

Ngāti Mutunga o Wharekauri Iwi Trust

Purpose: Hui-ā-iwi
Venue: Brentwood Hotel, Kilbirnie, Wellington
Date: Sunday, 28 May 2017
Subject: Initial offer by the Crown to Ngāti Mutunga o Wharekauri

Attendees

Elanor Amaru, Edna Hough, Sharon Amaru, Eddie Tuuta, Claudia Holmstead-Morris, Jill Holmstead, Mynetta Erueti, Ruth Beane, Helena Patuwai, Di Grennell, Hone Tibble, Te Amo Amaru-Tibble, Te Atawhai Amaru-Tibble, Evelyn Tuuta, Robyn Fox, Erica McGillivray, Cheri Ratapu-Foster, Mike Foster, Parekotuku Foster, Teresa Kenny, Robin Page jnr, Tom McClurg (Lead negotiator), Hariroa Daymond (Negotiator), Geoff Mullen (Negotiator), Paula Page (Iwi Trust Co-Chair), John Kamo (Iwi Trust Co-Chair), Mahara Gilsenan (Iwi Trust trustee), Raana Tuuta (kaumātua), Lois Croon (kaumātua), Gail Amaru (Iwi Trust GM), Tony Tumoana (Negotiations support).

Apologies

Melodie Eruera-Fraser (Iwi Trust trustee), Monique Croon (Iwi Trust trustee), Iwiroa Wairua (Iwi Trust trustee), Steve Tuuta (Iwi Trust trustee), Phil Seymour (SGG Chair).

Hui

John Kamo opened the hui at 2.15pm. Aunty Raana Tuuta said karakia. Gail Amaru introduced the kaupapa for the hui.

The hui was conducted in a relaxed manner and attendees were encouraged to ask questions or make comments during the presentation.

Attendees were provided with copies of the PowerPoint presentation, the Special Factors papers, Summary of Special Factors, and a copy of the Crown's Initial Offer dated 28 April 2017.

The presentation agenda was:

- Settlement Aspirations
- Components of the Initial Crown Offer 28 April 2017
 - Covering letter content
 - Covering letter comments
- Schedule 1 Crown Apology redress
- Schedule 2 Cultural redress
 - Te Whaanga

- Customary Fishing
- Joint Planning Committee
- Cultural Sites
- Statutory Acknowledgements
- Relationship Redress with Crown Agencies
- Name Changes
- Auckland Islands
- Schedule 3 Financial and Commercial redress
 - Financial Redress
 - Commercial Redress
- Unresolved Issues
- Unaddressed Issues
- Ngāti Mutunga o Wharekauri response?

Questions and Comments

Tom McClurg spoke to the PowerPoint presentation on the Initial Offer by the Crown. His general comments included:

- three negotiations pou for Ngāti Mutunga o Wharekauri (NMOW):
 - honour our tupuna and uphold NMOW mana;
 - provide for the mokopuna and look to create a future Chatham Island's community that is not divided and riddled with conflict but one that is united, successful, and viable; and
 - tell the story of NMOW truthfully.
- the proposed Agreement in Principle timeframe by the Crown is unrealistic as it hasn't addressed any of NMOW 30 Special Factors in its Initial Offer;
- the desire of NMOW to move forward in a negotiations environment where significant information is shared between parties;
- the Crown's initial offer implies an on-going process that requires a NMOW counter-offer at the appropriate time;
- the appropriate resolution of overlapping claims with Moriori;
- the appropriate resolution of NMOW Special Factors;
- NMOW mana whenua remains an outstanding issue with the Crown;
- the lack of resonance of the Crown's acknowledgements with NMOW historical grievances;
- Moriori settlement has previously had its Special Factors acknowledged by the Crown and it forms part of the redress offered to it by the Crown;
- Schedule 1 acknowledges only a few of the many problems the Crown has created on-island;
- Schedule 2 provides Cultural redress:
 - degraded condition of Te Whaanga;
 - management of the opening of the Te Whaanga;
 - MPI drafting customary fishing regulations for Wharekauri presents NMOW with a long-term opportunity;
 - Kaitiaki management of customary fishing;
 - the establishment of a management arrangement of Te Whaanga with Moriori, NMOW, Chatham Islands Council, and DoC requires initial funding;
- unresolved issue of mana whenua/manamoana status of NMOW with the Crown – outcome of April hui with the Crown where they recognised NMOW mana whenua;
- willing to work with Moriori on 50/50 basis is an expression of NMOW mana whenua:
 - context of mana whenua in relation to DoC estate;

- problematic for the Crown to return land as part of a Treaty settlement in which another iwi has an interest;
- provided Moriori with details of how this scheme would work -haven't received a response from them;
- offered Wharekauri 106, which raises concerns about what has been offered to Moriori in fee simple title;
- likely Moriori will be offered small and discreet parcels of land that doesn't include marginal strips around Te Whaanga or along the coast;
- Statutory acknowledgments relating to marginal strips, conservation areas and coastal statutory acknowledgement and the relationship to NMOW PSGE;
- NMOW offered relationship agreements with Department of Conservation (DoC), Ministry of Culture and Heritage, and Department of Internal Affairs. Feedback in the current hui round asks that Ministries of Education, Health, and Justice be added to this list;
- Relationship agreements and Statutory acknowledgments are time consuming for modest benefit and seem to be a tactic applied by Crown to overwhelm and detract Iwi attention from the important stuff;
- seeking suggestions for name changes to certain areas. While there have been suggestions regarding what name changes should occur, people have yet to make any suggestions. Attendees invited to make suggestions;
- erecting a Pou on the Auckland Islands acknowledging NMOW presence there 1842-1851;
- Schedule 3 provides Financial redress of \$9 million;
- NMOW Special Factors break the benchmarking applied to other settlements;
- impact of annexation on NMOW;
- impact of Taranaki raupatu on NMOW;
- Schedule 1 is feeble and based on our Special Factors there is a need to reassess the redress offer;
- rights of first refusal options for Iwi on the Chathams are low. Shared school sites with Moriori;
- throughout the NMOW hui no one has said what the level of financial redress for NMOW should be. This is positive because it allows the Negotiators to continue discussions on the NMOW Special Factors that the Crown has yet to discuss;
- the Hospital Block – the offer back process has yet not been followed correctly by the Crown and the implications for the potential successors of Mitai Tini;
- the way mana whenua is treated is critical to the resolution of overlapping claims with Moriori;
- the connection between Moriori claims and the Treaty of Waitangi is highly problematic. Moriori Article 3 rights existed at 1842 in relation to slavery but had few Article 2 rights at 1842. Slavery existed was endured by iwi throughout New Zealand at this time. Any recompense for this would have a flow on effect for other iwi;
- 30 Special Factors remain unaddressed by the Crown in negotiations;
- the Special Factors outline why NMOW isn't as culturally proficient as other iwi;
- the Special Factors set out why the Government should support NMOW to roll out programmes to increase its cultural capacity;
- our response is to not accept the Crown's initial offer:
 - establish a Special Factors work programme with officials to address these issue;
 - next phase of negotiations requires a cards-on-the-table approach between ourselves and Moriori to resolve Special Factors;
 - Moriori offer kept at Negotiators level and have yet to engage with their people on these matters;
 - by comparison NMOW is openly sharing the negotiations information with whānau;
 - creates issues for the resolution of an informed overlapping claims process.

When can we ask questions?

Tom McClurg: At any stage

All of this is ok but the fact is that most of our do not live on-island, so where do they fit in to this?

Tom McClurg: We still have the same tupuna and we all have mokopuna and those are matter linked to whakapapa, so that includes everybody.

What I am talking about is about being a united people.

Tom McClurg: Its fair enough to say that because I think there are...

Can I ask another question, why are we here?

