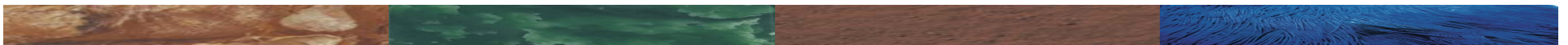




Ngati Whatua Historical Treaty Claims

Moving Towards Negotiation and Settlement

Information Hui Presentation - May 2008



Purpose

- Purpose of the hui is for Te Runanga o Ngati Whatua to present its mandate proposal
- The mandate proposal is:

That Te Runanga o Ngati Whatua is mandated to represent Ngati Whatua in negotiations with the Crown regarding the comprehensive settlement of all remaining historical claims of Ngati Whatua, excluding the claims associated with the South Kaipara Claims Committee

Overview

- Background
- Crown's Treaty settlement process
- The Runanga's mandate proposal:
 - the Runanga's overall vision
 - what will be covered (the claimant group, the claims, the settlement area)
 - what will not be covered (South Kaipara Claims Committee, and Te Roroa, Te Uri o Hau and Ngati Whatua o Orakei negotiations)
 - the negotiation structure (the organisational arrangements and policies and processes such as accountability mechanisms)
- The mandating process (including the postal ballot process)

Background

- The Runanga is the sole representative body and authorised voice to deal with issues affecting the whole of Ngati Whatua
- Since 1992, the Runanga has progressed the iwi claim through Wai 303 on behalf of all Ngati Whatua uri
- The Runanga has fostered relationships with:
 - Ministers of the Crown and
 - Crown agencies e.g.
 - » Office of Treaty Settlements (OTS)
 - » Waitangi Tribunal
 - » Crown Forestry Rental Trust (CFRT)
- The Runanga is committed to ensure the iwi moves forward and settles its historical claims

The Present Situation

- Three settlements within Ngati Whatua rohe have occurred to date: Te Roroa, Te Uri o Hau and Ngati Whatua o Orakei
- The iwi claim and the remaining Ngati Whatua claims not captured by those three settlements remain outstanding
- The Crown has committed to two more Ngati Whatua negotiations:
 - Negotiations with the South Kaipara Claims Committee
 - Negotiations with the Runanga for the settlement of the iwi claim and all other remaining claims
- Ngati Whatua has two options:
 - Option 1: Progress down the Tribunal path (Northland Inquiry)
 - Option 2: Proceed directly to negotiations

Crown's Settlement Processes: Option 1 - Tribunal

- Advantages:
 - Process can help define claims issues and the seriousness of the Treaty breach and prejudice
 - Claimants have their 'day in court'
 - Good body of research generated
- Disadvantages:
 - Tribunal recommendations are not binding on the Crown
 - Tribunal process can take 3-4 years and Ngati Whatua will still need to negotiate the settlement
 - Delaying settlement reduces the parity of the settlement with others

Crown's Settlement Processes: Option 2 - Negotiation

- Advantages:
 - Less costly than the Tribunal path
 - Faster road to reaching settlement and therefore the iwi moves forward sooner
 - Income off settlement investments starts accruing earlier
- Disadvantages:
 - Some claims may not be researched and heard as part of a Tribunal inquiry (but direct negotiations also allows for targeted research to be undertaken)
 - No public hearing of Treaty breaches

Te Runanga's position

- On balance, proceeding directly to negotiations is recommended because:
 - Strong message from Ngati Whatua to settle and move forward
 - The iwi will be considerably better off by settling as soon as possible
 - Achieve settlement quicker and is cost efficient
- The Runanga believes it is in the best interest of the iwi to move directly to negotiations

What is a Treaty Settlement?

- An agreement between Crown and a claimant community to settle historical Treaty grievances against the Crown
- Generally has three components: Historical Redress, Cultural Redress and Financial and Commercial Redress
- As part of the settlement, the claimant group accepts that the settlement is fair and final and settles all of the historical claims (whether lodged at the Tribunal or not)
- Both the Crown and the claimant group accept that it is not possible to full compensate the claimant group for their grievances and that redress:
 - focuses on providing recognition of the group's historical grievances
 - restoring the relationship between the claimant group and the Crown
 - contributes to a claimant group's economic development

Steps involved in negotiation and settlement



What is a mandate?

