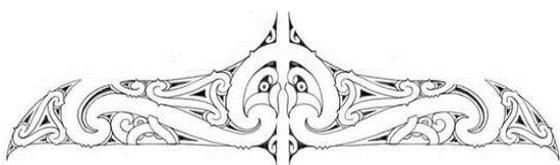


POST TREATY SETTLEMENT DEVELOPMENT PERSPECTIVES

Tangata Whenua development perspectives for the
western Bay of Plenty in a post-settlement environment
Prepared for SmartGrowth

16 January 2013



Kia tū Pakari ai tātou



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Appendix 1: List of Treaty Settlements

1.0 Executive Summary

- 1.1 The purpose of this report is to provide a Tangata Whenua development perspective to the SmartGrowth Review based on recent research and changes in the economic environment, and the impending comprehensive settlements of Western Bay of Plenty historical Treaty of Waitangi claims.
- 1.2 This research asked Iwi a broad range of questions regarding both the settlements themselves and the post-settlement environment for Iwi.
- 1.3 Twelve recommendations have been made in the areas of cultural heritage, efficiencies through collaboration, development of Māori land and resources and co-management relationships.
- 1.4 A number of the recommendations relate to strategy and policy currently outside the gambit of SmartGrowth, these include Smart Economy and Bay of Connections. Some relate only to tangata whenua and may be pursued outside the SmartGrowth partnership.
- 1.5 This report has found that some thirty settlements that affect the western Bay of Plenty will most likely be completed by 2020. This includes a Hauraki collective of twelve settlements and a Tauranga Moana collective of 4 settlements. The majority of these settlements will occur within the next five years.
- 1.6 The settlements represent more than \$250m of assets, a large sum that is split among some 30 settlements. As such they will unlikely have the impact (size and scale) that large settlements have had. Examples of these are the \$170m Ngai Tahu and Waikato settlements.
- 1.7 With so many small to medium sized settlements there is likely to be a scenario of heavy governance and light operations. This may translate to high expectations and aspirations among Iwi members and a lack of capacity to deliver in implementation without partnerships and collaboration from other Iwi and stakeholders.
- 1.8 There may be an expectation among Iwi for resourcing relationships, particularly with regard to co-governance and management regimes.
- 1.9 There will be more than 50 new entities established as result of settlements. This will include Iwi and hapu post settlement entities such as Trusts, incorporated societies and limited liability companies. There will also be some unique entities for joint or co-management regimes as well as some new types of business entities such as limited partnerships.

- 1.10 The research and interviews conducted has confirmed that traditional Māori sectors for business and economic activity such as fishing, forestry and farming will continue, alongside Māori education, health and social services. There will however be further emphasis and momentum in fisheries through aquaculture and education, and some new activity in property development/management, energy, and cultural tourism.
- 1.11 We expect to see a mixture of short-term or opportunistic investments in property as a result of settlements together with long-term intergenerational investments that build asset value, bring sustainable returns and may bring cultural spinoffs.
- 1.12 This report identifies that there remains a strong commitment from tangata whenua through settlements to protect and enhance natural and physical resources, particularly water for future generations. This will be an important consideration in developing water management and allocation frameworks.
- 1.13 The commitments to environmental protection are also coupled with a desire for economic development in areas that may have traditionally been perceived as having negative impacts on the environment. This includes forestry, farming and energy production.
- 1.14 There are aspirations and expectations of water, energy, transport and social infrastructure for existing and new communities.
- 1.15 It is expected that there will be a settling in period for iwi who are establishing new entities and meeting compliance and responsibilities. This could be as long as 5-10 years.
- 1.16 This report highlights that new iwi entities will likely to add to, rather than replace existing arrangements.

2.0 Background

Purpose of the report

- 2.1 The purpose of this report is to provide a Tangata Whenua development perspective to the SmartGrowth Review based on recent research and changes in the economic environment, and the impending comprehensive settlements of Western Bay of Plenty historical Treaty of Waitangi claims.

Scope

- 2.2 This project relates to the western Bay of Plenty (wBOP) geographically and includes consideration of iwi groups with interests in this area who may reside outside the wBOP.
- 2.3 The key questions posed for this research were:
- a) What are the Treaty settlements that affect the Western Bay of Plenty?
 - b) What are the characteristics of the individual and collective settlements including timeframes, financial/commercial redress, cultural redress and governance/management regimes?
 - c) What are the post-settlement Maori land development aspirations for iwi and hapu?
 - d) What are the significant economic, environmental, cultural and social impacts of the settlements?
 - e) What are the tangata whenua perspectives of land-use and economic development in the post-settlement environment?
 - f) Are there any responses to potential strategic regional initiatives (included in the regional economic drivers report)?
 - g) What are the land-use, spatial considerations and other implications for the SmartGrowth Strategy?
 - h) What are the kinds of principles and values, strategic objectives and policy direction that may be needed to be considered by SmartGrowth?
 - i) Are there any obvious zoning or planning implications as a result of Treaty settlements?
 - j) What have been the aspirations of the previously settled iwi such as Waikato, Ngati Awa, Te Arawa and Ngai Tahu and what learning's can be gained from their experiences?
 - k) Will there be significant changes to the planning or political frameworks as a result of Treaty settlements?
 - l) Will the Treaty settlements bring changes to representation and mandate, and how might any changes affect tangata whenua engagement in SmartGrowth?