Tom McClurg: There are two aspects to that. One is that settlements are divisive within the group aiming to get the settlement. The Crown plays a divide and conqueror role and what we have observed is that a settlement process is destructive of the Iwi. People get upset during the process and disagreements arise often. We need to be aware of the fact that settlement should be a process that unites all 1800 of us rather than divides us. Then there is a separate element to our settlement process where there is a parallel settlement process occurring with Moriori. Therefore, we don't want the settlement process to exacerbate the tensions and problems between Moriori and NMOW. Those tensions exist anywhere but they are most strongly felt on Wharekauri. When we get into the nuts and bolts of the settlement, one of the considerations that we want to achieve is to the current relationship with Moriori into a more positive space.

That might be the case, but I've been close to a settlement process for the last two years and they also have to deal with that situation but they dealt with it in a collective and trustful way – and they are dealing with it.

Tom McClurg: I'm not sure what you are suggesting Eddie.

Maybe it's because initially you were talking about the Chathams and not about the majority of our people who do not live on the Chathams. I understand the answer that you have given and particularly regarding Moriori, but other iwi are also in that situation and they do deal with it and they have dealt with which way they want to go. And I'm just trying to figure out you work the system to deal with it in terms of Moriori. I believe that you are right that the settlement aspirations is about the restoration of the mana of our people. How you are going to mix that with whatever is a challenge.

Tom McClurg: What you are discussing is what we are going to talk about in the course of this presentation. In a nutshell, what we've said is a critical factor for us in our settlement with the Crown is that we seek that the Crown recognises NMOW mana whenua.

That's paramount.

Tom McClurg: That's exactly right. Having established that, it is a proper expression of our mana whenua to manaaki and awhi other people and Moriori in particular. When we do that and offer to share things, the root of that is our mana whenua status. In sharing things, we are not saying that Moriori has similar set of attributes to us but we do think that on the Chathams, a shared approach to things where there are overlapping claims and interests between the two iwi is actually quite different. There still needs to be a lot of communication, sharing, and co-operation, more so than before. If the settlement isn't handled properly then

thing will become worse rather than better. The sooner these matters are addressed the better it will be for us all. All we are saying is that at the end of this process we want it better than it was.

The conversation that I'm hearing is the difference between tangata whenua and mana whenua. I'm understanding that there is a gap but what does that look like for us and how do you fit into that, so it is a very different kind of framework in terms of constitutional issues that affect our people. I guess this is part of the process to work out how this is done - is this process open for us to have input into? We can say this is how we can do this because the cultural redress is one of the core issues and although you haven't been able to drill into that yet, that is fine in the initial approach. Maybe what out of this come is that maybe we can help develop a structure to do things – is that an option open to us?

Tom McClurg: Yes, of course it is and that is the purpose of a hui like this. The three pou are not indicative of the work that we have done because we have sought to engage the Crown on numerous occasions in correspondence, reports, and directly in hui on the whole topic of mana whenua. Our position is that both Moriori and NMOW are tangata whenua and that we have mana whenua based on the history of Wharekauri.

I don't really care if there are 60 other iwi on Wharekauri all I want to ensure is that our story of Mutunga is told, how we stand and how we talk to Crown. The Crown can talk to other iwi however they want as that is their problem not mine. But until we get ourselves strong as Mutunga with our Mutungatanga we don't have a lot of bullets to fire when we are challenged by another iwi. There is one there now, it's a matter unresolved and not even addressed at present. We should note that as a hazard that is what is highlighted in those documents.

Tom McClurg: It is true in a sense that when we are strong it doesn't really matter what anyone else says about us. But in fact, there are consequences that come with settlements with the Crown. The Crown had offered to transfer 1200 hectares of the Glory Block to Moriori. This is on the basis that the Crown has recognised the rights of Moriori in this Block but not the rights of NMOW or the recognition of our mana whenua. We have already been battling with DoC over the proposed transfer of Taia Block to Moriori. The Crown has recognised the rights of Moriori in the Taia Block but to date has only made a passing reference to NMOW rights in the Taia Block. We have been pursuing the mana whenua question with the Crown throughout the entire negotiations because if the Crown intends to transfer land on the Chathams to another iwi on a freehold basis that would create a grievance for us. There are consequences to saying how the settlement is handled and it will have an impact on us regarding who has what land and what interests on Wharekauri and this is something that we need to manage very carefully.

What I am really trying to say is that is fine. I think that we should use the Waitangi Tribunal to resolve that issue. We need to say to the Crown you need to recognise us. And it is not only those matters it's also about the last 30 years has been an unbalanced process which has been to benefit of Moriori from the Crown. The impact of that has been huge for us. Maybe we can do this today because there is a huge tribal ... that is not there. I have asked tribes to come and help us do this but there has to be a mechanism that allows them to do that.

Tom McClurg: Lets continue with the presentation.

What happened was that Eddie Durie asked Alan Ward to put in a proposal to write the Report, Eddie Durie turned it down and the first thing he did was to write the Report himself. How legitimate that is that the Tribunal should right this crazy stuff – I'm not even going to go there. Durie wrote the approach to mana whenua for his own tribe because they needed security in their Treaty settlement. This is the politics that goes beyond the settlement. There is a different Chair at the Waitangi Tribunal with a different structure in place. I

don't know about that but I needed to tell that story. I can see where you are going but I think that the Waitangi Tribunal is another platform to help tell NMOW story and why it is in the position that it is in. If you consider the politics that have been going on in the background that has stopped us all the way down the years.

Tom McClurg: At the moment, we have a degree of direct control over the debate over our mana whenua status. The NMOW story. My view is that the wisest thing to do is to continue with that and not to place our fate in either the Waitangi Tribunal or the Māori Land Court on that crucial matter. If we fail in this process to settle then we can look to other options. But at the moment we are holding the line on mana whenua and I am far from giving up that we will not get an adequate concession from the Crown before this process is over on our mana whenua status.

Tom, just a quick question on the Waitangi Tribunal's Report, one of their first statements said that NMOW should not have gone to the Chathams and brings into question if we have any claim to the Island. the question is why should we take any notice of the Waitangi Tribunal at all.

Tom McClurg: I agree with you. What we were listening to before was a proposal that we should go to the Waitangi Tribunal to define our mana whenua status before we continue with the settlement. And I say once bitten twice shy. We do actually have a report whether you like it or not. It is a report that covers both NMOW and Moriori and from that point of view it is a very unsatisfactory report.

It says that NMOW should not have gone to the Island.

It is a Crown report, so NMOW doesn't have a report.

Tom McClurg: You are never going to have a NMOW report that comes from the Waitangi Tribunal.

It doesn't have to come from the Waitangi Tribunal, it can be a recommendation and have a status of its own. The point is, which is what I am suggesting is that there is a group around you to build all of that customary stuff because there are people out there that can help you do that to fill the gaps.

Tom McClurg: That is listed as part of our three aspirations.

Yes, I saw that and I have some documents that I will table.

Tom, there are three reasons?

Tom McClurg: Yes, there are three aspirations. What we are doing is telling our story and our grievance not telling the Waitangi Tribunal's story...

This is our chance to have a voice.

John Kamo: Kia ora Evelyn, can you please let Tom finish his kōrero and you will be given an opportunity to speak.

Yes – with the point being is that underneath that is a whole lot of stuff that is yet to come to the surface. Why I'm asking is because you have a working group to come and help you but that is not enough. There are gaps there which we can fill and other tribes can help us. Its ok – let's keep on with the process to find a way.

Tom McClurg: We've only just begun to tell our story in the Special Factors and it is only a beginning.

Excuse me is the purpose of this hui today to get our feedback in response to the offer that has been put to us by the Crown and provide a response back to them?

Tom McClurg: It is.

That is the purpose of the hui today.

Tom McClurg: Yes.

Thank you. In response to that, what has been the response from our whānaunga at the other hui held around the country?

Tom McClurg: To skip to the end of the story what people have said is that the initial offer is unsatisfactory and unacceptable, which we all agree with. There is not the slightest bit of disagreement about that out there. When you receive an unacceptable offer, there are two choices available, either you spit the dummy over proceedings, or you continue the process of negotiations. If you proceed then it becomes a matter of what do you want to negotiate about. This then becomes a process not to accept the initial offer but keep the negotiations going so that at some point in future we are in a position to make a counter-offer, but now is not the time to do that. That is a summary of the feedback that we have received from the other hui and we intend to continue with negotiations. Does that answer your question?

