of those members currently holding office as Trustees.

In February 2014 the NTB held a new round of elections and a number of changes were made to members holding office as Trustees since the mandate strategy was endorsed and implemented. The election process was publically notified (see Attachment 4) and the NTB held its elections where Trustees were appointed for a term of three years. The



results of the elections were notified to the NTB by the Independent Returning Officer (**IRO**) and placed on the NTB website and facebook page (see Attachment 5).

All of the elected Trustees remained in place until:

- 14 March 2014 when Andrea Munro ceased to hold office whereupon a by-election was publically notified for Motairehe (see Attachment 6) and concluded with Andrea Munro being re-elected along with Martin Cleve as an Alternate and
- 11 June 2014 when Winston McCathy ceased to hold office as an alternate trustee.

Table of current NTB elected trustees and alternates.

<b>Marae</b>	<b>Trustees</b>	<b>Alternate</b>
Tūparehuia	Kathy Pita	Carl Green
Ngaiotonga	Merepeka Henley (Deputy Chair)	
Punaruku	Haydn Edmonds (Chair)	
Otetao	Gary Reti	
Mōkau	Max Thompson	Everlyn Houghton
Oākura	Henry Murphy	Petina Stone
Whananāki	Isha Waetford	Allan Moore
Matapōuri	Kristan MacDonald	Aperahama Kerepeti-Edwards
Ngunguru	Mike Rundlett	
Pātaua	Hori P Mahanga	
Takahīwai	Grant Pirihi	Leonard Namana
Omaha	Annette Baines	
Motairehe	Andrea Munro	Martin Cleave
Kawa	Philip Ngāwaka	

## **20. Accountability Measures**

The NTB is ultimately accountable to Te Iwi o Ngātiwai as set out in the Trust Deed, which:

- ensures open and transparent processes are in place for the election of trustees;<sup>2</sup>

<sup>2</sup> NTB Trust Deed, schedule 1

- ensures that the criteria for trustee appointment is representative of its claimant community;<sup>3</sup>
- clearly defines the roles, responsibilities and powers of the mandated body and its representatives;<sup>4</sup>
- ensures annual reporting to its members at Annual General Meetings (**AGMs**) occurs including the presentation of the Audited Financial Statements of Accounts<sup>5</sup>, and
- specifies meeting procedures<sup>6</sup>.

In addition, NTB has made provision to ensure:

- no settlement can be agreed and finalised without the approval and ratification of an iDOS by the whole of the claimant community (see page 6);
- processes are clear for registration as a Ngātiwai member on the NTB Tribal Register (see page 19);
- an improved dispute resolution process is in place (see page 37);
- regular communication and feedback on negotiations to the Ngātiwai claimant community (see page 39);
- regular three monthly reporting to the OTS on maintenance of the Mandate (see page 39);
- clear processes for the removal, withdrawal or replacement of the mandate from the mandated body (see page 40); and
- processes are established for amendments to the Deed (see page 41).

## **21. Decision Making Process of the Trustees**

In relation to Treaty settlement negotiation matters the Trustees will in the first instance seek to make decisions by consensus. Where consensus cannot be reached a simple majority vote (i.e. a vote greater than 50%) is sufficient to endorse a decision consistent with the NTB Trust Deed<sup>7</sup>.

## **22. Treaty Claims Committee**

In accordance with the Trust Deed,<sup>8</sup> the NTB appointed a committee of its members to form the basis of a Treaty Claims Committee (**TCC**). The purpose of the TCC is to facilitate the settlement process by planning, implementing and following up on any matters that need attention to ensure that a settlement is secured in an efficient and effective manner.

In a supporting capacity the committee is further made up of ex-officio members including the NTB Chief Executive Officer (**CEO**) and the Treaty Claims Manager (**TCM**)

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<sup>3</sup> NTB Trust Deed, clause 4

<sup>4</sup> NTB Trust Deed, clause 4

<sup>5</sup> NTB Trust Deed, clause 7.2

<sup>6</sup> NTB, Trust Deed, clause 4.7

<sup>7</sup> NTB, Trust Deed, clause 4.7 (b)

<sup>8</sup> NTB, Trust Deed, clause 4.9 (a)-(e)

whose appointment was undertaken through a standard recruitment process in a manner consistent with a fair, open and transparent process (see Appendix 7).

While the Chairman of the NTB may attend any committee of the NTB, further support on the TCC may be considered as the need for additional skills and or experience is identified.

The TCC report to the NTB monthly or more frequently if the need arises and will provide advice and information to assist the negotiators once appointed.

### **23. Tribal Registration Process**

The process for registration on the NTB tribal register is clearly set out in the Trust Deed<sup>9</sup> and can occur by:

- Completing a NTB registration form (Attachment 8) and sending it to the NTB office; or
- Completing the online registration form on the NTB website [www.ngātiwai.iwi.nz](http://www.ngātiwai.iwi.nz)

After registrations are received they are entered into a database pending authentication from the NTB Trustee appointed by the Marae that the registration affiliates with. If the Trustee does not know the person personally they may seek confirmation from the relevant marae Trustees of the whakapapa provided.

### **24. Funding Management**

A separate account has been established to manage Crown funds to support negotiations and designated signing roles have been established to approve sign-off on expenditure.

The bank account number is withheld but provided separately.

The NTB is GST registered and the registration number is 42-033-066.

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<sup>9</sup> NTB, Trust Deed, clause 5

## F. Supporting Structures and Terms of Reference

In order to progress the negotiations and settlement process the NTB will establish the following supporting structures and requisite Terms of Reference (**ToR**) once this Deed of Mandate is formally endorsed by the Crown.