- m) In what way will other workstreams under way such as 'Regional Economic Drivers' research, 'Bay of Connections' work and research on best practise in social well-being have a bearing on this research.
- n) Will the settlements have an impact on tertiary education partnerships or education generally?

SmartGrowth Context

- 2.4 The SmartGrowth Strategy is a collaborative approach to long-term planning and management of growth in the wBOP. Tangata whenua are a key partner in SmartGrowth.
- 2.5 Tangata Whenua has played a key role in the development of SmartGrowth since its inception in 2004. A forum of all iwi and hapu in the wBOP has been established. This forum meets regularly and discusses and advises on matters of significance including Treaty of Waitangi Settlements.
- 2.6 Treaty settlements have been identified by the forum as one of three priorities during the review of the SmartGrowth Strategy.
- 2.7 SmartGrowth has commissioned and undertaken a number of pieces of research and assessment of Tangata Whenua areas of priority and concern. This work has included:
- A comprehensive literature review of Tangata Whenua documents and issues including a collation of Waitangi Tribunal evidence;
 - Stocktake and assessment of cultural heritage resources;
 - Identification of barriers to Maori housing on multiply-owned Maori land and a toolkit;
 - Maori responses and perspectives regarding wastewater infrastructure;
 - A series of reports on view corridors to significant landmarks.
- 2.8 There is currently no mention of Treaty Settlements and their impact across a range of areas including economic development, development of Māori land, co-governance and management of natural and physical resources such as water bodies, significant landmarks and geothermal resources.

- 2.9 To date there has not been research and assessment undertaken regarding the impact of a number of impending Treaty of Waitangi Settlements and how SmartGrowth should accommodate, recognise and reference these settlements. Many of these settlements are to be completed within the next 5 years and will have a significant impact on the social, cultural, economic and environmental well-being of western Bay of Plenty iwi.
- 2.10 The SmartGrowth Strategy and Implementation plan does not currently identify Treaty Settlements as a matter of priority. This will change during the review and update as set out in the SmartGrowth review project plan (page 39 – Treaty Settlements) and the Strategic Issues Background paper 2011-2013 (Nov 2011)
- a. 1.10.3(4) – Some of the larger related issues that will be addressed during the Review include:...The changing economic and social landscapes in the sub-region post the Treaty Settlements.
 - b. 2.1.1(k) – national and local influences on SmartGrowth implementation...to be incorporated in the SmartGrowth Strategy Review.
- 2.11 Treaty Settlements are one of three main issues that Tāngata whenua want considered as part of the draft SmartGrowth Strategy Review 2011-13 Project Plan (Nov 2011).¹
- a. 7.3.1(1) Treaty Settlements;
 - b. 7.3.2 – Tāngata whenua representatives also consider that it would be helpful for SGIC to understand the timeframes around the Treaty settlements process and how the outcomes may (or may not) be dovetailed into the SmartGrowth Strategy;
 - c. 7.4.1(4) - the following projects are proposed:..Research and update reports for the SmartGrowth Review on Tāngata Whenua Development Perspectives. In particular those arising from Treaty settlements and how the Reviewed SmartGrowth Strategy needs to align with them.
- 2.12 The knowledge gap for the Treaty Settlements has resulted from the negotiations in the western Bay of Plenty only progressing in the last 6 years with significant progress being made in the last two years. This is partly as a result of the Bay of Plenty being a priority area for the Crown,

¹ The other two matters are economic development and papakainga.

resources being allocated to the sub-region by the Office of Treaty Settlements, and iwi are in a state of settlement readiness.

3.0 What we know

- 3.1 This is emphasised by the fact that eighteen or so settlements will reach deed of settlement in the next two years. Research in this area will inform the next ten years of SmartGrowth in the areas of economic, environmental, cultural well-being and representation.
- 3.2 Treaty settlements for the most part are discrete and confidential negotiations between the Crown (through Office of Treaty Settlements) and individual and collective iwi group mandated entities.
- 3.3 There is public access to Treaty settlement milestones, these including agreements in principle and deed of settlements that are often substantial documents (500 pages), use a hybrid legal language and do not necessarily contain the understandings or explanations of the mechanisms included.
- 3.4 It is expected that there will be a range of new entities representing interests of iwi, new co-governance and co-management regimes for natural and physical resources, the transfer of a large number of commercial and cultural properties, rights to commercial and cultural resources, relationship frameworks for iwi and government departments and a range of social, economic and cultural programmes. These are not currently provided for or acknowledged in the SmartGrowth Strategy.
- 3.5 One of the interesting elements of the Treaty impacts will be the tension between development and protection principles. This has been an area well articulated in the SmartGrowth Strategy. This research will inform ongoing discussion regarding balancing these potentially competing priorities.
- 3.6 Much of the intellectual knowledge and understandings of a settlement are held by the claimant groups and Office of Treaty Settlements staff. As such a high degree of liaison and consultation with these people will be necessary to prepare and complete this research.
- 3.7 Treaty Settlements have been identified as one of the most important issues for the Combined Tangata Whenua Forum and the SmartGrowth

issues and discussion paper underpinning the review has identified Treaty Settlements and development of Maori land as two critical issues.