Yes, it does thank you.

Mana whenua when another iwi has come in to an area for example Ngāti Toa. They are obviously very strong and I don't think the Crown would let us end up in a position where we are going to share mana whenua around. Is the Crown treating NMOW differently from other iwi?

Tom McClurg: I feel they are. I think this is what caused Eddie so much trouble when he was writing his report and that is why he is making this crazy recommendation that the Crown should get rid of mana whenua. He tried to attack mana whenua as being a non-customary concept.

In general, or just in relation to NMOW?

Tom McClurg: In general.

Then he might be able to apply that to Ngāti Toa as well.

Tom McClurg: He couldn't really pull that off. He then had to say why this doesn't apply to the Chathams and he went through these arguments:

- NMOW didn't conqueror the Chathams because Moriori didn't fight back therefore the use of the term conquest is invalid;
- NMOW abandoned the Chathams in the late 1860s. We have shown in our Special Factors papers that it wasn't an abandonment but people had to go to Taranaki to be personally represented in the Compensation Court to try to maintain their land interests there; and
- the most contemptable thing of all was to take writings of Te Rangi Hīroa, one of the great Ngāti Mutunga scholars, and twist what Te Rangi Hīroa said on the issue of mana whenua. Te Rangi Hīroa was very clear in that if you were an invader that comes in, defeats somebody, takes the spoils, which includes slaves, and then return to your tribal rohe, you do not have mana whenua over that space. It is necessary to not only subjugate whoever is there but you have to remain and occupy the place.

Even if there is an unconquered remnant of the original people remaining there, your mana whenua status is questionable.

The history of Wharekauri is actually clear that the conquest was complete. Rakatau in his evidence to the Native Land Court said 'we caught all the people, those who ran from us we killed. We killed other people also, but what of it, it was according to our custom'. What he was describing was a very complete process of conquest. All the evidence says that that sort of control was maintained from 1835 onwards and this was recognised by the Native Land Court in 1870. That is why all of the land titles were awarded to NMOW people. Reserves were only set aside for Moriori at the request of NMOW customary land owners. I consider the mana whenua story on Wharekauri is robust but it does constrain what the Crown can offer Moriori under the settlement redress because it becomes problematic if the Crown goes around offering fee-simple pieces of land to Moriori. The tension around is not that the evidence is unclear it is the fact that the Crown has gone a long way down the process counter to the evidence and don't want to retreat out of it. We need to hold fast and at least get a recognition from the Crown that we have mana whenua. They did actually give us that recognition at a hui on 6 April, which fortunately was attended by a number of NMOW people who were there to hear it with their own ears. We had battled this point for months and then in the course of the hui they suddenly conceded 'of course you have mana whenua'.

This was the Crown?

Tom McClurg: Yes, it was the Office of Treaty Settlements (OTS) negotiators Ben White and Fran Wilde. We immediately asked them to confirm this and they asked why we were surprised by this admission. It was that we had never heard them say that. Then at the end of the hui Paula and others returned to the point and everything was fine. They obviously began to talk about amongst themselves after we left. The first thing they did was to write up the minutes of the meeting and remove any reference to them acknowledging our mana whenua. We replied this was incorrect and they had to put it back into the minutes. Then they began to say that it was all just a misunderstanding and that they didn't really mean to say that to us. But they have said it and it is very frustrating dealing with them when they behave in such a manner. They are aware there are profound implications on this issue.

It's amazing that they know that the bullet is coming but they don't know where it is going to come from. It is a critical process around this issue and it really isn't fair.

Tom, I think that driving all this is the fisheries settlement. They took 50% off us and gave it to Moriori and it comes down to this issue of mana whenua.

Tom McClurg: I think that is their argument and when I use mana whenua and manamoana we are against that as well. There is a clear-cut story in customary terms. NMOW was the group on the Chathams that actually exercised sovereignty and what we now refer to as ownership in 1842. At that time Moriori did not exercise sovereignty and therefore it is inappropriate to have the settlement of two iwi with the same parameters because they are made on the back of two different sets of rights that were secured by the Treaty of Waitangi in 1842.

In terms of mana whenua and land in relation to Ngāti Toa, mana whenua in what is now the Marlborough lands it was held by Te Rauparaha and neither Te Rauparaha nor Ngāti Toa would settle on that land yet the iwi claim mana whenua over that land. The outcome was the Wairau massacre where he took control from the settlements.

Tom McClurg: You have to be careful with every similar but different situation in respect of mana whenua. The Crown has run this argument that people at the top of the south just got over this issue meaning that people shared assorted interests in various areas and you NMOW should be doing the same thing. In other words, you should just drop the whole mana whenua argument that is being run here. But clearly the circumstances in the top of the south are not the same as those in the Chathams. In circumstances elsewhere where there are overlapping matters around your borders, they are not the same as those in the Chathams. The Crown really hasn't wanted to wrestle with the difficult thinking of what the history on the Chathams implies in terms of the Crown's obligations under the Treaty of Waitangi. You don't have two iwi down there with equal interests, you have two iwi with quite different interests when you look at them with clear eyes and the Treaty of Waitangi as a guide, the logic is that you have to end up with settlement arrangements with NMOW and Moriori. We are holding the line firmly on that but the Crown would rather that it was just a murky thing that allows them to feel satisfied that they have done something good for Moriori.

For me that 10-owner rule should have been applied to all over New Zealand.

Tom McClurg: The First Schedule is a list of the things the Crown is willing to admit that it got wrong and according to the Crown there are only four of them. The first acknowledgement is that the Crown acknowledges NMOW are tangata whenua. Whoop-dee-do¹ – of course we are. That is not a very significant acknowledgment in our view. It is absolutely obvious that we are tangata whenua. By saying we are tangata whenua that is their way of trying to side step that we are mana whenua. We are not falling for it. The last three acknowledgements the 10-owner rule, the Native Land Court, and the compulsory acquisition of economic interests in the 1960s these are things that many iwi have been harmed by. The way in which they have worded the letter that you have got there for the offer, it looks to me that the Crown has just used standard boilerplate language which they use with all iwi. Whereas even Eddie Durie in Wai 64, who is no friend of ours, acknowledged the impact of the 10-owner rule and the Native Land Laws were much more severe on NMOW than on other iwi. The reason for this is if you lost customary land rights in the Chathams, the ultimate consequence for you was that you were exiled from the Chathams. You simply couldn't go and work in the town next door where your land was or used to be, you had to move far away and in many cases, that was the last time you saw the place in which you were born. We have heard numerous examples of whānau members dying and being buried in New Zealand due to the costs of returning home. Those acknowledgments are feeble and inadequate. Initially I found that very annoying because they are also acknowledgments that they could have drafted on the first day of negotiations. We have been talking about all sorts of things that don't appear in their acknowledgements. I find it insulting to have acknowledgments that are so weak but the more I've thought about it that is a strategic blunder by the Crown.

What is the size of the marginal strips?

Tom McClurg: It is the surveyed lines on a cadastral map that don't relate to the level of the water in the Lagoon. There will be times when the water level is above the level of the marginal strip and other times it may not even reach that marginal strip.

What you are talking about is the Lake bed and the marginal strip.

Tom McClurg: Yes. The good thing there is that the marginal strip abuts the road meaning that public access to the Lagoon is assured.

¹ An ironic exclamation of approval or pleasure in an event in which the observer is actually bored or unimpressed.

So it replaces the Queen's Chain?

Tom McClurg: Yes.

Does that marginal strip go right around the Island?

Tom McClurg: As far as I can tell most blocks when they were surveyed had a marginal strip peeled off from them. This means that most people's land doesn't actually go all the way to the lake but it goes to the marginal strip, which was 20 meters or twenty-two yards wide.

The fence lines going into the Lake represent what? What is the history of that in terms of this settlement?

They are in place to manage the stock.

So they had the right to put that in?

John Kamo: They had them there to control their stock and they still have them today.