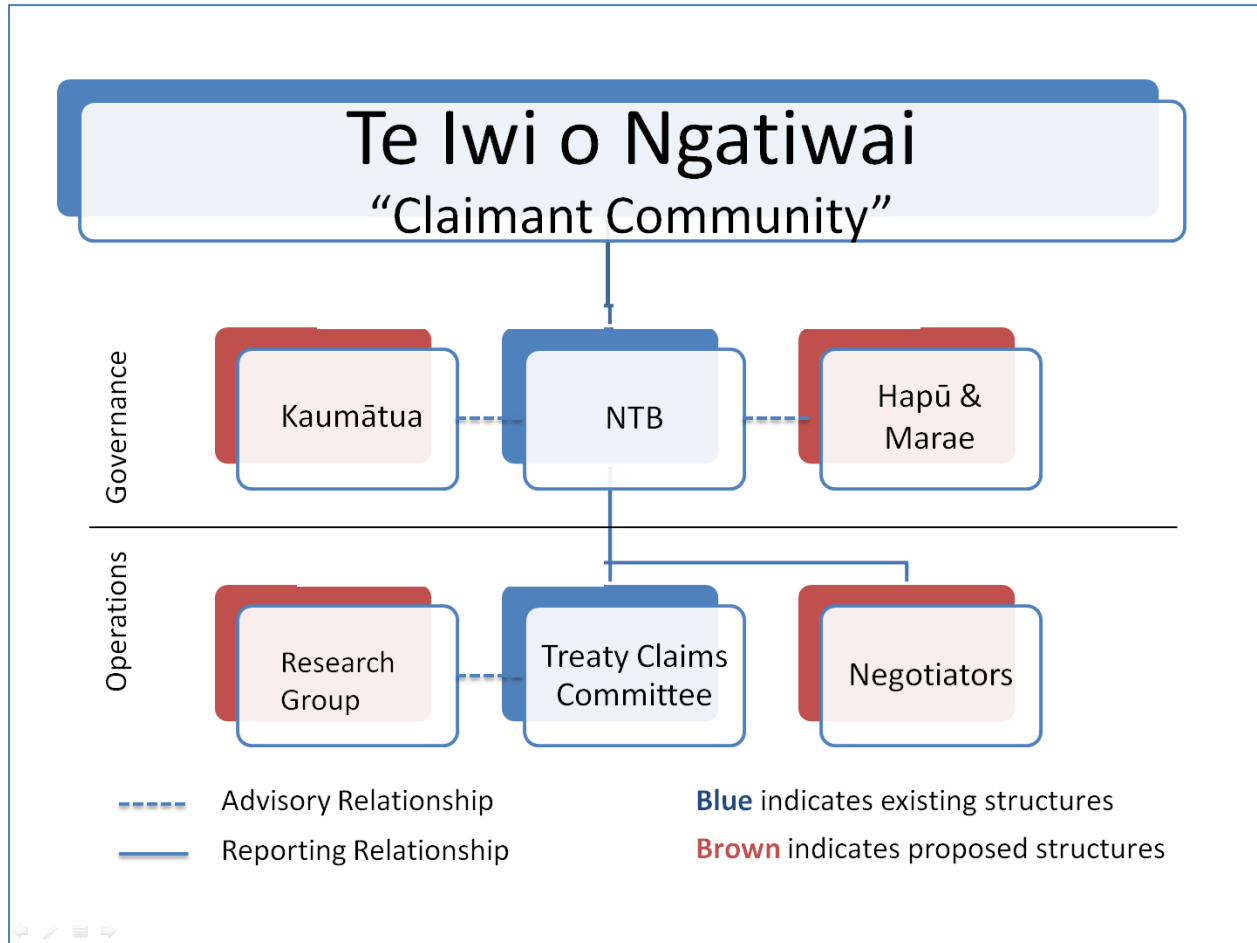


Fig. 1: Illustration of the overall claimant community's inclusion in the negotiations process.

With the exception of the NTB and its TCC whose roles and responsibilities are clearly set out in the Trust Deed and in this Deed of Mandate each new structure requires a clearly defined ToR. The basic ToR components that are clarified in this Deed of Mandate include:

- **Set up and Structure:** how is the group established and how are they organised internally?
- **Purpose:** what job(s) will each group do?
- **Accountability:** who do they report or relate to and how?

Each of the above components is outlined below for each proposed new structure.

In the context of describing the advisory relationships, we have used the terms “enable” and “provided for”. These terms acknowledge that the NTB cannot compel people to participate but can provide an opportunity for those who are willing to participate. Therefore “enabling” in this context means to leave the door open for participation and “providing for” means to make tangible arrangements to accommodate participation which is yet to be determined with willing participants.

## **25. Inclusion of Kaumātua**

The NTB will enable and provide for kaumātua to participate in the settlement process. This may involve a process consistent with Ngātiwai tikanga to support their involvement and is not specified as part of this document. The term kaumātua is used to describe both men and women.

**Set up and Structure:** NTB will enable and provide for up to a maximum of four kaumātua to form an advisory group to the NTB with an equality of each gender represented.

**Purpose:**

- To provide advice, oversight, direction and guidance to the NTB particularly on matters of Ngātiwai tikanga and
- To assist NTB to keep all kaumātua accurately informed of developments.

**Accountability:** Provide advice to NTB rather than reporting to it and assist the NTB to communicate with all Ngātiwai kaumātua to ensure accurate information is fed back to all kaumātua.

## **26. Inclusion of Hapū and Marae Representatives**

The NTB will enable and provide for all Ngātiwai Hapū and Marae to provide advice to the NTB on their involvement in the negotiations and settlement processes.

**Set up and Structure:** NTB will invite Hapū and Marae representatives to discuss their inclusion in the settlement process and how best this can be achieved.

