

APPENDIX 3

TE KOMITI NUI O NGATI WHAKAUE

MINUTES OF THE ORDINARY GENERAL MEETING HELD AT TAMATEKAPUA ON
21 DECEMBER 2014 AT 10.15 AM.

MIHI/KARAKIA:

Pihopa Kingi

PRESENT:

Anaru Te Amo (Trustee), Hamuera Mitchell (Trustee) Kiri Mitchell (Trustee), Pauline Tangohau (Trustee), Veronica Butterworth (Trustee), Larissa Wharepouri (Trustee), Ray Pou Poasa (Trustee), Kingi Biddle (Trustee), Malcolm Tapsell, Glenn Hawkins, John Kahukiwa, Wikitoria Kake-Flavell, Tony Wihapi, Kohe Rogers, Carol Leonard, Lorraine Inia, Te Wano Walters, Merehira Savage, Ngahana Savage, RN Gillies, Wiremu Keepa, Douglas Hayward, Tony Pecote, Peter Staite, Tony Haupapa, Terry Phillips, Ernest Butcher, Moray Manurere Smith, Tania Hinehou Butcher, LW Douglas, Hariata Kereopa, Ellen Tamati, Pihopa Kingi, Helen Savage, Anthony Savage.

In attendance: Tamara Mutu (Executive Manager) Kerri Anne Hancock (Settlement Co-ordinator)

APOLOGIES:

Marina Paul, Niven Rae, Meteria Clarke, Donna Clarke, Malcolm Tapsell, Geoffrey Rolleston and Maria Horne.

**APPOINTMENT OF
NEGOTIATORS REPORT:**

Kingi Biddle responded to Pihopa Kingi's mihi and Karakia. He explained that following the Annual General Meeting (AGM) the Komiti Nui (KN) Board met to consider how best to facilitate a hui to clarify the appointment process for the Negotiators so that everyone is clear. The Ordinary General Meeting (OGM) is a result of those deliberations.

Pauline Tangohau introduced herself as the interim Chair of KN and advised that there had been a change in Chair. She said the purpose of the meeting is to give Ngati Whakaue confidence that the best people have been appointed as Negotiators.

Pauline explained that an apologies register was taken at the door.

Tony Wihapi asked why the Chair had been replaced and whether his replacement was related to the AGM. Pauline said it was an internal decision made by the Board and she was not able to discuss this further, although she did note that the previous Chair wanted to come back to the iwi before appointing the Negotiators.

Alex Wilson asked if the appointment of the negotiators was a fait accompli at the AGM. Pauline said yes it was, because their agreements had already been negotiated. Alex advised that KN should get its act in order.

Tony Wihapi expressed his dissatisfaction at events and his view that the appointment of Negotiators needed to be sanctioned by the iwi. He questioned the accountability of Te Komiti Nui and said he considers there are issues with the process.

Pihopa Kingi said that the original Komiti Nui o Ngati Whakaue made decisions by hui and this needed to be continued.

Hamu Mitchell advised that in electing Trustees to KN, the iwi sanctioned those Trustees, as a Board, to govern in their best interests. He asked how many Ngati Whakaue entities go back to hui-a-iwi and why KN is being asked to abrogate decision to a hui-a-iwi. He said that the Board has a responsibility to keep Ngati Whakaue informed and the Negotiators commit to seeking iwi members' endorsement of the Agreement in Principle (AIP), but they would not seek endorsement of every step of the process.

Pihopa Kingi described the appointment process for Pukeroa Oruawhata Trustees (POT) although there were objections from other meeting attendees that this

was out of order.

Merehira Savage gave her apologies for not attending the AGM. Said she thought the change of Chair could be a positive thing and talked about the importance of trust. She asked that the Negotiators present to the OGM in order to answer any questions she might have.

Tony Wihapi questioned the process and whether the Negotiators had the trust of the Iwi.

Pauline Tangohau gave an overview of the process taken to appoint the Negotiators. She said the Board:

- analysed and agreed Negotiator's competencies;
- decided on a closed procurement appointment process;
- created a sub committee comprised of those Board members who were not applicants for the Negotiator's role;
- invited expressions of interest from 6 potential candidates;
- considered CVs and set up interview times.

Pauline Tangohau explained that once the interviews were completed the staff compiled the scores and a final decision was made by the Board before offers were made. She advised that Mataanuku Mahuika (Kahui Legal) and Helen Nathan (East Brewster) provided independent legal advice through the process.

Pihopa Kingi asked if the Negotiator roles were advertised in the paper. Pauline responded that they weren't as it was a closed process.

Tony Wihapi said he was concerned there was a conflict of interest in the appointment process and that an independent body conducting appointment would have been more appropriate to make it open and transparent.

Hamu Mitchell pointed out that no other iwi have Negotiators appointed at Hui a iwi, other entities have appointed internally and the Trust has the power to make the appointment.

Merehira Savage signalled her support for the transparency in explaining the process but noted her preference would have been for more communication in particular for individual claimants.