So that is an ownership issue – so that kind of stuff.

Tom McClurg: No, a lot of people have fenced in that way to control stock from walking around the fence and on to neighbouring farms. They don't own that part of the Lake.

Ok. Totally understand. I'm really interested in who manages, who monitors, and who controls [?]. excuse me but I have to do this for the whole of the Wellington region and that is why I am asking these questions. You don't have to give me an answer now but it is an area that we need to think about.

Tom McClurg: I think that we go down to the third point [Te Whaanga Lagoon] it discusses ownership of the Lake and the details of what is being offered to NMOW, which was a previously denied by the Crown through describing the Lagoon as an arm of the sea.

The Crown said...

Tom McClurg: No it isn't.

Tom that strip of land used to be quite a significant wetland area, is that still the case?

Tom McClurg: The strip I'm talking about is not mostly wetland. The area has been fenced and restored but it is really just lakeshore.

It must have dried out a lot.

It's eight kilometres around the coast and the wetland is now in conservation hands and the big wetland that you are talking about is still there around by Ocean Mail. It's just the marginal strip for eight kilometres which goes around Blind Jims' area and it stops at that bit that goes over to cemetery point and it goes around the coast to ... it is eight kilometres

So to confirm you say it's not eight kilometres around the Lake rather that it is only in some places.

Yes.

Tom McClurg: It is only ...

What happens to those other marginal strips?

Tom McClurg: The other marginal strips boundary that runs along Wharekauri ...

That's crap then...

Tom McClurg: The thing is you can really only blame the Crown for things that they have done to make it valid. To make it viable it had to include Wharekauri marginal strips. They weren't left to do that anywhere else and I don't know the real reasons for that. Originally those marginal strips were claimed a 100% by Moriori in fee simple and they also claimed 100% of the Lagoon bed. Where we have ended up is at 50%.

Were they willing to accept the cost of cleaning up the Lagoon?

Tom McClurg: That is the implication that of what proposed. It falls under a management relationship arrangement between the two owners. It is called a management arrangement but in the previous discussions we have had it could be more accurately described as a governance arrangement over Te Whaanga and I think that is appropriate. That body would develop a long-term plan for the restoration of the Lagoon.

There doesn't seem to be any funding referred to in this, so is this a cost the Crown expects us to absorb. It seems like bullshit to me.

Tom McClurg: That is why we've noted it for further discussions with the Crown.

What is the advantage of owning even 50% of the lakebed?

Tom McClurg: What people have said to us is that Te Whaanga is a critical resource that they want control over for the future.

In other words fishing.

Tom McClurg: Not necessarily fishing. There are things around the health of the Lagoon like the fouling of it by birds, in particular swans, and that is causing change to what is in the Lagoon. The other thing that people have mentioned to us is that they want more influence over when and how the Lagoon is opened, which is currently decided by CIC.

What about mining?

Tom McClurg: You couldn't have any mining there without the approval of the owners because you can't do anything in the Lagoon without talking to the owners. As an owner of the Lagoon you are in a strong position to stop mining or have a significant influence over it and accrue any benefits. Ownership is the foundation for strong control over the Lagoon and that's why 50/50 ownership, even though it has responsibilities, is consistent with what people have asked us to pursue, which is that they want to shape the future management of the Lagoon rather than in the hands of CIC. The management committee would have NMOW and Moriori representatives on it. It would also have CIC and DoC representatives because they have particular legal responsibilities that relate to the Lagoon and its environmental management. But they are not there as owners.

If you have a shared interest in the Lagoon with Moriori what impact would that have on the sharing of interests for the rest of the Island?

Tom McClurg: Strictly speaking the interests are up to the two iwi to determine. It is up to NMOW to decide what is best for NMOW. It would be difficult to list things that would be good for NMOW and Moriori but not for the Island generally.

I'm talking about mana whenua.

Tom McClurg: The situation is that we are in there because of our mana whenua status. It is an expression of our mana whenua to share this resource and to handle the responsibility of its management and be sensitive to what Moriori wants in terms of the outcomes of the Lagoon.

Can it be used as an instrument to improve our relationship with Moriori?

Tom McClurg: Yes, I think that it can. Anything that helps you get over yourself by saying we are here and we have a responsibility for this thing over here, does shift you into a pro-active mentality automatically. Our role in Te Whaanga is to say that is what we are working on. It seems to be a vision on what this may look like but it seems to me that we do have vision which we should encourage.

What about the other lakes?

Tom McClurg: They are not included in the settlement as some are located on private land.

But the beds are not owned by the private land owners?

Tom McClurg: I think in most cases it is included in the titles.

I think that it is the only place in New Zealand where the land owners still own their lakes and they aren't always lakes because they dry up.

What about Huro?

What about Tūwharetoa?

What sort of definition does the Crown apply when they have to describe a cultural site to Moriori. My recollection of burial sites is that they are located all around the coast and in each of the lakes, and particularly at Wharekawhia[?] because it was bushland that they never went into. All that bush has now gone.

Tom McClurg: Moriori have been creative in the stories they tell around their cultural interests. That very thing has been a big part of their argument and they should be given coastal strips all around the Island and it is true that there are Moriori kōiwi in those places. Our argument is there are also NMOW kōiwi in those places as well as other interests. Apart from that we simply have mana whenua. The Crown has previously accepted that Moriori should be given fee-simple ownership to every bit of customary area they claim to be theirs.

It should be noted that NMOW had specific areas as urupā, Moriori didn't.

Tom McClurg: Yes, that is as I understand it. The Crown has been frustrated that we haven't entered into their game of telling them stories about our relationship with particular sites. This is because the Crown wants to mark those stories, so if the Moriori story gets an 'A' and our story gets a 'C', this in the Crown's mind allows them to make an award to Moriori. The Crown doesn't have the capacity to make decisions that compare one group's cultural interests against another's. We do. We haven't engaged in this process. I think it is a repugnant process that the Crown should not be applying or engaging in. Generally, they are smart enough to avoid doing

that in other places but here they have an appetite to do that. We have done our best to suppress that appetite but we haven't been fully successful.

What is meant by Relationship Agreements?

Tom McClurg: They represent the re-establishment of NMOW relationship with various Government Departments. It is essentially put in place to ensure that Government Departments provide their services NMOW that they are legally required to do. They take a long time to negotiate and at the end of the day the Agreements won't go any further than what agencies are required to do. There is some merit in going through the process and nailing it down on paper. I think that Relationship Agreements and Statutory Acknowledgments are methods that the Crown applies to groups during negotiations to overwhelm them with detailed work which at the end of the process delivers not a lot of value at the end of the day. What people have asked for is that in addition to the agencies that are already listed in the Schedule that we enter into Relationship Agreements with the Ministries of Education, Health, and Justice. While we will add them to the Schedule there is no reason why the detail of these need to be finalised by the time of the AIP.

What is meant by Crown minerals?

Tom McClurg: The Crown has a list of minerals that it owns and allows the licensing of.

So those big machines out there are going to come to Wharekauri?

Tom McClurg: No, I think its...

There is no guarantee on that and you know that. Big business will control that not us.

Tom McClurg: Firstly, there are minerals and then there are Crown minerals. Whatever the obligations are that Crown minerals has to iwi we can get that documented as part of the settlement. It doesn't give us any further influence than we already have. Sometimes there is a value to be had in reminding people that we exist. It doesn't allow us to stop anything it doesn't give us valuable mineral rights.