- 3.8 An initial paper has been prepared regarding the economic impact of Treaty Settlements and a matrix of settlements summarising the characteristics of each. Economic impacts are identified in the areas of horticulture/fisheries/forestry/health/social services/education) and new opportunities in the areas of property, finance, and cultural tourism among others.
- 3.9 It is expected that Treaty Settlements will have ranging impacts yet to quantified in the areas of:
- Finance
 - Commercial property
 - Residential property
 - Rural property
 - Reserves
 - Schools
 - Plantation forestry (Athenree, Puwhenua)
 - Aquaculture and fishing rights
 - Māori Cultural heritage
 - Tertiary education
 - New marae
 - Relationships with local and central government
- 3.10 Development of Maori land and post Treaty settlement land use Issues is a key piece of research to be undertaken, however sits in the context of other pieces of work that include updates. The table below summarises this work.

Maori Implementation Updates					
No	Title	Summary	Type of Update	Original Author	Resource to update
M7	Marae Sightlines September 2003	This report reviews the visual setting, values and landscape context of thirty six marae throughout the Western Bay of Plenty.	Implementation Update.	Kaahuia Consultancy	TCC Tu Pakari Advisor

M8	The Sustainable Evaluation of the Provision of Urban Infrastructure Alternatives using the Tāngata Whenua Mauri Model within the SmartGrowth Sub-region, July 2003	Provides independent professional engineering expertise and experience to investigate the SmartGrowth urban infrastructure service implications of growth from a Tāngata Whenua / Maori perspective.	Implementation Update focusing on the values of the model and documenting how the Mauri model has been picked up in the Regional Plans and Policy Statements.	Mahi Maoro Professionals	Tu Pakari Advisor
M9	Papakainga Toolkit	Summary of recently completed toolkit for development of multiply owned Māori land.	Implementation Update		WBOPDC

New research			
No	Title	Summary	Resource/Author
M10	Development of Maori land and Post Treaty Land use Issues	Update of progress since adoption of the Strategy. Issues post Treaty Settlement related to land use and implications on economic, social, cultural and environmental well-being of Tangata Whenua.	Tu Pakari Advisor
M11	Cultural Heritage	Analysis of issues and approaches surrounding cultural heritage resources including; <ul style="list-style-type: none"> a) Stocktake of information and process b) Way forward 	Tu Pakari Advisor

Methodology

- 3.11 This project was conducted during a 6 month period. The key components of the project were:
- Development of the brief;
 - Consultation with staff, management and Combined Tangata Whenua Forum;
 - Literature review;
 - Meetings with Office of Treaty Settlements;
 - Meetings with recently settled iwi;
 - Meetings with senior TCC, WBOPDC, BOPRC management; and
 - Interviews and meetings with stakeholders;
 - Contact with key iwi informants regarding settlements and aspirations for development.
- 3.12 A matrix was developed to capture key information regarding geographic areas, status of settlement, likely key components in settlement, key aspirations if identified.
- 3.13 Potential methods or areas where the SmartGrowth strategy and collaboration may recognise and provide for post-settlement development perspectives of iwi were identified.
- 3.14 Any obvious matters that should be considered by RPS, regional and district plans.
- 3.15 The draft report and recommendations were reviewed by the research committee, the Implementation Management Committee and the external peer review committee.

4.0 Nature of Treaty Settlements

- 4.1 Treaty settlements are a political process dictated by the will of Iwi and the Crown to enter into an agreement to settle historical and contemporary grievances. The Treaty Settlement process is an arduous process that can take many years, often decades to complete.

- 4.2 These grievances are often articulated before and confirmed by a Waitangi Tribunal that hears claims under the Treaty of Waitangi Act 1975.
- 4.3 Treaty settlements of the last decade follow a redress framework that has discrete components. These typically include:
- an apology,
 - crown acknowledgements,
 - cash, property (commercial and cultural),
 - programmes and relationships.
- 4.4 There are often variations to these components to meet the needs of the iwi and outcomes of negotiations.
- 4.5 Treaty Settlements are agreed between the Crown, led by the Office of Treaty Settlements, and an iwi (acting on behalf of a number of hapu) or a collective of iwi.
- 4.6 The process for settlement is linear, long and arduous with a number of key milestones required to be achieved. As mentioned the settlement process can take many years and involve significant resources to complete.
- 4.7 For instance a deed of mandate which is the right of an iwi to represent its people can take as long as three years. A full settlement in the example of Ngati Makino has taken more than fifteen years.

The figure below illustrates the key milestones that are typically involved from Deed of Mandate to legislation.



Figure 1: Treaty Settlement Milestones

- 4.8 There are thirty Treaty of Waitangi Settlements that affect the western Bay of Plenty. At least eighteen of these are in negotiations at the present time.
- 4.9 At the time of this report there are two national settlements for fisheries and aquaculture, four completed iwi settlements, and three partially completed iwi settlements awaiting legislation.
- The Tauranga Moana Maori Trust Board Act 1981 established the Tauranga Moana Maori Trust Board and involved the transfer of

\$250,000 for full and final settlement of all acts and omissions of the Crown.

- Treaty of Waitangi Fisheries Act 1992 (quota and shares and cash) to all iwi
- Aquaculture Settlement for all iwi
- Te Arawa Lakes Settlement (establishing the Te Arawa Lakes Trust)
- Te Arawa Affiliates (establishing Te Pumautanga o Te Arawa)
- Ngati Makino Settlement
- The Waitaha Deed of Settlement 2012
- Ngati Raukawa Deed of Settlement 2012
- The Ngā hapu o Ngāti Ranginui Deed of Settlement 2012.