- When a claimant group chooses representatives and gives them the authority to enter into negotiations with the Crown on their behalf, this is known as conferring a ‘mandate’
- Limits on the mandate:
 - Mandate only gives the mandated representatives the authority to negotiate a draft Deed of Settlement with the Crown
 - The mandated representatives can not settle any of the claims; only the claimant group can determine whether or not the draft Deed of Settlement is accepted or not

What is the Runanga's mandate proposal?

- The Runanga is seeking a mandate from Ngati Whatua to enter into direct negotiations with the Crown on their behalf for the comprehensive settlement of all of the remaining historical claims of Ngati Whatua, excluding the claims associated with the South Kaipara Claims Committee
- The Runanga is well-positioned to be the mandated body:
 - sole representative body and authorised voice to deal with iwi issues
 - well known within Ngati Whatua
 - 20 year track record of representing the iwi
 - widespread confidence and support of Ngati Whatua
 - clear efficiency gains from using existing infrastructure and administrative support

What is the Runanga's vision for the settlement?

- The vision of the Runanga is to create a strategic and durable settlement for all of Ngati Whatua, and in doing so, ensure that the iwi achieves:
 - a comprehensive, robust and fair settlement of all outstanding historical claims of Ngati Whatua
 - a settlement within as short a time as possible but consistent with the first objective
 - a settlement which will provide for acknowledgements, apologies and redress which properly satisfy the outstanding grievances of Ngati Whatua

South Kaipara Claims Committee

- The Runanga's mandate proposal does not include the claims associated with the South Kaipara Claims Committee
- The Crown has agreed that it will negotiate with:
 - the South Kaipara Claims Committee for the settlement of their claims; and
 - the Runanga for the settlement of the iwi claims and all other remaining claims within Ngati Whatua
- There will therefore be two streams of negotiations

Who would be covered by the mandate?

- The Runanga would be negotiating on behalf of ALL of Ngati Whatua in terms of the settlement of the Ngati Whatua iwi claims
- Therefore, this includes all individuals, whanau and hapu within the iwi of Ngati Whatua who descend from Haumoewarangi and other recognised tupuna
- The Runanga would also be negotiating on behalf of those hapu who have unsettled claims that are not aligned with the South Kaipara Claims Committee

What historical claims would be settled?