Tom, my comment on the Relationship Agreements is that I want it noted that those Relationship Agreements are not with Ministers but they are with various agencies and departments. In my daily life, I am involved in having these sorts of discussions with other iwi [unintelligible] from the Te Puni Kōkiri in that way [unintelligible]. One of the things we have been insistent about is prescribing things that they can't achieve in court [unintelligible] and no more accords of the type Tūhoe had. These are often attempts to codify a commitment to a relationship that a department will engage with an iwi in good faith. They don't tend to be specific in terms of policy settings because policy settlements will come and go as governments change. A lot of it is also to do with future proofing as a protection against the change of personnel that iwi have to deal with. It means that an agency can't disengage and in some instances maybe more than it already has. That is the way they are operated. The Ministry of Health tends to be reasonably challenging in that context because they see the exercise of a relationship with iwi as being through a District Health Board rather than through the Ministry itself and that's a very sore point for many iwi. Also, they tend to take a convoluted speed dating form where agencies will come together and listen to an iwi talk about their aspirations, and in response will say how interesting those aspirations are and go off and talk about them. The problem we need to be aware of is that any of these agencies could have multiple relationships that they have to manage with iwi throughout the country and it then becomes a matter of having the capacity to commit resources to these relationships. I would agree with you that you should tie up too much resource into this space too soon, otherwise people's expectations around what they will gain out of this process tend to exceed the reality of the process.

Tom McClurg: Thank you, your comments have been very helpful and remind me of something which is one of the discussions that we have had is the idea of grouping the Relationship Agreements into two broad baskets of economic agencies and social agencies. We are interested in putting in the same obligation in to both so that when they go to the Chathams they go as a logical group, because what makes the Iwi Trust's life difficult is the constant stream of agencies blowing through town and thinking that they can just roll in unannounced.

There was a general discussion on this point amongst hui attendees.

Regarding name changes, should it come down to a customary source and the whakapapa associated to that place? That is what I am saying in relation to the customary redress.

Tom McClurg: I agree with you. As with every examination of whakapapa there is sometimes more than one story.

There is nothing wrong with that, Tom.

Tom McClurg: The point is that we are very open to people who want to see something addressed there is an opportunity for this to happen.

Can I just go back to this treaty settlement stuff? You actually have to an obligation to talk to us and it is an opportunity for us to have a say. You actually have an obligation under the Act to talk to us². I just wanted to say that. You're in the hot seat and you are being monitored and that's the way it is. You just need to take the bullets and that's what I am saying. The Act says that you must talk to us.

Tom McClurg: I feel I'm doing that.

Regarding our claim to the Auckland Islands, we need to be aware of Ngāi Tahu on this matter. We will have to go and discuss this with them at some stage. A massive scrap went on in the Waitangi Tribunal and all of that is on the record. We were lucky in that we kaumātua sitting at our table whose grandfathers had lived on the Island. We had the whakapapa and we had people who lived there facing Ngāi Tahu. There has been a lot of discussion in the Tribunal and you can source those documents from there to help discussions with them.

Tom McClurg: I don't think that there is any real debate in history over what happened. When we raised the issue with DoC they initially said that we would need the approval of Ngāi Tahu for this to occur. I disagreed that we needed their approval. The wording has now been modified in the initial offer to say that it should be subject to discussions, which is more agreeable. my personal view is that it wouldn't really matter what happened in discussions with Ngāi Tahu those discussions.

We want to build a relationship with Ngāi Tahu – don't we Tom.

Tom McClurg: We don't build that relationship on the basis that they have a veto.

I'm not saying that, we need to talk to them about this.

Tom McClurg: I don't consider that they have a veto. Are you saying that they do have a veto?

No, what I said is that is your personal view. I'm suggesting to you that if you look through all of those documents, in the knowledge that we have discussed this in the past, so we can see where we have got to, there is a change, and discuss where we go to when we are dealing with the Crown. Now here's the point,

² Engagement is a Crown policy – see OTS' Red Book.

when we last met we said we will sort things out with the Crown and then we will talk, and that is exactly what we are doing. What I am saying to you is that the initial conversation is on record because we gave koha to them in all sorts of ways.

Tom McClurg: It is one of the things that will happen in due time. Our discussions at the moment are with the Crown.

I appreciate that and that is exactly what I am saying. Ngāi Tahu will probably help you more than you would think but you won't know until you start the kōrero.

Tom McClurg: They haven't really suggested that will be the case so far.

Is it your understanding that Ngāi Tahu has mana whenua over the Auckland Islands?

Tom McClurg: I'm not sure of the wording of their settlement but that is certainly what Ngāi Tahu considers.

Why?

Tom McClurg: well they asserted it and the Crown accepted it, which goes back to the points that I was making earlier that it does matter what the Crown acknowledges and agrees. That doesn't have any cultural validity but it shapes the legal opportunities in the framework in which we all have to live.

Tom, in the Waitangi Tribunal there was Sir Geoffrey Palmer fighting for NMOW involved in a scrap over mana whenua. What I am saying to you is that those legal arguments were very out there. You need to start where you are at and where you go to from there on is another factor but there is no need for those two [unintelligible].

Tom McClurg: We will continue from where we are.

The Crown has offered us \$9 million dollars which is feeble but it is also pretty much as expected. The reason I say that is that at the beginning of the process I bumped into Fran Wilde in town and she intimated that we had to reconcile ourselves to a settlement was less than \$10 million dollars. I said to her that I wasn't at all reconciled to that figure. I think that what happens at the start of these processes is that they go to Cabinet with a figure that is approved. I'm sure this is the budget figure that has been approved. However, this means there is a gap between the Acknowledgements in Schedule 1 and the redress in Schedule 3. The challenge ahead of us is to narrow that gap by modifying what is in Schedule 1 to positively impact Schedule 3. It's certainly going to be a marathon rather than a sprint in terms of these negotiations. We still have 30 Special Factors that have yet to be addressed by the Crown and we have yet to hold any discussions on what shape the redress might take for these matters. There remain massive issues that go beyond the Crown's four acknowledgements that we have yet to engage on. This will put OTS in the difficult position of having to re-approach Cabinet for more money to resolve this. I'm certain they will be reluctant to do that.

So, what you are saying is that there is a gap between Schedule 1 and Schedule 3?

Tom McClurg: No, what I am saying is the \$9 million offered based on the four Acknowledgments isn't that bad. The problem is that there a raft of other factors they have failed to consider and account for in their initial offer. This means that the offer isn't good enough.

What was bad about Schedule 3?

Tom McClurg: Schedule 1 is where the Crown says this is what we got wrong in respect of our relationship with you under the Treaty of Waitangi. Schedule 3 is where the Crown says that as redress for our actions, this is what it is worth to NMOW. The \$9 million is a function of Schedule 1, so if we change Schedule 1, we have to change the \$9 million. We can change Schedule 1 because of the quality work and research we have done and can present as evidence. The Crown has yet to address the Special Factors papers but as those discussions proceed and we get traction on them I'm certain we can have a positive impact on Schedule 1.

The Crown have had many settlements up and down the country, so they have a lot of information and templates to throw at us on variations on a settlement. We can do that as well but you need to call on us to help as you can't do it on your own because this is where you guys have got to you have been part of that whole Schedule as well. That is the way it is. Maybe it's the time for the three of you to, I'm not saying that you should resign because you have to live with what you get out for us, but you can't do it on your own and it is clear to us all. But you must talk to us about it, there are a whole lot of skills in this room that can help you particularly with the NMOW story. It's not just about the \$9 million.

Tom McClurg: It certainly isn't. Let's carry on to the end of the presentation.

There is one other comment about Fran Wilde what she tried to convince you of and you indicated that you weren't agreeable to that figure. By doing that it tarnishes her credibility in terms of going forward. When you pull these other things out of the basket she will have to backtrack down the track.

She won't bat an eyelid.

Tom McClurg: When we met OTS on-island a little over a week ago, we gave them our initial response to their initial offer, I think the penny did start to drop with Fran that she had spent their budget on 10% of the issues, much to the discomfort of her officials. I think that they are under some pressure and that's why I think it's inappropriate to ask the negotiations team to resign. I think that we are in the position to exert that pressure which has done a certain amount of good for NMOW.

Tom, in your opinion do you think that Moriori have been offered the same amount of redress as us?