Deed of Mandate	Terms of Negotiation	Letters of Offer	Agreement in principle	SOPI	Initialled DoS	DoS	Legislation
2	3	2	14	1	0	3	5

Figure2: Status of Iwi settlements

- 4.10 The settlements of the western Bay of Plenty collectively represent at least \$250,000 of assets. The assets involved are cash, commercial and cultural property and a range of rights.
- 4.11 Most of the settlements, a further seventeen will be completed within the next five years with an expectation all settlements will be completed by 2020.
- 4.12 As already mentioned settlements are rather formulaic, however there are often different priorities for each iwi or collective and one or several unique elements.

5.0 Economic

Economic Development profile

- 5.1 The economic profile of iwi in the western Bay of Plenty has not been the subject of rigorous research or assessment. There are current attempts to quantify aspects of the profile as part of some discrete work being

conducted under the banner of Bay of Connections. It is unlikely this work will provide definitive understanding of the current and potential Maori economic sector.

- 5.2 National and regional studies suggest that the strongest participation of iwi is in traditional primary industries of forestry, fishing and farming as well as service industries of health, education and social services.
- 5.3 This report identified and confirmed that the settlements will add momentum to forestry with acquisition of Crown forests (CNI, Athenree, Puwhenua and others), fishing quota for new species in Quota Management System, aquaculture rights and aspirations to actively participate in energy production opportunities in geothermal, biomass and small scale hydro, as well as cultural tourism.
- 5.4 The significant property portfolio of iwi Treaty settlements signals a range of property management challenges as well as development opportunities. The research has shown that Crown properties acquired through the settlement process are often lacking 'love and care', suffering from deferred maintenance, low investment and subject to short-term arrangements. This may have significant issues for realising the potential of the Treaty Settlement property portfolio.

Maori land development and zoning

- 5.5 The Treaty settlements focus on recognising the loss of connection to land and resources, often as a result of land loss. Settlement redress can provide investment to existing plans to develop and create new opportunities, particularly on acquired lands. Whilst existing activities may continue (such as residential dwellings or farming), there may be obvious land development opportunities and subsequent zoning implications.
- 5.6 The settlements as yet do not specify intentions for particular properties, however, conversations with respective iwi, the location of these properties and their current zoning confirms that a number of properties have development potential for more intensive activities or alignment with activities nearby. Examples are:
 - Vacant properties within existing commercial and residential zones intended to be utilised according to their zone.
 - Properties near hospital facilities currently zoned residential may suit healthcare activities or supporting residential accommodation.
 - Properties located at former abandoned historic settlements may be appropriate for future housing and social infrastructure.

- Properties adjacent to arterial routes whose development potential may be constrained by zoning.
- A number of reserves will require management plans and formal arrangements for on-going access and maintenance.
- Lands in the conservation estate may have potential for tourism and cultural programmes.

Aquaculture / Fisheries

- 5.7 As already mentioned there have been fisheries and aquaculture settlements in 1992 and 2006 respectively. These involved the allocation of cash, shares, quota, water space and rights to iwi.
- 5.8 Many iwi have established dedicated entities to receive and manage these settlements, whilst some incorporated these settlements into existing iwi authorities.
- 5.9 The most recent settlements in the western Bay of Plenty provide further rights for fishing and aquaculture to iwi in the form of rights to new species entering the quota management system and aquaculture space allocated on a regional basis.
- 5.10 It is understood all iwi wish to continue participation in the fishing industry and are actively investigating aquaculture opportunities in the western and eastern Bay of Plenty. Collectives and individual iwi have been and continue to be feasibility studies and business cases prepared for land-based aquaculture and species specific cultivation.
- 5.11 The Bay of Connections has produced a strategy for aquaculture that may assist the Māori participants in the industry.

Responses to regional infrastructure initiatives

- 5.12 There were few responses from iwi and stakeholders with regard to regional infrastructure initiatives. Many of these responses have previously been recorded, such as:
- Ability to utilise existing infrastructure near or immediately within existing communities (wastewater, water supply, roading);
 - Reduce costs for using regional infrastructure;
 - Consideration of historic contribution of Maori to development of Tauranga and western bay of Plenty;
 - More low impact infrastructure and local solutions;

- Mauri model assessment tool and low impact approaches to water infrastructure.

Other economic/commercial opportunities and rights

- 5.13 There are close relationships between several western Bay of Plenty Iwi and a number of large settled Iwi. There are a number of opportunities to encourage and foster investment, sharing of expertise and collaboration with other Iwi. Particular mention is made of Waikato, Ngāti Awa, Te Arawa and Ngai Tahu who all have active links to western Bay of Plenty Iwi.

6.0 Environmental

Tauranga Moana Framework

- 6.1 The three Iwi of Tauranga Moana, Ngaiterangi, Ngāti Ranginui and Ngāti Pukenga have formed a collective named Tauranga Moana Iwi Collective (TMIC). TMIC is in negotiations with the Crown to establish a co-governance regime for Tauranga Moana, the water catchment, harbour and coastal waters of Tauranga.
- 6.2 Discussions are confidential and without prejudice at the time of writing this report, however, it is expected that an initialled Deed of Settlement in October 2012 will provide a greater deal of detail on the 'Moana Framework' and the implications for SmartGrowth.
- 6.3 It is understood that the Moana Framework will consist of a statutory committee made up of representatives of Iwi, the Crown and Councils. The statutory committee will be responsible among many things for preparing a high level strategy document that will influence the RPS and other processes and plans prepared under various legislation.
- 6.4 There is to be a small number of 'working groups' that will be responsible for implementation of the strategy document and Moana framework.