Helen Savage said she thought the process should have been more inclusive and asked if the Board considered outside appointments. Pauline Tangohau said yes.

Tahae Tait said he was not worried about the process taken to appoint negotiators, he thought that those appointed were selected on ability, were Ngati Whakaue tuturu, represented some major Ngati Whakaue whanau and had a tough job ahead of them. He did not want an outsider appointed. He encouraged attendees to support the Boards decision so that the Negotiators could go ahead and do their job.

Hoki Kahukiwa thanked Tahae for his korero and pointed out the Negotiators comprised of a historian, lawyer and someone who had written a book on Ngati

Whakaue. He also gave his apologies for the AGM.

Alex Wilson said he didn't think John Kahukiwa and Hamu Mitchell should have been appointed as Negotiators based on their history with POT and the Whakarewarewa Valley work. Further, at the KN AGM he asked that Te Komiti Nui meet and sort it out and he was concerned that instead, the Board has changed the Chair.

Alex Wilson noted that he had written to the Office of Treaty Settlements to state that he was not satisfied with the process and the two problems for POT: advertising of the selection for the Endowment and the fact that POT was not included in the trust order for the Whaka Valley. Tony Wihapi requested that these issues be raised later. Alex noted that he had to leave early and he has no faith in people who aren't Ngati Whakaue.

Maru Tapsell talked about his Waitangi Tribunal experience with the Rakitu Claim and negotiations. He noted the critical areas regarding the Haerehuka claim and gave examples of the types of redress that might be sought including redress over the Maketu Estuary and Rights of First Refusal.

Peter Staite gave his apologies for not attending the AGM. He spoke about his Wai Claims 533 and 268 and the evidence he gave to the Tribunal previously. He advised that the Registration forms did not have Ngati Te Kahu on it, or the Rotomahana Parekarangi Block (which is important as the basis for claiming mana whenua for Moerangi). As a result he considers he is unable to register and asked that the form be amended.

Peter also said that he didn't mind who the negotiators were, as long as there were no conflicts of interest. He looks forward to the opportunity to discuss with them how their strategy might capture the grievance issues and aspirations of the claimant community. He noted that the iwi was not at the hui to pick and choose negotiators as the trustees are charged with that duty.

Alex Wilson exited the meeting at 10:56am.

Kingi Biddle responded to Peter's statements and acknowledged his comments and apologised to Ngati Te Kahu.

Terry Phillips spoke about the Rotohiko Haupapa Claim and the journey taken to have it registered as WAI 1357. He spoke about the detail of the Claim and the importance of clarity for the claimants about how it might be addressed in the comprehensive settlement. He said that communication is key as they need to be aware of how best to progress their claim. He noted that he had no problem with the negotiator appointment process.

Pauline Tangohau said that the Negotiators are listening to the korero. She advised that the power to appoint Negotiators is set out in Te Komiti Nui Trust Deed: Part III of the Schedule, clause 1.9.1 states the Trustees may:

“... appoint or engage or employ any person or company for any period:
1.9.1 as an expert or professional person or entity to advise on or carry out any of the trusts and powers authorised by this deed, including, but without

limitation a negotiator or negotiators to conduct the Settlement Negotiations ...”

Pauline said that throughout the process the Board sought advice from an independent HR and legal advisors.

Tony Wihapi said he was disappointed that the Board signed the contracts before the OGM and talked about the importance of unity. He asked why there was urgency to have them agreed.

Pauline Tangohau said that part of the urgency was to have Negotiators appointed ahead of an opportunity to meet with the Chief Crown Negotiator and the Minister. Both meetings happened in December.

Tony Wihapi expressed his view that there was conflicts of interest that weren't addressed. Peter Staite spoke about the conflict of interest issue being covered by the Trustee Act.

NEGOTIATORS PRESENTATION:

Pauline invited the Negotiators to introduce themselves.

Hamu Mitchell introduced himself and spoke about the privilege and honour to be appointed as a Negotiator. Hamu said:

- he has been involved in Ngati Whakaue negotiations since 1993;
- he doesn't apologise for the work he did on the Whakarewarewa Valley as his work there is in the best interest of Ngati Whakaue and consistent with the stand his tupuna made;
- he looks forward to talking with the Wai Claimants and apologised for the process taking so long;
- the Negotiators have pushed back against the Crown to ensure Ngati Whakaue enters negotiations on equal footing; and
- gave a guarantee that he would present the best package possible at AIP.

Tony Wihapi agreed with Hamu's comments about Whakarewarewa but raised some concerns he had with Hamu's previous roles. Tony also questioned his experience in Treaty of Waitangi negotiations and the inability to access Anaru Te Amo's experience there. Hamu rebutted these statements and clarified his work with Ngati Whakaue Tribal Lands by stating that the Incorporation's decisions were made by the Board of Directors, while Hamu was Chair and not a Director with voting rights. Hamu also stated that he and Anaru had worked together on the CNI matters.