**Purpose:** To develop positive working relationships, work through issues and find agreeable solutions.

**Accountability:** Provide advice to the NTB rather than report to it and assist the NTB to communicate with whanau members to ensure accurate information is fed back to all members.

## **27. Inclusion of Ngātiwai Claimants and Researchers**

Acknowledging the foreclosure of options available to Wai claimants through the Waitangi Tribunal, the NTB will enable and provide for all Ngātiwai claimants and

researchers to participate in an alternative research group to advance Ngātiwai claims under negotiation.

**Set up and Structure:** The NTB will invite all Ngātiwai WAI claimants and researchers to attend research meetings with the TCC and claimant historian once appointed (see page 23).

**Purpose:**

- To discuss and progress Ngātiwai claims research to assist negotiations,
- To provide advice on the publication of research and presentation of claims to the Minister(s).

**Accountability:** Provide advice to the TCC rather than report to it and assist the NTB to communicate accurate information back to all members.

## **28. Appointment of Negotiators**

Negotiators will have no decision making authority. The performance of the negotiators will be monitored monthly by the NTB and reviewed quarterly against set benchmarks (to be agreed at the time of appointment).

**Set up and Structure:** The NTB will appoint all negotiators. The number of negotiators will not exceed 3. The NTB may appoint one negotiator from within its membership.

The remaining 2 negotiators will be appointed following a process involving:

- Establishing an interview panel made up of no more than 4 persons including Ngātiwai kaumātua, hapū, Marae and NTB operations.
- Appointment of a recruitment agency to assist and facilitate the panel's process as follows:
  - a. developing a set of core competencies and a job description (i.e. criteria);
  - b. advertisement of the position in major daily news media and online;
  - c. interviewing, short listing and prioritising applicants in order of preference; and
  - d. presentation of final recommendations to the NTB.

**Purpose:**

- To negotiate the best possible settlement with the Crown for Ngātiwai by:
  - a. developing a negotiation strategy in consultation with Te Iwi o Ngātiwai and
  - b. presentation of an iDoS together with a proposal for a PSGE back to Te Iwi o Ngātiwai for approval and ratification.

**Accountability:**

- Report to the NTB monthly or more frequently if the need arises
- Report as required by the NTB to Te Iwi o Ngātiwai on progress with negotiations
- Liaise with the TCC and the Technical Advisory Group (**TAG**) (see page 23) weekly to provide updates and seek information.

## **29. Terms of Negotiation Plan**

Assuming the Crown endorse this Deed of Mandate the next steps will involve a three month period where the NTB will complete all the preparations necessary to enter into negotiations commonly referred to as the Terms of Negotiation (**ToN**) phase. It is within this phase that the NTB will:

- Progress research including:
  - Engaging a claimant historian and clarification of the research work program
  - Enabling and providing for the establishment of the Ngātiwai research group and agree desired outcomes (i.e. presentation of claims to the Minister(s) and publication of research)
- Establish the Negotiations Team including:
  - Appointment of negotiators
  - Development of a negotiations strategy in consultation with Ngātiwai
- Agreeing with the Crown on Terms of Negotiations including:
  - Logistics of meeting and
  - Ground rules of engagement
  - Funding arrangements

## **30. Research Support**

In 2009 the Ngātiwai Trust Board provided funding of \$225,000.00 to undertake research to underpin a future Treaty settlement with the Crown. The research was commissioned and managed by project teams established by three marae clusters (northern, central and southern). Since that time the NTB have been working to clarify the gaps in the research completed to date and a work program to achieve it.

Crown Forest Rental Trust (**CFRT**) has also provided a list of 5 pre-approved claimant historians with extensive experience in undertaking Treaty settlement research services and from it the NTB have indicated a preference for one of them to take up the role of a Ngātiwai claimant historian.

In addition the NTB will be seeking further funding from CFRT to support local research assistance (i.e. sites of significance and Ngātiwai place name research).

## **31. Technical Advisory Group Support**

In a supporting capacity a TAG has been pre-approved by the NTB and the CFRT to support the ToN process as follows:

- ***Justine Inns from Ocean Law will provide Treaty Settlement Legal Advice***

Oceanlaw New Zealand is a Nelson-based boutique law firm which specialises in fisheries, aquaculture, shipping and other coastal marine matters.

Justine Inns, one of two partners in the firm, has almost 20-years' experience in advising Iwi on a range of matters, including governance, negotiations, resource management and commercial issues. Justine spent a decade working in-house for Te Rūnanga o Ngāi Tahu as part of the team responsible for negotiating, then implementing, the country's first comprehensive Treaty settlement.

She has maintained relationships with Ngātiwai leadership over the years, though her involvement in a number of Iwi-to-Iwi collaborations, including the Treaty Tribes Coalition, Te Ope Mana a Tai and the Iwi Chairs' Forum, and her particular expertise in maritime issues aligns well with Ngātiwai priorities.

- ***Toko Kapea from Tuia Group will provide Strategic Treaty Settlement Advice***

Tuia Group is an integrated commercial law and business consulting firm based in Wellington that works mainly in the Māori sector.

Tuia Group have extensive experience working with Treaty claimant groups in strategic and legal and other advisory roles through different stages of the Treaty Settlement process. Tuia Group has a close relationship with Crown officials and understands Crown process and protocol which will be of great benefit to NTB.

Toko has over 17 years of experience as a commercial lawyer and many years as a company director. Relevant areas of experience and expertise include: Treaty law, negotiations, structuring – PSGE's, facilitation and strategy roles and engagement with Māori

- ***Blanche McMath from Platform Advertising will provide Strategic Communications Advice***

Blanche has extensive experience in advertising and marketing. She is the founder of Platform Advertising, a full service marketing and communications company specialising in digital and social media strategy. Platform's portfolio of clients include Craig's Investment Partners, Golden Homes, VINZ, and Te Runanga o Ngai Te Rangi Iwi Trust.