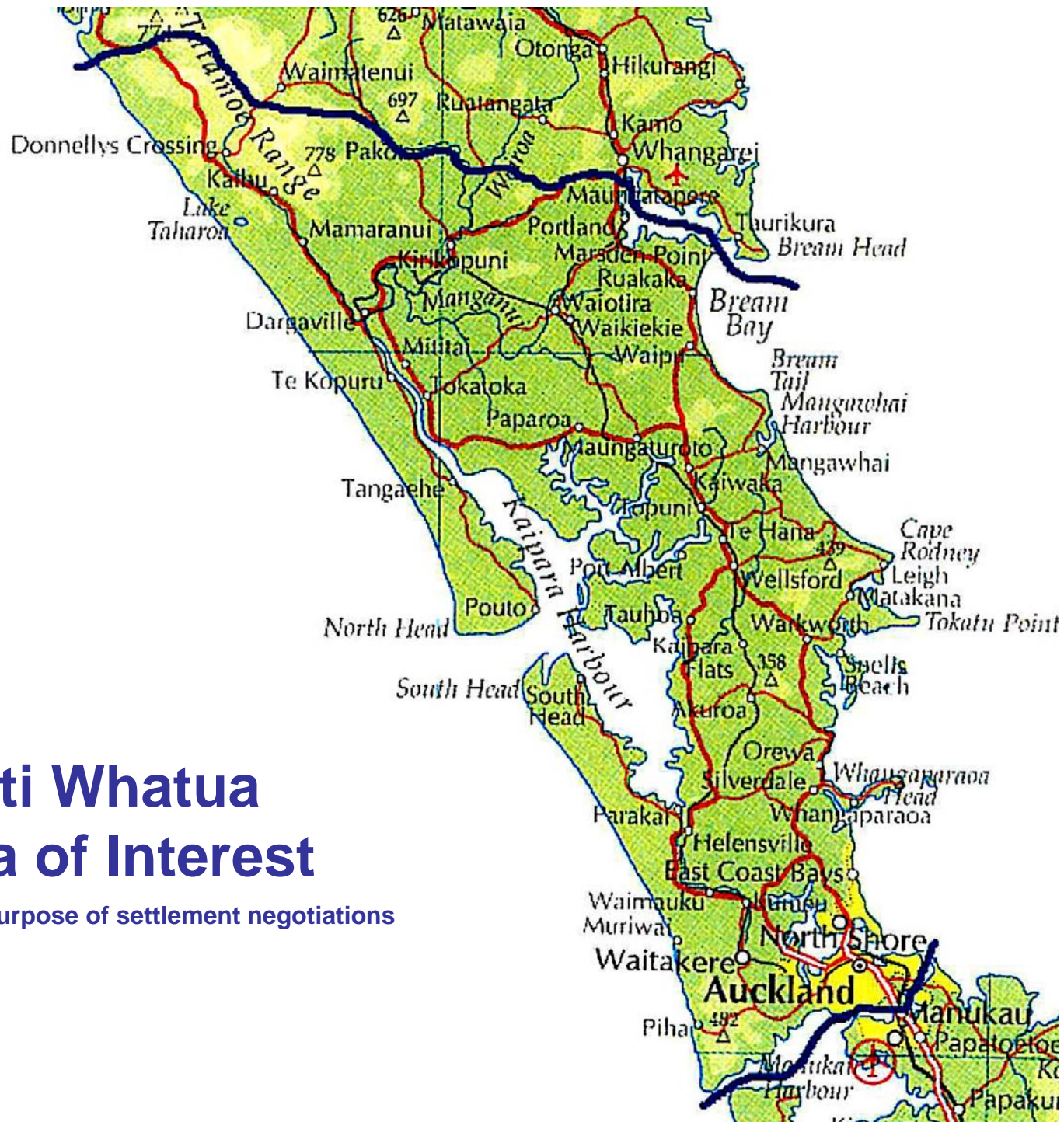
- The Runanga's mandate proposal refers to negotiating the settlement of the 'remaining claims'. This can be separated into three groups as follows:
 - the Ngati Whatua iwi claims
 - claims of hapu which have not yet been the subject of settlement negotiations
 - claims of hapu who have been in settlement negotiations but who have unsettled claims outside their settlement 'area of interest'
- Claims associated with South Kaipara Claims Committee are not included
- The claims that have been, or are in the process of being, settled as part of the Te Roroa, Te Uri o Hau and Ngati Whatua o Orakei negotiations are excluded and will not be settled again

Historical claims: full and final/partial settlement

- Historical claims relate to Crown actions or omissions that occurred prior to 21 September 1992
- A claim is either negotiated for full and final settlement or partial settlement
- Partial settlement often occurs because there are other iwi interests involved in the claims (and those iwi are not part of the claimant group). Only the Ngati Whatua interest would be settled. Any claims arising from other descent lines would not be settled.
- Under the mandate proposal, the Runanga would negotiate:
 - the full and final settlement of the following claims: Wai 303, 121, 313, 719, 887, 1045 and 1046
 - the partial settlement of the following claims: Wai 188, 279, 504, 619, 683, 688, 763, 857, 861, 985, 1114 and 1343

What area will be covered by the negotiations?

- OTS requires that the area to be covered by the claims be defined. This is known as the ‘Area of Interest’.
- The geographical area would be the traditional rohe of Ngati Whatua