Tom McClurg: I'm not sure what Moriori has been offered but I consider that it is likely to be similar to us. I do know from the previous settlement where they got further in the negotiations than we did, Maui told me they were offered \$7 million in redress. They may get a little bit more than in 2007 but I know that they were extremely disappointed with that offer. The difference with Moriori is that their whole story is known and they have been singing the same tune all the way through. Unlike us, our Special Factors have yet to be considered. All they can say is that they disagree with the Crown about the weighting that is given to our Special Factors. Whereas I feel we are in a somewhat strong position in that there are entire areas that the Crown has yet to turn their minds to and I think that is a strong negotiation position rather than simply challenging a figure that you do not consider high enough. That is a totally subjective approach that affords the Crown the opportunity it either take or leave it, which is a position I want us to avoid being in. If you say there is some legitimacy to some of these things that you wish to be acknowledged to increase the level of redress. Now it is likely that the Crown will seek to minimise the level of redress.

Can our negotiators request how the Crown is looking at these things and how much Crown funding has gone to Moriori over the past 30 years? This information needs to be put on the table.

Tom McClurg: I think that these details are covered in Special Factors paper 3, which is available to read on the Iwi Trust's website. It is an issue and what we are really saying is that the Crown should treat NMOW and Moriori even-handedly.

Here's the point Tom, we have to live with what actually comes out of the gate because once you've done all of your talking we are the ones that have to live with what is going on out there. It's a very different story. Our kids, our mokos have to live with what we decide and they are going to struggle with what we might get – honestly.

Tom McClurg: I don't think that anybody is uncertain about this process. The Moriori claim is made essentially under Article 3 which claims that the Crown didn't move quickly enough to remove them from subjugation. If you place our framework, which is around mana whenua, our claim is really more of an Article 2 one and that we had sovereignty over the Island and we had mana over the Island and the idea that there are two different sets of grievances could automatically end in an outcome which is \$10 million each beggar's belief. The fact that the Crown is approaching it that way is evidence to me that that they haven't got their head around the fact that under the Treaty of Waitangi we have a different set of claims from Moriori and the redress from the harm caused by those grievances will end up in a different place.

Is it inequitable?

Tom McClurg: It is not inequitable. The fact is that we are different. They need to be treated fairly to whatever their claim is and we should be treated fairly in respect of our claims. It would be a massive coincidence that both offers could end up in the same place.

Tom, what will happen if we decline the offer – would the Crown go ahead and settle with Moriori in that instance?

Tom McClurg: I think they are likely to do that which would be damaging to us as things would become very strenuous for us, for example we would struggle to maintain a negotiation relationship with the Crown, there would be issues for us in regard to the whenua, and there would be numerous future opportunities that we would be shut out of. We could say to the Crown that mana whenua is a deal breaker and without it being recognised that could potentially have a negative effect on the settlement but we don't really know yet. But the consequence to NMOW declining the offer are potentially quite severe.

What are your thoughts about moving forward through this process?

Tom McClurg: There is very little commercial redress other than a small number of commercial properties. They are of limited value. There is a right of first refusal over other Crown properties but it is unlikely that they are going to be released by the Crown for settlement purposes anyway. One of the things that was in the original claim and everyone seems to have forgotten is the Hospital Block.

Can I ask where that has gotten to?

Tom McClurg: Initially the Crown said that the Hospital Block was available as a potential settlement asset offered by the Crown as commercial redress, which the two iwi could argue over. Originally the land was taken under the Public Works Act (PWA) from Mitai Tini and he was paid at the time what the Crown considered to be fair market value.

There was no record of it anyway.

Tom McClurg: The Crown has labelled two of those blocks as being surplus to requirements. The Crown's process is that it is required to offer the blocks back for purchase to the successors of Mitai Tini before disposing of them. The Crown said that they went through that process and the successors weren't interested in buying it.

Who did they offer it to?

Tom McClurg: That was exactly the question we asked – what was the process that you have been through? When we talk to people that are part of the successors they have no recollection of having received such an offer from the Crown because their response has been they would organise themselves to buy it back.

This conversation has been going on for the past six months during which we have said to the Crown tell us exactly what the process was that you ran – who was it offered to, what was the offer. So far, they haven't told us about what the process that Land Information New Zealand went through to offer land back, even though we raise it at every meeting that we have with them. But what I suspect is that the offer back process was deficient and the best option would be to re-run the process that engages the appropriate whānau members. I think that if the process was run again today there is a very high chance that the successors will say that they will buy that land and it will become unavailable as a settlement asset as it will become private property. Presently we don't know exactly where we are at with it but my best guess is that the Block will not end up as a settlement asset.

I did a search for that when the Department of Māori Affairs closed down. That is my understanding of it and I'm really asking because there were five houses and a whole lot of other property and that is all gone.

That point is pertinent to the Sealords deal and that we weren't allowed to go to the High Court. The items say by what rights I claim to be able to go in which is mana whenua – she signed the Treaty. And it is those who are descended from Moriori can't do that – I can do that because I'm NMOW. That is the only reason, which is why I am saying, ... and that backs up what I am saying, and the only reason I am saying, and you can go and talk to the QC's if you like, is our whakapapa to [unintelligible] otherwise the Sealords deal would not have gone to the High Court.

Tom McClurg: You don't have to show that you signed the Treaty of Waitangi in order to have Treaty rights.

But back then it was highly political and contentious back then because a lot of tribes had signed off entirely [unintelligible] on them. I had to get my lawyer to injunct all of the tribes of New Zealand to say no. That's not quite true, that's not the story. The story around Treaty settlements and that is the extent that we have to scrap for what our rights were. But where did it get us? It got us to this – its crap.

Tom McClurg: We have tupuna who signed the Treaty but not signed in the Chathams.

That's not what I am saying Tom. That's not the question I was asked by the QC [unintelligible] I have a right I don't have to live in New Zealand to be NMOW. I can live in Australia and still be NMOW. Our whānau that live there still have the same rights as me.

Tom McClurg: Absolutely.

And that kind of argument doesn't wash today. We were there in 1835 and at that time we were neither a part of New Zealand or Great Britain and it doesn't need any kind of romanticising...

Tom McClurg: I've already said that twice Evelyn that in 1842 we had sovereignty...

I know what you are saying and it's my world view and of course we accept that. At the time when we took over mana whenua rights and we established that we had the rights of mana that allows us to stand on the Island. What I am saying is that what started in 1842 has its [unintelligible] and you need help to write the story so that the next three or four generations can read why we did it.

Tom McClurg: I'd like that too and it is probably worth going over this again so that we are really clear on this point. The sovereignty that I referred to was established by Ngāti Mutunga in 1835 through a process of conquest. It was still the case in 1842 when the Crown just declared with the stroke of a pen that Wharekauri was a part of New Zealand. In 1840 when the Treaty was doing the rounds, it didn't go to Wharekauri because Wharekauri wasn't part of New Zealand at the time. In 1842, they then didn't dust off the Treaty and take it down to the Wharekauri for people to sign it because there was never the thought of doing that.

Can I just say something?

John Kamo: Like I said at the start of the hui, we are going to let people have the opportunity to speak without interruption and then once that person finishes there will be an opportunity to ask questions at that point. Kia ora

Tom McClurg: In 1842, the Treaty wasn't taken to Wharekauri meaning that people living there never had the opportunity to consider or sign the Treaty of Waitangi. When sovereignty was imposed everyone had rights under the Treaty whether they had signed it or not. That is true today where lots of people say we have no tupuna who signed the Treaty and we wouldn't sign it if we were given the chance. That has no impact on whether they have rights under the Treaty of Waitangi today. It is a very significant special factor of Wharekauri that we are the only place in New Zealand that was annexed by a process where we never had a chance to consider the Articles of the Treaty and whether they were concepts that we might support or not. That is a thing that is unique to us which means that our settlement shouldn't be benchmarked against any other tribe's settlement because nobody experienced the same process of annexation that we did.

I'm just going to listen to you because these people don't know but I know what happened so keep talking to me. I really want to come and say look Tom but at least I say it. I have to say that is your world view on it but it's not the whole view of the Island because if you look at what Ngāti Mutunga was doing between Wharekauri and Port Nicholson and they kept coming back here and they were here all the time and the chiefs were travelling between both places and it is just crazy and the first time I've heard that is from you and that is your view.

There was a general discussion amongst attendees to clarify what Evelyn Tuuta had just stated. This matter was resolved and the presentation continued.