Prior to Platform Advertising, Blanche spent 7 years as the Agency Manager of leading advertising agency, Adcorp NZ Limited. She has over 15 years experience in senior management roles in the marketing, advertising and recruitment industry and currently sits on the board of Tauranga Maori Business Association. Blanche holds a Bachelor of Management Studies and a Post Graduate Diploma Business Marketing.



## G. Overview of the NTB Mandating Process

The NTB overall mandating process can be described in three phases as follows:

- PHASE I                      Pre Mandate – Early Preparations (March to July 2013)**
- Preliminary Information Sharing Hui – 3 hui
  - Draft Mandate Strategy – 6 weeks consultation
  - Revised Mandate Strategy - endorsed by Crown
- PHASE II                      Official Mandate Process (August to November 2013)**
- Mandate & Supplementary released – 3 hui
  - Mandate Hui and Voting – 9 + 3 hui, 8 weeks
  - Mandate Results – 82% vote in favor by ballot
- PHASE III                      Post Mandate - DoM Prepared (December 2013 to June 2014)**
- OTS Consider Submissions – 3 hui
  - NTB Respond to Submissions – with amendments
  - DoM Submitted for Crown Endorsement (this document)

Overall the NTB held or attended more than 20 hui during the mandate process to discuss and seek support for the NTB mandate proposal.

A summary power-point presentation showing the key steps in each phase is attached at Appendix 9. The details involved in each step are discussed further below.

## H. Pre Mandate Early Preparations

### 32. *Preliminary Information Sharing Hui*

In March/April 2013 prior to developing a mandate strategy NTB held three preparatory information sharing hui to bring members up to date on a range of matters. The notified purpose of the hui was to provide information about:

- the Ngātiwai Trust Board and its work to date on Treaty settlement matters,
- the pros and cons of going to the Waitangi Tribunal compared with going into direct negotiations with the Crown,
- Crown settlement policy,
- the intentions of NTB to progress an Iwi wide Treaty settlement and its preferred option for doing so, and
- other related matters (i.e. funding).

No votes or resolutions were put to the floor. While debate and discussion was encouraged to help formulate ideas and build relationships the purpose of the hui was informative only. Information sharing hui were held at the following locations:

- Hui held at Ngātiwai Marae, Ngaiotonga, Whangarū on Saturday the 23rd of March 2013 and attended by approximately 33 people.
- Hui held at Te Puna O Te Matauranga Marae, Northtech, Whangārei on Saturday the 6th of April 2013 and attended by approximately 50 people.
- Hui held at Waipuna Hotel & Conference Centre, Mt Wellington, Auckland on Saturday the 13th of April 2013 and attended by approximately 45 people.

The panui and power-point presentation can be found in (Attachment 10).

### ***33. Development of the Mandate Strategy and Supplementary Information***

At the conclusion of the information sharing hui described above the NTB released a DRAFT Mandate Strategy for feedback from Te Iwi o Ngātiwai (Attachment 11).

A four week submission period was extended to six weeks at the request of members and at the close of the submission period the DRAFT Mandate Strategy was revised (Attachment 12) taking-account of concerns and building on constructive suggestions.

Improvements made to the earlier DRAFT mandate strategy proposals acknowledged that the NTB had:

- listened to feedback at information sharing hui and considered written feedback following the release of the DRAFT mandate strategy,
- undertaken some preliminary meetings with hapū and NTB intend to continue to build positive working relationships with all hapū throughout the mandating and negotiations process, and
- made specific changes to the DRAFT to accommodate many requests or concerns.
- Ngātiwai Trust Board had particularly worked hard on improving the processes for inclusiveness and communications during the mandating and negotiations stages due to the constructive feedback received from the submissions.

On the 19 July 2013 the Ngātiwai Trust Board submitted a revised mandate strategy to the Crown for assessment and on 24 July 2013 a letter of endorsement of the mandate strategy was received (Attachment 13).

After the mandate strategy was placed on the OTS website, the Crown instructed the NTB to include further WAI claims which appeared to relate to Ngātiwai hapū. Consequently a supplementary paper was produced to explain the inclusion of additional WAI claims in the mandate sought (Attachment 14). This information was added to the voting pack material and the mandate hui presentation.

### **34. Postal Addresses on the Tribal Register Updated**

During the development of the mandate strategy the NTB undertook to actively recruit members to the tribal register and update their postal addresses. This involved:

- Verifying existing members' addresses prior to the commencement of the mandate voting pack mail out. This occurred during the week of 18 July 2013 by sending a return freepost postal notice (Attachment 15) requesting any updates to members postal addresses. Where staff received a gone-no-address (**GNA**) notification these addresses were removed from the database before providing the IRO with the database information for voting purposes;
- Revising the registration form and making it available online, at mandate hui and via a small team of four field staff;
- Calling members prior to and during the mandate process where phone numbers were available to check postal addresses and that members had successfully received their voting packs;
- Approaching some kaumātua to check that all their whanau members were registered and addresses were correct (including overseas); and
- Web-search for members contact details (i.e. facebook and pipl.com).

Note that the NTB have since this time employed a full time administrator to maintain and improve this important information base going forward.

### **35. Early Briefings**

Following the release of the mandate and supplementary information the NTB held early briefings with Kaumātua, Wai claimants and some hapū ahead of the official mandate hui to inform them of the following:

- feedback received and issues identified following release of DRAFT mandate strategy,
- improvements made to the mandate strategy, and
- Ngātiwai Tūpuna, Hapū, Wai claims included in mandate sought.

Hui were held and publically notified as follows:

- Barge Park for Kaumātua on 9 August 2013 and attended by approximately 45 people and
- The NTB offices for Wai claimants on 15 August 2013 and attended by approximately 20 people.