Kaituna River

- 6.5 The Kaituna River is the subject of a new co-management regime being established by Tapuika.
- 6.6 The arrangement has not been finalised at the time of this report as negotiations with Tapuika are ongoing.
- 6.7 The arrangement if agreed would see the establishing of a co-governance arrangement for the lower Kaituna River catchment to recognise the paramount importance of the Kaituna River and its tributaries to Tapuika and to address the deep concern of Tapuika regarding the health and wellbeing of the river.
- 6.8 The Crown will facilitate discussions between Tapuika, the Bay of Plenty Regional Council, relevant local authorities and other iwi with interests in the lower Kaituna River catchment until the finalising of the Deed of Settlement. This due in 2012-2013.

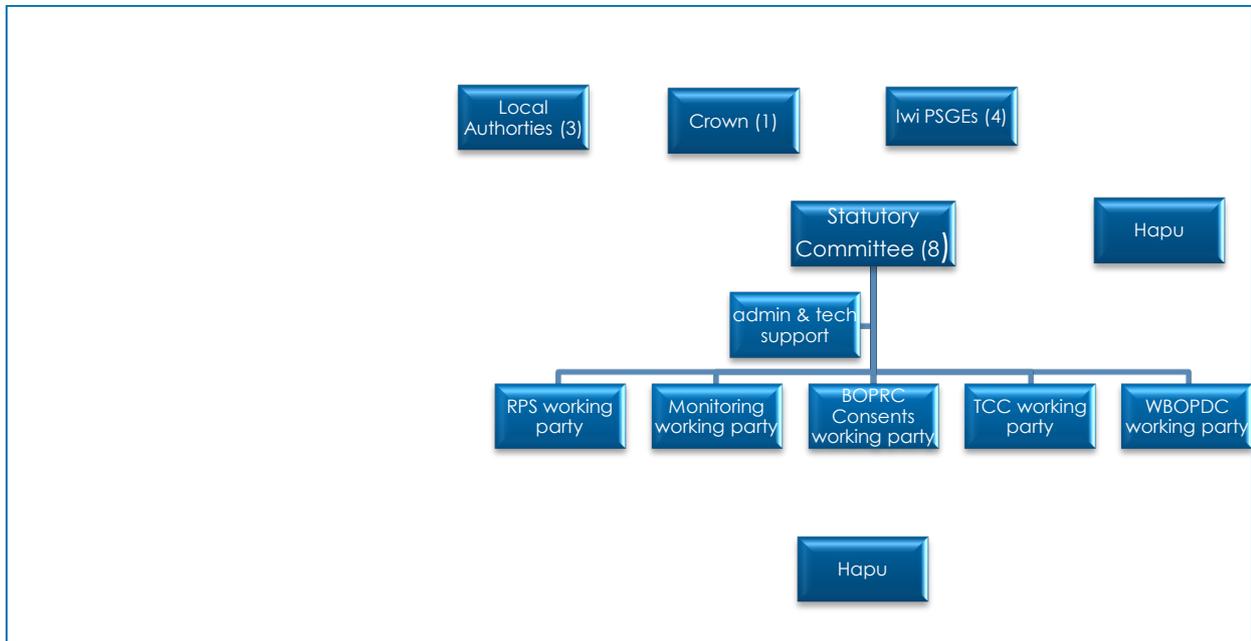


Figure 3: Draft structure of the Moana Framework (without prejudice – subject to Minister approval)