Tom McClurg: There is an abject failure by the Crown to recognise the existence of Māori on the Chathams during most of the 20th Century. Wharekauri received no support from the Crown for supporting Māori development programmes that were happening in parallel in New Zealand until 1962-63 when the total government expenditure by the Department of Māori Affairs on Wharekauri was £42.

These are things that we need to discuss further with the Crown.

Lots of the stuff that went on with the Māori community on-island was done through Ngāi Tahu through the Māori committee. There was nothing else down there by committee. We were never allowed to be part of the New Zealand Māori Council, they refused to let us in. we had to go through Ngāi Tahu because that is where the money came from and that is why the [unintelligible] and that is what the record shows. We tried to get

our own direct link to New Zealand Māori Council but that is what the Crown [unintelligible] tribes and iwi and it didn't happen and that is why ... then Hariroa went home and the rest is history.

What year are we talking about Evelyn?

There was a brief discussion amongst attendees on this matter.

Tom, there were Native Schools established on the Island...

Exactly.

Tom McClurg: Yes, there were schools.

And you're talking about Māori things.

Tom McClurg: But I don't know if they were Native Schools.

They were. There is a difference between [unintelligible] School and Te One School. We were all given provisions of [unintelligible] and it was different from Te One. And there were also Māori Affairs Loans to build houses on the Island which could have come through other sources.

Tom McClurg: People made their housing as Evelyn said some people had other whakapapa links and they were having to utilise those to access these things rather than that they were NMOW. I am happy to get that information from you and flesh out that story more. The case from the Crown's perspective is that it has had its telescope to the eye patch in seeing that there were no Māori on the Chathams from early in the 20th century right through until the 1980s. It is really only then that they start to recognise that there are Māori on Wharekauri on the back of their rediscovery of Moriori.

There were also Education scholarships.

The Crown is talking bullshit. You are talking about us having to go to school in New Zealand. So, the Crown is talking bullshit and we sit here and say what? Of course the Crown did and they did a hell of a lot of other stuff.

Tom McClurg: But they were doing that to all people on the Chatham Islands.

No there were four of us who sat scholarship in my year and I was the only one who got it. No Tom.

Tom McClurg: Well there were others...

I sat that long before you ever did Evelyn [followed by laughter amongst hui attendees].

Tom McClurg: The point is you are really saying the Crown did a great job in the 20th century and the facts don't really support that. This prompted a brief general discussion amongst attendees.

Mahara Gilsean: Can I clarify that we are still talking about cultural revitalisation or have we moved on from that? Is this discussion part of the previous slide where we talked about it?

Tom McClurg: Yes - what we are saying is there has yet to be a discussion with the Crown on the nature and support required for NMOW cultural revitalisation. There is no reference in the initial offer of anything to do with that matter. The Special Factors papers set out the damage that the Crown has done to NMOW culture and cultural skills. These are things that have been largely ignored by the Crown during the 20th century. There

hasn't been a discussion about what should be done about that and therefore to me it is just crazy that they would make an initial offer to us without considering these things carefully.

Without even considering the landlessness story in Taranaki, and the landlessness story in Wharekauri as well. This meant that the only options available to our whānau was to go somewhere else. And hopefully with the whakapapa, with Ngāi Tahu, and with some other places, we were effectively cut-off to engage as NMOW. We do have to have that recognised but the only factor that has been recognised so far has led to the systematic stigmatisation and vilification of NMOW. That in itself pushes the identity of NMOW underground and there is a very powerful colonisation story here that we need to continue to peruse with the Crown.

Tom McClurg: What you say is exactly right and it illustrates the uniqueness of the NMOW story and to really talk about cultural revitalisation in depth you do have to put together all of the parts of the story. They are real and go right back to the 10-owner rule, the Native Land Court from 1870 to 1900, right through to the denial by the Crown of Māori on Wharekauri throughout the greater part of the 20th century. We went from languishing in a state of Crown denial over the existence of Māori on Wharekauri to being cast as the villain in the Moriori story. All of these things considered together add up to a cultural attack that the Crown is responsible for. It is only when you assemble them all that you can have a proper discussion about what the level of redress should be made available. It is a long process to turn around the Crown's thinking on this matter and it isn't an easy one.

What is the end result of that? By not admitting that NMOW has mana whenua, isn't the Crown creating another issue or grievance for us on top of that?

Tom McClurg: Yes, it is and I feel that they keep generating grievances through this process. The fact that we have been talking about these issues for months and then we get our initial offer and it is as though they have had ear muffs on is insulting and is a source of grievance. The fact that they won't acknowledge that we have mana whenua when I don't think that when you look at the history of the Chathams in a balanced way you could come to any other conclusion about that, is a grievance. The fact that they simply want to treat two iwi there as being two peas in a pod, when we have distinctive stories, we still have to live together and work out how to do so.

Regarding your comments about knowledge and recognition, NMOW never received any support from the Taranaki Trust Board simply because Ngāti Mutunga ki Taranaki wasn't part of the Trust Board. It had a flow on effect back on the Island and it is probably one of the reasons why we weren't recognised.

I went to the Taranaki Trust Board to ask them to withdraw their claim to our fisheries. This is part of the NMOW story as well.

Is there a process with the Crown to address our Special Factors issues?

Tom McClurg: You'd think there was. The Negotiators will talk with officials to agree to the process for discussing the Special Factors issues and we will design that from scratch with them. I don't think that it will be a problem but I can tell from the approach by officials who would like to get together for a brief chat to resolve the 30 Special Factors opposes our view that these are serious matters for NMOW and will require sufficient time to discuss and resolve.

It is slightly arrogant to take that political view that if we want this deal completed it should be done and dusted before the election. Maybe we should take the view that if the Minister wants to stay in power he should reconsider his position [general laughter].

Tom McClurg: The Treaty settlement process is a process that has a lot wrong with it. It is bound, its formulaic, and the Crown has got a lot of control over the timeframe, the money, and the resources available to it. When the ball is in our court they want things to be done instantaneously yet when the ball is in their court, like the Hospital block buy back offer, they can take six months, a timeframe which they don't seem bothered by and what can you do about it other than continually ask for that information. It is a very tough process to be involved in but on the whole, I think that we have managed to hold our end up pretty well and I feel that we are in a stronger position now than where we were back in May last year. It's just that if anyone thinks that this is going to be over quickly has an unrealistic view of the process.

So, what is the timeframe that we are talking about.

Tom McClurg: It's up to the Crown but I think that what will ultimately help us is that Moriori are keen to settle. This is only my personal opinion, but I think that they are geared up having made certain financial arrangements on the assumption that they are going to receive a settlement, whereas we haven't done any of that. In that sense they have financial reasons for settling and we don't as we don't have any debt. And despite the differences I believe that we can address the overlapping claims matters with Moriori and the Crown quickly and progress from there.

A tea break was taken.

John Kamo: Kia ora whānau. The official part of the presentation has finished so now we will allow everyone the opportunity to ask questions and/or comment on what you have heard.

I would like to know what goes forward from this hui.

Tom McClurg: We will continue to engage with the Crown and work towards an AIP.

I think the Crown should confirm our mana whenua status.

Tom McClurg: I agree with you that this is an important issue for us to resolve.

I still think that we should go back to the Waitangi Tribunal. I have spoken to Eddie Durie about that [mana whenua] and he said that he was no longer involved. I replied that maybe so but you can still pull strings and you know what that means. We should actually have a Waitangi Tribunal rehearing that produces a report for us.

As this is the first offer that we are able to consider, I am curious to know what the timetable is for the remainder of the negotiations and how any decisions we have to make regarding the offer might impact that timeframe. However, while I feel that time is on our side regarding any decisions we have to make, is there a risk that they might get hoha with us and push us to the back of the negotiations line if that decision takes too long?