Note that the panui for the Wai claimant hui was not publish in the news media but rather provided to the Whangarei Resource Centre Co-ordinator to distribute directly to Wai claimants and placed on the NTB website

The panui and power-point presentation can be found in Attachment 16.

### **36. *Preliminary Engagement with Some Hapū***

Following feedback from the information sharing hui NTB were asked to make contact with specific hapū and as a result preliminary meetings were held with:

- Ngāti Rehua – Ngātiwai ki Aotea Trust on 25 March 2013,
- Patuharakeke Trust on 11 June 2013 and 23 July 2013, and
- Te Waiariki, Ngāti Korora and Ngāti Takapari Hapū Trust on 29 May 2013

In all cases (above) good progress was made with re-establishing positive working relationships in so far as discussions went.

A follow up hui was publically notified and held at:

- Ngunguru Marae on 17 August 2013 for all members of Ngāti Takapari, Ngāti Korora and Te Waiariki to attend. Approximately 25 people were in attendance.

While the power-point presentation for this later hui was prepared consistent with the kaumātua and WAI claimant briefings (discussed above), the meeting asked the NTB to discuss again the pros and cons of direct negotiations compared with going to the Waitangi Tribunal.

Therefore the NTB presented the pros and cons component of the information sharing hui held earlier in the year (see Attachment 10) and comment was invited from the floor for any counter views. The panui can be found in (Attachment 17).

## I. Official Mandate Process

### 37. Summary of Process

A total number of nine mandating hui were held throughout New Zealand. The mandate hui were advertised extensively across a range of media channels including TV, newspapers, radio, NTB website at <http://www.ngatiwai.iwi.nz/> and on NTB facebook page at <https://www.facebook.com/ngatiwai>. Additional hui were requested in Australia and New Zealand to which the NTB responded positively.

New Zealand hui locations were decided on by reference to where large numbers of the Ngātiwai claimant community reside, both within the rohe of Ngātiwai and elsewhere.

According to the 2006 census the largest Ngātiwai population densities exist within the regions shown below in descending order. Therefore six (6) hui were held in the following regions, one more than Crown guidelines require for an Iwi of this size.

	2006 Census statistics
• Northland (i.e. Whangarei)	1,830
• Auckland	1,749
• Waikato (i.e. Hamilton and Rotorua)	432
• Wellington	273
• Bay of Plenty (i.e. Tauranga)	216

The purpose of the mandate hui was to discuss and seek support to the resolution set out on page 34.

An observer from Te Puni Kōkiri was present at each hui to observe the process and ensure it was fair, open and transparent and to record key issues raised which can be summarised as follows:

Some members wanted to better understand the advantages and disadvantages of going into direct negotiations compared with going to the Waitangi Tribunal and some claimants expressed a desire to progress their claims through the Waitangi Tribunal.

The NTB responses to these views were that the benefits of direct negotiations outweighed the benefits of the Waitangi Tribunal but that this was a key matter for the vote to determine. In relation to Wai claimants the direct negotiation pathway provides for an alternative process for claims to be heard and reported on including through a meeting with the Minister and an “Airing of Grievance” process and the Deed of Settlement (DoS) is to include an agreed account of the historical relationship between Ngātiwai and the Crown.

Several members expressed concern about Ngāti Rehua - Ngātiwai ki Aotea and Ngāti Manuhiri settling separately from the rest of Ngātiwai. This led to questions about the inclusion of remaining Ngātiwai interests in Aotea and Hauturu and the water space

within the Ngātiwai rohe. The NTB agreed that this is an important part of our claim and will be addressed during negotiations.

Members expressed their desire for better communications from NTB to which the Board was more than happy to agree with and gave a positive commitment to improve upon going forward.

Members also questioned what the criteria for mandate recognition were and what would happen if it was not achieved to which the NTB explained to the best of its knowledge is based on:

- If we have run a fair, open and transparent process consistent with key Crown policies which the NTB is confident it has achieved,
- the voting, results which were yet to be determined, and
- that substantive matters raised in any submission were adequately addressed in the final Deed of Mandate also yet to be determined (this document)

The observers' overview report can be found at (Attachment 18). Note that observer reports for each hui have been available on the NTB website since November 2013.

### **38. Hui Advertising and Completion**

All mandating hui were publically notified (see Attachment 19) with at least 21 days public notice given prior to the first mandate hui. Hui were advertised in the following newspapers to ensure proper coverage of both hui held within the northern, central and southern areas of the Ngātiwai rohe and elsewhere including:

- Northern Advocate - 27 July and 17 August 2013
- NZ Herald - 27 July and 17 August 2013
- Waikato Times – 27 July and 17 August 2013
- Bay of Plenty Times – 27 July and 17 August 2013
- Dominion Post – 27 July and 17 August 2013

The NTB also advertised the mandate hui in local news media including:

- The Rodney Times – 30 July 2013
- Tutukaka Focus – 29 July 2013
- Bream Bay News – 8 August 2013 and
- Great Barrier Bulletin – 18 August 2013

The advertisements clearly stated:

- location of hui,
- purpose of the hui: NTB to seek a mandate to represent Te Iwi o Ngātiwai in direct Treaty settlement negotiations with the Crown,
- where the hui information can be obtained: the mandate strategy and supporting material (including supplementary information) was available on the Ngātiwai website [www.ngatiwai.lwi.nz](http://www.ngatiwai.lwi.nz) and also on the OTS website [www.ots.govt.nz](http://www.ots.govt.nz),
- the resolution to be voted on at the hui (see page 34), and

- contact details of the NTB and the IRO.