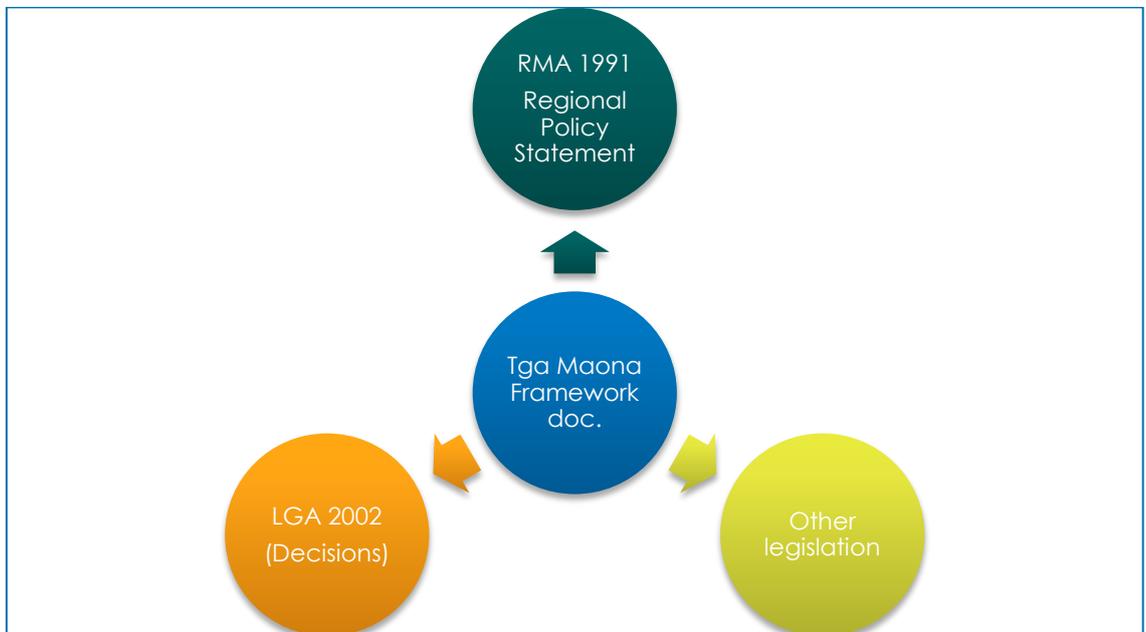


Figure 4: Draft influence of Tauranga Moana Framework document (without prejudice-subject to Minister approval)

Statutory acknowledgements and similar mechanisms

- 6.9 Treaty settlements of the last twenty years have a number of mechanisms to recognise the special relationships tangata whenua have with Crown land and water bodies.
- 6.10 These mechanisms do not include a transfer of ownership and do not apply to 'private land'.
- 6.11 The mechanisms are:
- Statutory acknowledgements;
 - Coastal statutory acknowledgements;
 - Deeds of recognition;
 - Overlay classifications; and
 - Statements of association.
- 6.12 Statutory acknowledgements are formal acknowledgements by the Crown of the mana of tangata whenua over a specified area. It recognises the particular cultural, spiritual, historical and traditional association of an iwi with the site, which is identified as a Statutory Area.
- 6.13 As well as number of other functions, consent authorities, the Environment Court, and the Historic Places Trust are required to have regard to a statutory acknowledgement when determining whether the relevant iwi may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on the Statutory Area.
- 6.14 Statutory Areas only relate to Crown-owned land and include areas of land, geographic features, lakes, rivers, wetlands, and coastal marine areas.
- 6.15 With respect to bodies of water such as lakes, rivers, and wetlands, the Statutory Acknowledgement excludes any part of the bed not owned or controlled by the Crown.
- 6.16 Deeds of recognition set out an agreement between the administering Crown body (The Minister of Conservation or the Commissioner of Crown Lands) and a claimant group in recognition of their special association with a site as stated in a Statutory Acknowledgement, and specify the nature of their input into the management of the site.
- 6.17 Overlay classifications (also known as a Tōpuni or Whenua Rāhui in some other settlements) acknowledge the traditional, cultural, spiritual and historical association of an iwi/Hapū with certain sites of significance.

- 6.18 The declaration of an area as an overlay classification provides for the Crown to acknowledge iwi values in relation to that area
- 6.19 Statements of association are a written description of the relationship between tangata whenua (most often iwi) and a particular area or resource. They are recognised by the Crown and have a power of influence and informing decision-making bodies of a special relationship between Iwi and an area or resource.
- 6.20 These mechanisms have implications under the Resource Management Act, particularly the resource consent process. They may require local authorities to send summaries of consents to identified iwi/hapu where an application for a resource consent affects an area subject to one of the above mechanisms. They also provide recognition of the special relationships tangata whenua have for land and water bodies.
- 6.21 The Treaty settlements of western bay of Plenty will introduce a large number of these mechanisms.
- 6.22 These will be new mechanisms in the western Bay of Plenty. However, settlements in the eastern Bay of Plenty and Rotorua have been using these mechanisms for some time. The Bay of Plenty Regional Council has some experience in administering the responsibilities of a local authority within these arrangements and could be best placed to provide guidance to TCC and WBOPDC.
- 6.23 The Bay of Plenty Regional Council is currently collating and spatially mapping these mechanisms. This information is available on their website and in hard copy.

7.0 Social/Political

Housing

- 7.1 A number of iwi and hapu have identified papakainga as a key aspiration of settlements. The methods to achieve this involve a number of methods including:
- Utilising settlement cash to construct homes for whanau;

- Utilising settlement properties for housing development including social housing;
 - Leveraging from the existing papakainga programme “Te Kete paraha mo nga Papakainga”; and
 - First rights of refusal to purchase Housing NZ properties within one kilometre of marae.
- 7.2 A significant piece of work was completed in [date] for identifying and assessing initial feasibility of papakainga in the western Bay of Plenty. Some thirteen areas were assessed. This work reflects recent and current aspirations for housing on Maori land.
- 7.3 The recent and impending settlements reflect the aspirations of the SmartGrowth work on papakainga and include aspirations for building on new settlement properties. These properties are a mixture of land within existing residentially zoned areas and rural zoned areas. Some have existing dwellings and others are vacant.
- 7.4 Some iwi and hapu have expressed a wish to develop these properties further. This will result in a limited number of out-of-zone developments. At one end of the scale these are small extensions to existing residential areas, at the other end, there are new settlements in rural areas. These appear to be limited to less than six in number.
- 7.5 This report considers it worthwhile conducting scoping across the sub-region to ascertain if any regional or sub-regional response is required. If not, developments would utilise processes already in place with each respective council and potential authority that needs to grant authority.