Tom McClurg: Well they are hoha already. It's whether they become so hoha that they call a halt to the process. It would be difficult for the Crown to do that so long as the Iwi Trust continues to maintain the mandate in the way that it is doing. The Iwi Trust does have a very solid mandate and it is maintaining it to the satisfaction of the Crown. The second thing is that as long as we can show that we are not the ones holding up the process then they don't really have an excuse to stop it. At the moment, we are saying it's not us holding up the process we've put the ball in your court and you need to come back and engage with us on the 30 Special Factors. They are now in the uncomfortable position where they are the ones slowing things down

arguably. So long as we can maintain the initiative over the agenda, they are the ones who have to keep coming back. I don't think that they couldn't easily say that we are stopping it now and we won't look at you for another five or ten years, although it's a threat that they sometimes make. We have to be careful that we don't give them an excuse but at the moment they are the ones who are having to make the next steps.

Kia ora and a big mihi to whānau who aren't with us at this time and mihi nui whānau ki a koutou. Tenei te mihi ki te whare. A pātai that came up for me is that when you find out what Moriori has been offered, will that have an impact on our response to the Crown?

Tom McClurg: Strictly speaking it shouldn't because their claims are different but people being what they are it is inevitable that it will. At the very least I would say that we shouldn't get less. One of things though is that Moriori has been given assistance which is outside of the settlement, \$6 million for cultural revitalisation for instance. We would argue that we should have at least that much because there are more of us to revitalise. It could be that we manage to secure that funding outside of the settlement, so not everything has to be done inside the settlement. If you can say that funding like that could be made available because it is the right thing to do regardless of whether there is a settlement train or not, and you have already done that for Moriori after all, that is likely to be easier in some ways than trying to place the redress within the settlement by that same amount. We need to be flexible about how we look at the overall package of what we secure through this process one way or another without being sticklers that it all has to be part of the settlement redress. Our settlement will then not impact the ratchet clauses for the Crown that sit in the Ngāi Tahu and Tainui settlements. As soon as we start to trigger those ratchet clauses we can expect resistance from the Crown and it would be a good thing for us to avoid.

I'd like to thank you and the negotiators for all of the mahi you have done on our behalf, for not rushing into anything and sticking up for us and what you want to achieve, and especially those things listed in the Special Factors papers. I think telling our story truthfully is very important to us and our future generations.

If the Crown settles to the Moriori claim what happens to the shared redress?

Tom McClurg: I don't think that it can go exclusively to Moriori but you can't rule anything out if they are the only ones at the table. Quite a few of these joint arrangements like Te Whaanga and the Planning Committee with the CIC, these are initiatives that you could do whether there was a settlement process in train or not. It could be that we could salvage some things out of the process and say that it is not part of the settlement but is something that should happen anyway. When you get a meltdown in a process like that you can't say with any certainty what is going to happen. But I think that we would be at a disadvantage one way or another.

Thank you to the Negotiators and Trustees for all of the good mahi and the presentation today. I am interested in the kōrero of our heke and that it was our whānau that ventured forth. So, it's about our tino rangatiratanga and our mana and in many respects, I think it is part of the Polynesian pioneering spirit that we are a part of. I was quite interested in the kōrero that you could perhaps develop with Minister for Treaty of Waitangi Negotiations and officials about the concept of a unique status for the motu o Wharekauri in terms of our part as Taranaki whānui, and especially for women as there were 13 who signed the Treaty of Waitangi and it is part of a unique Māori kōrero worldwide in terms of our constitution.

Kia ora whānau – I am going to read from a submission [Attached as Appendix 1] that I have written. I am speaking for myself, my whānau, my daughter, and my moko. It is about my story.

John Kamo: Kia ora Evelyn, while you are preparing your presentation we will continue with the kōrero from the rest of the whānau as some of them preparing to go.

Kia ora whānau – ngā mihi ki te whānau. Thank you for the opportunity to listen to the kōrero and speak. It is a learning process that we are in, and I'm curious how the \$9 million will be used. Talking about cultural revitalisation – how is that defined and what does it include? Will it include a revitalisation of our Te Reo and our identity? Also, in these hui that we have and the hui that you have had throughout the motu, is the information collated and shared back with whānau, so that we can receive an update on progress. I think this will help us to think about the issues and formulate ideas to discuss with you at the next hui. What do you do to make a move on all of this?

Tom McClurg: We collect all of the information, which includes the minutes of the hui, which will be collated in a summary form, and they will be form part of the record of all the engagements that we do and that will be put up on the Iwi Trust's website so that everyone can access them. If you want to know what is happening then the website is the best source of information. We are open to sharing information with everyone and it is important to us that whānau remain informed about where we are tracking in the process. We also have a newsletter that has a very brief update on where things are at with negotiations.

John Kamo: Also, there is the Iwi Trust's office that can be contacted for information if you require it in paper form and want it sent out, which is an option if you don't have access to internet.

Mahara Gilsenan: I see what has been happening recently and it's that Facebook has become a forum for sharing information looking at it last night. I don't know if it is an effective way of doing things but certainly the word is getting out there, so I support this question that my teina has asked about how the information is fed back to us and to our people. Should it be? Is it important that it is? It is important that the minutes reflect what our people are saying in our hui because some of what is being said is quite powerful kōrero.

I think this is important because we don't necessarily know what is being said at other hui and I haven't seen anything on the webpage. I know there are the newsletters that get put up there but it would help with the context of the discussion within the iwi if we could see this information.

Tom McClurg: We will put more information up. I would say that as with everything, if you want the official information go to the website because what is on social media isn't always completely accurate.

Ngā mihi ki a koutou ki te whānau me ngā negotiators rāua ko Trustees. This is hard work, I've been on the other side of the process, so I acknowledge the complexity of the work you are undertaking and to wish you well. I think that it is important for me to say that as I am on the different side of the process I have to declare a conflict of interest in respect of these particular set of negotiations discussions as I can't be on both sides of the table and I am clear which side of the table I am on in respect of this one. A couple of people have asked during wānanga about Aunty Gladys Lanauze, my mother was her older sister, Wikitoria, which is on my grandmother's side, and my great-grand parents on my father's side were from the Hough and Grennell whānau respectively. Arohamai whānau, I am not running away but I just have a bit further to travel home. Kia ora tātou.

I'd just like to say thank you Tom and your team and the Trustees and Negotiators for your work so far. I am especially interested in telling the truest NMOW story possible about how we went Wharekauri and what happened between us and Moriori, so that we can tell our mokos a better story than the one that is portrayed in the media.

I just want to thank the Iwi Trust and the Negotiators for the time and effort that they have put into this hui. It's not easy, I know, so thank you. Ngā mihi aroha, ngā mihi ki a pai koutou.

I'd like to let everybody know that I've got two sides, I am related to the Moriori's by marriage and I'm a Māori and I'm NMOW. I'd like to hear both sides of the question but I'd like to ask if everybody could keep things short, we don't want to hear somebody version of our history being retold here. A lot of us are a lot older than some and we know the history of the Chathams, so please that is all I ask and I want to thank the people who are working hard for us because having been a public servant I know how damn hard it can be. That's all I have to say and go well everybody.

I'd just like to say that one of the questions that I heard being asked in the beginning was about the aspirations and whether people had other aspirations. I think that is really important because if there are more aspirations that we have, they should be heard and addressed. I want to acknowledge you Evelyn for all of the mahi that you have done over the years – it's been huge. And I really like to see you write your memoirs as it will form an important part of the NMOW story. Finally thank you to the Iwi Trust.

Kia ora tātou – It's not always easy being up the front sometimes, especially to discuss things with us without raising your voice – so well done. It is lovely to have our kuia here with us today as they have connections to Wharekauri that ones like myself can only dream of and I hope one day that our children will aspire to such memories and love about that Island, which we all know is a beautiful place. I mihi to my whānaunga. Kia ora.

Kia ora whānau – I am going to read from a submission [Attached] that I have written. I am speaking for myself, my whānau, my daughter, and my moko. It is about my story. It's an intergenerational story that makes my whānau who they are and their connection to Wharekauri.

At the conclusion of this submission, John Kamo summarised the hui and thanked everyone for their attendance and contribution. Aunty Raana concluded the hui with karakia at 5.45pm.