The NTB advertised the mandate hui between 12 August to 11 October 2013 (9 weeks) on:

- Maori Television (see Appendix 20) follow the links below:  
[http://www.youtube.com/watch?v=BzPWyjC\\_-cg&feature=youtu.be](http://www.youtube.com/watch?v=BzPWyjC_-cg&feature=youtu.be)  
[http://www.youtube.com/channel/UCMYya\\_J1ytqbm3zhh\\_w0cpw](http://www.youtube.com/channel/UCMYya_J1ytqbm3zhh_w0cpw) and on
- Ngāti Hine FM (99.6 FM) The script can be found at Appendix 21.

In addition the NTB placed all mandate hui information on its:

- website <http://www.ngatiwai.iwi.nz/> and
- maintained weekly facebook updates during the process to alert members of where the next mandate hui were to be held and directions if needed.  
<https://www.facebook.com/ngatiwaitb>

The NTB held mandate hui without exception on the advertised dates, venues and times set out in the public notice and voting packs as detailed in the table below.

Date	Location	Time
Saturday 24 August 2013	<b>Ngātiwai Marae*</b> Rawhiti Road, Ngaiotonga	10 am to 12 noon
Wednesday 28 August 2013	The Tauranga 1 Second Avenue, Tauranga	6 pm to 8 pm
Thursday 29th August 2013	Brentwood, 16 Kemp Street Kilbirnie, Wellington	6 pm to 8 pm
Saturday 31st August 2013	<b>Matapouri Marae*</b> 7 Mackie Place, Matapōuri	10 am to 12 noon
Monday 2nd September	Copthorne Hotel, 111 Fenton St Victoria, Rotorua	6 pm to 8 pm
Tuesday 3rd September 2013	Kingsgate 100 Garnett Avenue, Te Rapa, Hamilton	6 pm to 8 pm
Wednesday 4th September 2013	The Waipuna 58 Waipuna Road Mt Wellington, Auckland	6 pm to 8 pm
Saturday 7th September 2013	Northtec Marae 55 Raumanga Valley Road Whangarei	10 am to 12 noon
Saturday 14th September 2013	<b>Omaha Marae*</b> 14 Omaha Access Road, Leigh	10 am to 12 noon

Marae indicated with an astrix (\*) above are Ngātiwai affiliated marae where hui were held within the Ngātiwai northern, central and southern marae cluster areas.



The NTB were also requested to hold additional hui in Australia after the official voting period commenced and a further hui for the descendents of Te Uri O Tautohe from Titahi, Mata, Whangarei. The NTB responded positively to these request from members to ensure as wide as possible distribution of information and voting opportunities.

<b>Date</b>	<b>Location</b>	<b>Time</b>
Tuesday 10 September 2013	Mounties RSA, 101 Meadows Road Mount Pritchard, Sydney	1 pm to 3 pm
Tuesday 10 September 2013	Mounties RSA, 101 Meadows Road Mount Pritchard, Sydney	6 pm to 8 pm
Wednesday 11 September 2013	Springwood Hotel, Cnr Springwood & Rochedale Roads, Springwood, Brisbane	6 pm to 8 pm
Saturday 19 October 2013	Hona Te Horo Motutara Kainga 125 Totara Road Mata, Whangarei	10 am to 12 pm

### **39. Hui Presentation**

A standard and consistent presentation was developed for these hui outlining the purpose and context of the mandate process (see Attachment 22). All attendees received a copy of the presentation either by post or at the hui and had the opportunity to discuss the presentation with NTB by putting any questions to NTB representatives.

The process was robust, open and transparent, with attendees free to ask questions at appropriate intervals and at the conclusion of the presentation.

### **40. Eligibility to Vote**

Ngātiwai members aged 18 years or older were eligible to vote with one person eligible to cast one vote either for or against the resolution.

Ngāti Rēhua – Ngātiwai ki Aotea and Ngāti Manuhiri members were eligible to vote through their wider whakapapa to any other Ngātiwai tūpuna/Hapū other than Rehua/ Ngāti Rehua or Manuhiri/ Ngāti Manuhiri. Note that the NTB acknowledge that most, if not all, members of Ngātiwai have multiple whakapapa connections to many Ngātiwai hapū.

Where a member was already registered on the tribal register and had had their whakapapa and marae affiliation verified by their marae Trustee on the NTB they were eligible to vote. Members who were not registered on the tribal register were able to vote subject to verification of their whakapapa and marae affiliation. Verification was undertaken by the marae Trustee on the NTB, or where they did not know the individual personally after consulting with the affiliated marae trustees.



Whangai members were eligible to vote subject to verification of their whānau whakapapa and affiliation with a Ngātiwai marae. Spouses of eligible members were not eligible to vote. No proxy votes were accepted as a valid vote under any circumstances.

#### **41. *Postal Ballot Vote***

Voting took place by postal ballot. See sample voting paper at (Attachment 23). There were a variety of acceptable methods for casting a postal vote. These methods are as follows:

- by post,
- by ballot box at one of the mandating hui,
- online, provided on the website of the IRO or
- by casting a special vote (via one of the above methods).

#### **42. *Special Vote Option***

Where a member was not registered with the NTB before the start of the voting period and they contacted the IRO to indicate their interest in voting - they were sent a voting pack and mandate hui information. The voting papers were marked with a provisional number for voting purposes. These numbers were easily distinguishable from existing voting and registration numbers and recorded on a register of special votes by the IRO.

The member was then able to cast their vote by any of the acceptable methods as described above. Special votes were subject to verification of their eligibility to vote described above. The special vote option allowed members of Ngātiwai who did not wish to be registered with the NTB to vote on the mandate proposal

#### **43. *Voting Period***

A notice of the four week voting period to the NTB mandate proposal was issued on 27 July 2013. The voting period opened on 17 August 2013 and initially closed on 15 September 2013.