New marae and restorations

- 7.6 The marae is a community centre, a focal point of traditional rituals and ceremonies and expressions of identity, culture and history.
- 7.7 One iwi (Waitaha) has initiated and completed a wharekai (dining hall) near Te Puke at the same time as the settlement.
- 7.8 One iwi (Ngāti Ranginui) has three hapū that have aspirations for building new marae. These marae will be in former settlements.
- 7.9 Discussions with other iwi who have settled such as Waikato, Ngati Raukawa and Ngati Awa suggests that there will be higher expectations of marae upgrading of facilities. Ngati Raukawa has a large number of restoration and upgrade projects underway.²

² Confirmed by Lotteries Commission: Jan 2012

- 7.10 It is expected that settlement redress will be used as part of the contributions to overall costs of marae and restorations.

Tertiary Education Partnership

- 7.11 The University of Waikato, Bay of Plenty Polytechnic and Te Wananga o Awanuiarangi have entered into a partnership to align their tertiary programmes with the economic needs of the region.
- 7.12 The tertiary partnership is aligning programmes to create pathways for students that facilitate smooth transition between respective institutions and their courses.
- 7.13 The partnership is pursuing a stronger physical presence in Tauranga with a proposal for a campus currently proposed for an area on Durham Street, Tauranga Central Business District.
- 7.14 The settlements are silent on the matter of the tertiary partnership, however, several settlements include aspirations for better educational outcomes of iwi members, financial support e.g. Waitaha scholarships for iwi member tertiary studies, and formal relationships with tertiary institutions e.g. Ngati Ruahine and Ngai Te Ahi and Bay of Plenty Polytechnic.
- 7.15 At a recent presentation of the tertiary partnership to the SmartGrowth Combined Tangata Whenua Forum, iwi members expressed concern with the brand of the tertiary partnership and the perception of 'outside' institutions wanting presence in Tauranga without a relationship with tangata whenua.³
- 7.16 Many Iwi already have scholarship programmes for members who are undertaking tertiary studies. The Treaty settlements are expected to add further impetus to these scholarships.
- 7.17 The tertiary partnership is actively seeking a relationship with Māori of Tauranga and several iwi and hapu are pursuing relationships with individual institutions for specific programmes (e.g. trade training/tikanga), institutional governance arrangements (board representation), management of land-used activities or land rights.
- 7.18 This report suggests that there may be some benefit for iwi and the tertiary partnership members to engage in building a strategic relationship that can facilitate engagement at a number of levels. This may improve efficiencies particularly time and effectiveness of outcomes for a new campus, relationships with each institution, and leveraging on existing tertiary scholarships.

³ Combined Tangata Whenua Forum meeting held 29 August 2012, at Tauranga City Council

Impacts on governance from Treaty settlement representation and mandate

- 7.19 The settlements will establish more than fifty new entities. These will include iwi post settlement governance entities (PSGEs), asset holding entities, business operations, administrations and specific purpose entities.
- 7.20 These various entities will have specific mandates, roles and responsibilities. This report identifies a number of implications including:
1. There will be a complicated and sophisticated myriad of iwi and hapu authorities that may take some five years to be established and systems and processes brought into operation.
 2. Local authorities and resource managers may find themselves dealing with more than one entity from an iwi on a particular issue, and often more than one iwi.
 3. The expectations of iwi governance (leadership) will be more influential over the next decade.
 4. There will be ongoing capacity issues for iwi operations due to modest nature of settlements.
- 7.21 Conversations with post settlement iwi such as Waikato, Ngai Tahu and Taranaki Whanui suggest that a period of time will be required for bedding in new structures and their members, developing relationships internally and externally and meeting a myriad of statutory and compliance requirements. It is anticipated that a 5-8 year settling period may be experienced.
- 7.22 Some examples of entities being established are:

1	Post-settlement Governance Entities	Tauranga Moana Māori Trust Board Te Pumautanga o Te Arawa Te Arawa Lakes Trust Nga hapu o Ngati Ranginui Settlement Trust
2	Limited Liability Companies	Te Arawa Group Holdings
4	Specific purpose entities	Mauao Reserves Board Moana Framework co governance

		board Kaituna co-management committee
5	Vesting Trust	Otanewainuku me Puwhenua Trust

Co-governance on public land

- 7.23 There are a number of proposals for new co-governance regimes that involve public land. Two significant proposals are:
- Co-management of the Mauao historic reserve following the vesting of the reserve in 2007.
 - Partnership framework between Tauranga Moana Iwi Collective and the Department of Conservation for the management of the conservation estate (Kaimai-Mamaku Forest Park).
- 7.24 These co-governance arrangements do not appear to have direct impacts on SmartGrowth, however, the growing trend of co-governance/co-management of natural and physical resources may influence political arrangements and processes of SmartGrowth partners and forum members.

8.0 Cultural

New Cultural / education programmes

- 8.1 The settlements provide recognition of tangata whenua aspirations to enhance and maintain their identity through education and advocacy.
- 8.2 Several settlements have included specific references to cultural and education programmes for the respective iwi members. The most common is revitalisation and enhancement of the use of te reo Māori, understanding tikanga Māori and research leading to a publication or programme that expresses the history and traditions of the iwi/hapu group(s).
- 8.3 Whilst these programme may not have a direct influence on SmartGrowth they may inform SmartGrowth partners through deeper

understandings of iwi and hapu history and traditions,. Particularly with regard to special relationships with ancestral lands, waters, landscapes, fisheries, forests, wāhi tapu and taonga.