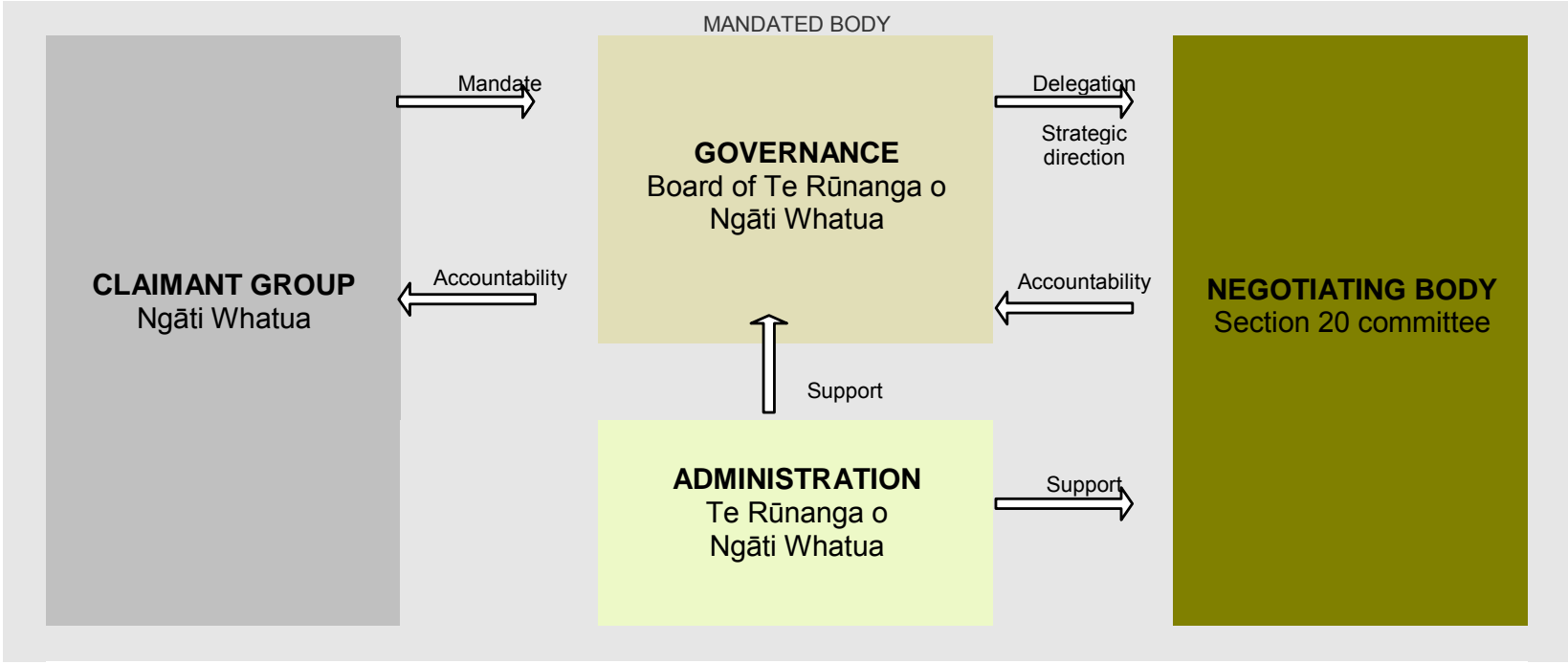
Ngati Whatua Area of Interest

For the purpose of settlement negotiations

Negotiation Structure

- The Runanga has developed a negotiation structure and in doing so, has been guided by the following principles:
 - Ensure measures and procedures honour and respect the tikanga of Ngāti Whatua
 - Promote collaboration and co-operation across Ngāti Whatua
 - Respect the autonomy and mana of individual hapu
 - Ensure effective and appropriate representation of Ngāti Whatua
 - Recognise the importance of the use of traditional structures and relationships
 - Build on existing structures and processes as much as possible
 - Ensure regular reporting to beneficiaries and meaningful consideration of their views.

Negotiation Structure: Organisational Arrangements



Negotiation Structure: Policies and Processes

- Decision-making: Board level and the Negotiating Body level
- Representation on Negotiating Body:
 - Composed of a representative(s) from each of the five takiwa as well as Runanga representations
 - Appointment, replacement, removal of takiwa reps carried out by each takiwa
- Accountability:
 - Use existing structures and processes for reporting to the iwi
 - Negotiating Body will report monthly to the Board and as required
- Dispute resolution

Mandating Process - Voting

- Three broad phases in mandating plan
 - Phase I: Pre-hui communications
 - Phase II: Information hui
 - Phase III: Voting (postal ballot process)
- Registered adult members can vote on the Runanga's mandating proposal
- Information sheets and instructions have been distributed to registered adult members on the iwi roll
- Votes must be received by 5pm on 11 June 2008
- When this process is completed, the Runanga will submit a Deed of Mandate to the Crown

Te Runanga Ngati Whatua