Peter Staite spoke about how the Trustees had been elected to their positions and it would be inappropriate to undermine those who voted these people into their positions. He said that he considered Hamu's involvement in multiple negotiations to be a strength.

Paul Tapsell introduced himself and gave a mihi to the attendees. He spoke about:

- the history of several of the claims and his work to date for the Ngati Whakaue settlement;
- his key interest being in the cultural redress and cross claims of the negotiations given the work he has already done previously in this space;

- the importance of accountability and wanting to meet with all claimants, as the trustees had done at the beginning of 2013;
- the fact that Ngati Whakaue will only get back 1% of what had been lost – to get back 10% would bankrupt NZ; and
- remembering the lands that had been gifted to create the township.

Larissa Wharepouri introduced herself and spoke about her whakapapa. She also said that:

- she has a special obligation to Maketu
- while she was new to negotiations with the Crown, she was not new to negotiations and spoke about her experience with local government;
- she has a solution focussed approach to negotiations and is looking for redress outside the box;
- while there are four strong personalities on the Negotiation team, all four unite on their passion to get the best deal for Ngati Whakaue.

John Kahukiwa introduced himself, his hapu affiliations being Taeotu, Tunohopu and Rangiiwaho. He spoke about:

- the reason that he applied for the negotiators role is because his whanau has a history of working for Ngati Whakaue;
- his view that he has skills suitable to the Trust;
- the settlement being based on three principles: mana of hapu, mana of territories through the expression of whenua; and the relationship with the Crown (including Fenton Agreement and war efforts)
- his involvement with the CNI forest deal, the Whaka Valley and Court of Appeal decision; and
- some of the other work happening in the Treaty sector, in particular the Waitangi Tribunal's recent findings regarding sovereignty in the Far North; and
- the fact that he is a lawyer, and there are no issues of concern as he would tell the iwi if there was.

Peter Staite questioned the Crown apology and whether it would effectively be a retrospective acceptance of governance since 1840, as he believed that Ngati Whakaue had never relinquished this. John Kahukiwa said it is important this settlement doesn't inadvertently sign away Ngati Whakaue's sovereignty, but rather, affirm it.

Maru Tapsell spoke about the hearings he was involved in and the importance of front-footing the negotiations and the use of whakapapa as evidence. He asked if John had considered clarifying the legality of the Fenton Agreement in the High Court. John Kahukiwa said that this is leverage that can be used if required.

Tony Wihapi asked about the next steps in the Whakarewarewa case. John said that it will go to the High Court to determine the truth of the adjudication panel's decision.

Pihopa Kingi spoke about the history of Te Komiti Nui including the impact of the 1880 agreement. He enquired about whether the legal firm John worked for was previously paid for the work he did. John responded that yes it was.

Ellen Tamati asked what will happen with the Fenton Agreement in the settlement. John advised that it will form one of the three key principles of the settlement and to be used as a blue print for economic development. He said it is the only Crown-iwi agreement other than the Treaty of Waitangi and it has a critical place in the settlement.

Merehira Savage said that while she still has some reservations about claimant engagement she is comfortable with the Negotiators and will look forward to building to a positive space with them.

Maru Tapsell asked whether it would be worth front-footing the negotiations by threatening to take the Fenton Agreement to the High Court at an early stage. John said that Ngati Whakaue always front foots issues and that the legal status of the Fenton Agreement hasn't changed since 1880.

Ngahana Savage supported Merehira's position and reiterated the importance of claimant engagement.

Peter Staite spoke about his concern that the Fenton Agreement had 15 signatories and the year after signing, the Crown acquired all the Central North Island geothermal resources, which was launched off the Fenton Agreement.

Ellen Tamati asked, in regards to the Fenton Agreement, if there was room to revisit the healthcare rights that were rescinded at the 1993 agreement. John said this was one of the items that will be looked into.

Tony Wihapi asked if the hui would consider a motion to endorse the Negotiators. He noted that the Terms of Negotiation required Ngati Whakaue to proceed in unity and he asked to hear where POT sits and whether they would work with the Negotiators. Malcolm Short said that, as previously discussed with Alex Wilson, POT are happy to support the outcome of the hui and gave a commitment to meet with KN to discuss this further. Tony replied that the hui had been excellent and he was comfortable to affirm the negotiators.

RESOLVED: *"The hui affirms the Negotiators for the comprehensive Ngati Whakaue settlement, provisional on on-going consultation".*

(Tony Wihapi/Tahae Tait) Carried

Tony [Pekahika?] spoke about the recent census results and encouraged attendees to promote Ngati Whakaue participation in the settlement process. He noted that the Negotiators will be busy and it is up to the iwi to support them.

RESOLVED: *"The hui confirms receipt of the presentation slides provided by the Negotiators"*

(Tony Wihapi/Malcolm Short) Carried

GENERAL BUSINESS

There was no General Business

Kingi Biddle thanked iwi members for their attendance and noted the Board would look into amending the registration form.

KARAKIA:

Meeting closed at 12.30pm with a karakia by Pihopa Kingi.

DRAFT