Due to the low rate of returns received by 2 September 2013 half way through the initial four week voting period (see Attachment 24) a further notice was subsequently issued on 14 September 2013 to inform members of an extended four week period to vote (Attachment 25). This was to ensure that all Ngātiwai members had more time to consider the NTB mandate proposal, register and to vote on the mandate resolution. The extension of time was well publicised on TV, news media and on the NTB website and via a newsletter.

#### **44. Resolution put to the Vote**

There was only one resolution put to the vote as follows:

*“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”*

Members were able to vote yes or no for the mandate proposal.

#### **45. Results of the Vote**

In total 2,735 voting packs were sent out to verified postal addresses by the IRO including 182 special votes and:

- 772 votes were cast representing a 28.2% return (as compared with a 12.4% return on 2 September 2013 half way through the initial voting period) and this was followed by an extended 4 week voting period
- 636 voted yes, 131 voted no and 5 votes were blank
- Of those who cast their vote (see Attachment 26), 82.38% were in favour of the NTB’s mandate proposal.

For the Declaration of Result of Mandate Poll refer to (Attachment 27). The results of the Mandate Poll were placed on the NTB website and publically notified on 14 September in the following news media:

- Northern Advocate
- NZ Herald
- Waikato Times
- Bay of Plenty Times
- Dominion Post

## J. Post Mandate Deed of Mandate Prepared

### 46. *Submission Period and Numbers*

The official submissions period opened on 27 July 2013 when the public notice was first published in the news media and closed on 17 August 2013. However late submissions were accepted on an ongoing basis. For example two objecting submissions were received late (31 October 2013 and 9 April 2014) and four supporting submissions were received late from Wai claimants who wanted their claims included in the NTB mandate (17 October 2013, 28 April 2014 and 5 May 2014). Note that late submissions were not included in the independent analysis described below.

There were 96 submissions received in total including six late submissions. Of these 51 submitters supported the NTB mandate proposal, 44 objected to it and one was neutral. However, the number of submissions for or against the mandate proposal is not an accurate indication of the weight of support or objection overall as discussed below.

### 47. *Independent Analysis of Submissions*

At the close of the submission period the NTB commissioned an independent analysis (which is available on the NTB website) to assess:

- whether the mandate process was fair, open and transparent and consistent with key Crown policies; and
- to ensure that the NTB was aware of all issues raised in submissions and, in particular, was able to identify and respond to any new issues that had not already been addressed in the development of the mandate strategy.

The reviewer noted the following trends in submissions:

- very few Ngātiwai affiliated marae made submissions but those that did were supportive
- submitters who identified themselves with Ngātiwai hapū were relatively evenly split in support or opposition, but not all hapū listed in the mandate strategy made submissions
- submissions from individual beneficiaries were relatively evenly split in support and opposition
- a number of Wai claimants (or submitters with an interest in particular Wai claims) do not want their Wai claims included in the NTB mandate.

However the NTB have noted that there were a number of submissions received from individuals and Wai claimants who were not included in the mandate strategy and these

submissions have had a skewed effect on the overall number of submission in opposition or support of the mandate proposal.

Despite that concern the independent assessment concluded that the mandate strategy was:

- consistent with key Crown policies;
- fair, open and transparent;
- the treatment of Wai claims associated with hapū who affiliate with other Iwi was a “work in progress”; and
- there were no completely “new” issues raised in submissions that were not already address in the mandate strategy.

In addition, the reviewer provided two suggestions for improvement including:

- a more formal dispute resolution process for claimants who have concerns about the way NTB is representing their interests in negotiations; and
- a more explicit role for the kaumātua advisory group in guiding NTB on matters related to tikanga in the negotiations process.

#### **48. Further NTB Engagement with some Hapū**

Building on the NTB’s commitment to work positively on improving relationships with hapū the NTB requested to meet with hapū and related Wai claimants who raised concerns in their submissions.

At this stage representatives from the Te Waiariki, Ngāti Korora and Ngāti Takapari Trust responded positively and a hui was held at the NTB offices on 9 October 2013 to discuss the NTB approach to the treatment of these hapū in the mandate proposal.

#### **49. OTS Meet with Submitters to Understand their Concerns**

Following the conclusion of the submission process OTS also requested meetings with submitters to clarify their concerns and explain Crown policy for settlement negotiations. Following these hui NTB were forwarded correspondence from submitters reiterating their earlier objections to being included in the NTB mandate.

Despite the NTBs’ offer to participate in these discussions submitters were given the option to have the NTB present at these meetings or not. Only Te Kapotai submitters agreed to have NTB present at these discussions and a hui was held at Waikare Marae on 5 December 2013. The NTB remain open to meeting with submitters to address their concerns.

## **50. Information Hui held to Inform Members of Specific Changes**

Following consideration of changes to the mandate strategy in converting it into a Deed of Mandate the NTB held an information hui on 21 December 2013 to update members of the changes made and to seek their feedback. The panui and presentation can be found at (Appendix 28).

## **51. Amendments to Specific Hapū and Wai claims**

Following consideration of submissions and discussions with OTS the following amendments have been made converting the mandate strategy into this Deed of Mandate:

Hapū and Wai claims removed from the mandate include:

- Ngāti Kuta and Patukeha (WAI1307) have been removed and replaced with Ngare Raumatī, and
- WAI claims 688, 887, 1037, 1513 and 1723 have also been removed.

Hapū and Wai claims added to the NTB Deed of Mandate include:

- Te Waiariki has been included in this Deed of Mandate (in addition to Ngāti Korora and Ngāti Takapari who were already included).
- Note that WAI 2239 was recently amalgamated with the existing Wai claims associated with Te Waiariki, Ngāti Korora and Ngāti Takapari and has therefore been added to this Deed of Mandate.

Note that while Ngāti Pare were previously moved to the list of current Ngātiwai hapū on 21 December 2013 Ngāti Pare has been retained as an historic hapū in the Ngātiwai context.

## **52. Amendments to Address Submitters General Concerns**

In line with the reviewer's suggestions the NTB have developed:

- a more clearly explicit role for the kaumātua advisory group to guide the NTB particularly on matters of Ngātiwai tikanga in the negotiations (see page 21), and
- an amended disputes resolution process for this Deed of Mandate that now provides for a more formal staged process (see below).

### **53. Amended Disputes Procedure**

In the event that any dispute, difference or question arises between the NTB and any claimant and provided the dispute is clearly set out in writing by the claimants, the Ngatiwai Trust Board agree to act in good faith and for the advancement of settlement.

In particular:

- Ngatiwai Trust Board agree to provide a concise written reply of any dispute at the earliest opportunity.
- If any dispute shall arise, and the parties are unable to resolve the dispute, Ngatiwai Trust Board will endeavour to agree on a process for resolving the dispute by negotiations in the first instance.
- Should the parties fail to reach agreement on the process to resolve the dispute, Ngatiwai Trust Board agree to mediation within 1 month of written notice of the dispute. If the parties are unable to agree on a mediator within 10 working days thereafter, Ngatiwai Trust Board agree the matter shall be referred to the President of the Arbitrators' and Mediators' Institute of New Zealand Inc with the request that he or she make an appointment and his or her decision will be final and binding on all parties.

### **54. NTB Consideration of an Amended Parallel Process**

While some submitters expressed an interest in a parallel process there was no consensus among WAI claimants on this option. A variety of reasons were given for this including:

- Some claimants were not ready to present their evidence in the Waitangi Tribunal hearings,
- Some did not want to be in a position where they were perceived to be pushing to the front of the queue (a suggested option posed earlier by the NTB)
- Some wanted to be heard and then await a final report setting out that their claims were well founded<sup>10</sup>

However, it should be noted that several Ngātiwai Wai claimants have now had their claims heard by the Waitangi Tribunal (see page 15) and to the best of the NTB knowledge only 7 active Wai claimants remain unheard.

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<sup>10</sup> Personal communication between the TCM and the Co-ordinator of the Whangarei Resource Centre

## K. Mandate Maintenance

### 55. *Communications with Members*

The NTB will ensure that Ngātiwai members are kept regularly informed and updated on negotiations progress through:

- monthly newsletters/e-panui and website with regular updates
- hui or wananga on particular topics will be held regularly through the year
- the AGM or a Special General Meeting where the need arises (i.e. to present an iDoS and a proposal for a PSGE to the claimant community for approval and ratification).
- Negotiators will also be required to report to Te Iwi o Ngātiwai on negotiations as required by the NTB (see page 22)

The focus will be on the progress of negotiations.

### 56. *Regular Reporting to OTS*

The NTB will provide regular three monthly reports to OTS to maintain the mandate. It will include information about:

- communications with Ngātiwai (i.e. newsletter/e-panui, hui or wananga, website and facebook updates),
- any AGMs or SGM held within the reporting period, and
- any other points of interest related to the progress of negotiations.

### 57. *Mandate Amendment and Removal Process*

#### **Scope and purpose**

The following process must be undertaken to achieve an amendment or withdrawal of the mandate on behalf of the whole of the claimant community from the mandated body:

#### **Steps for amending or withdrawing the mandate**

1. **Documenting concerns and meeting to resolve concerns:** A letter must be written by the claimant community representatives to the Chair of the mandated body identifying the nature and extent of their concerns and also seeking a meeting within a reasonable time frame to discuss these matters. The letter must be co-signed by at least 100 adult registered members on the NTB tribal register (aged 18 years and over).

2. **Mandate Amendment/Withdrawal Process to be followed:** If the meeting between the claimant community representatives and the Chair of the mandated body does not resolve the concerns, then the claimant community may organise a series of publicly notified hui. The publicly notified hui should follow the same process and procedures that conferred the mandate including:
- a public notice/pānui must outline the kaupapa of the notified hui;
  - the public notice must provide 21 days' notice of the hui in national and regional print media;
  - nine hui must be held both nationwide and within the rohe or Area of Interest;
  - a consistent presentation must outline the background to the concerns and the parties involved;
  - a detailed paper must be provided (similar to this one) outlining any alternative proposals or amendments;
  - the resolution(s) to put to the claimant community must be consistent at each hui;
  - an independent returning officer must be employed to oversee the voting process and notify results; and
  - an observer from Te Puni Kōkiri must be invited to observe and record proceedings.
3. **Discussions with OTS to discuss next steps:** Once the hui are completed and the outcome of the voting process determined, then the claimant community representatives that held the hui must inform the OTS by way of letter about the result and to discuss next steps for settlement negotiations. This may involve some changes to the mandated body or another process to be undertaken as agreed with officials.

### **58. Authority to Amend this Deed of Mandate**

The NTB will have the authority to amend this Deed of Mandate to make the management of negotiations more effective.

If the NTB consider that the changes are of a significant nature that could affect the LNG status or the NTB mandate, then this decision will need to be considered by a duly notified AGM or SGM. Any changes will be notified to OTS.



### **59. *Availability of this Deed of Mandate***

The Crown may make this Deed of Mandate publically available. The NTB will also make this Deed of Mandate available on its website.

## **L. Signatories to this Deed of Mandate**

It was unanimously resolved at a full meeting of the NTB on 27 June 2014 that the Deed of Mandate (version 6 dated 19 June 2014) be endorsed by the Board subject to any minor technical amendments, and submitted to the OTS for formal approval by the Crown (see Appendix 29).

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