Cultural Heritage

- 8.4 Most iwi have prepared comprehensive cultural heritage inventories as part of Waitangi Tribunal hearings, claims research and Treaty settlement negotiations. These inventories are held by iwi and hapū. In some instances these have and will be made available to regional and local councils, as well as other statutory agencies.
- 8.5 Councils will need to have in place policies and understandings for the appropriate use and sharing of these inventories. It is expected there will be many hundreds if not several thousand sites of significance including wāhi tapu that could be potentially provided by Iwi.
- 8.6 The settlements as already mentioned utilise a number of mechanisms for recognition, management and protection. These include tools such as statutory acknowledgements and deeds of recognition. There are high expectations that SmartGrowth and indeed statutory bodies will be both aware of these mechanisms and will have processes and policies for undertaking their respective responsibilities.

9.0 New issues for SmartGrowth

- 9.1 As a consequence of the settlements new entities called post settlement governance entities (PSGEs) will be established. These are required by the Crown to receive cash, assets and rights. In some instances these will replace existing tribal authorities however, in many cases these will add to existing arrangements.

As such there will be a range of sophisticated, diverse and specific mandates among iwi settlement entities. This will facilitate some careful consideration of who is the right organisation(s) to talk to one particular subjects. The new arrangements are likely to take some time as mandate overlaps and gaps are discussed among groups. As an example customary fisheries has been a matter for one tribal group that has commercial fishing responsibilities assigned to a particular Trust but

not customary fishing. As such these responsibilities have been picked up by another entity due to a potential conflict of interest.⁴

- 9.2 There will be a growing number of co-governance/co-management regimes for natural and physical resources, in particular water bodies and water resources.
- 9.3 New marae and community development is expected as part of the post-settlement aspirations of iwi in the western Bay of Plenty.
- 9.4 There will be new RMA mechanisms for tangata whenua participation in the western Bay that are common in the eastern Bay.
- 9.5 There are likely to be a limited number of out-of-zone developments however these are relatively small scale and most often in areas of existing development or adjacent.

10.0 Alignment with SmartGrowth

- 10.1 As already mentioned tangata whenua have been active participants in the establishment, development and implementation of the SmartGrowth Strategy.
- 10.2 Up to this point the SmartGrowth Strategy has been silent on Treaty Settlements. That said the Strategy has included since its inception a focus on Māori cultural heritage, development of Māori land, participation of tangata whenua in the decision-making process at all levels.

Resource Development and Protection principles

- 10.3 The Treaty settlements give greater emphasis to both protection of tangible and intangible assets of iwi but also the economic development opportunities.
- 10.4 The research has identified a clear and deliberate aspiration of iwi to both look after the environment, provide a better quality of life for members and build an economic base.
- 10.5 The research has not identified a contradictory or isolation of competing tensions in the western Bay of Plenty settlements, rather the opposite, a

⁴ Ngati Ranginui Fisheries Trust and Ngati Ranginui Iwi Incorporated Society

principled bringing together and leadership philosophy for a high quality environment, prosperous people and strong identity.

Feedback from Combined Tangata Whenua Forum

10.6 A workshop was held with the Combined Tangata Whenua Forum on the 25th July 2012 and a presentation of preliminary findings was provided to the Combined Tangata Whenua Forum on the 29 August 2012. Several comments were provided regarding areas that required more focus.

These included:

- Iwi require research and development to take advantage of opportunities such as food production and product development. This could involve collaboration with universities and research institutes;
- The number of iwi groups entities will grow and databases will need to be kept up to date;
- Tangata Whenua wish to develop their lands for their benefit;

11.0 Recommendations

Cultural Heritage

11.1 Partner Councils consider new heritage protection mechanisms and processes (such as statutory acknowledgements, deeds of recognition and overlay classifications) for Crown land and waterbodies that are a part of Treaty settlements and provide for alignment with current processes and responsibilities.

Efficiencies through collaboration

11.2 The collaborative model for partnerships in SmartGrowth could be used as an important and effective method by tangata whenua to develop new relationships between tangata whenua and a range of stakeholders.

Development of Māori land and Resources

- 11.3 Partner Councils and NZTA work with iwi and hapu communities to investigate and if necessary facilitate the provision of new marae and communities in historic settlement areas
- 11.4 Partner Councils and Iwi conduct a sub-regional scoping exercise for the limited number of potential zoning challenges for iwi settlement lands where aspirations may not be currently met by current permitted baseline.
- 11.5 Continuing and enhancing papakainga programme and extend to commercial/retail activities.
- 11.6 In conjunction with NZTA, Tangata Whenua assess existing forestry (Athenree/Puwhenua) to port transport links for potential issues. (Note: May be part of Bay of Connections stream)
- 11.7 Partner Councils prepare a feasibility for appropriate locations for land based aquaculture activity or precinct.
- 11.8 Tangata whenua in collaboration with energy producers investigate potential for energy supply and production in the western bay of Plenty. Potential areas include hydro, biomass and geothermal. (Note: May be part of Bay of Connections stream)

Co-Management Relationships

- 11.9 Tangata Whenua facilitate relationships between newly established iwi and hapu PSGEs with economic hubs/incubators such as Chamber of Commerce, Priority One, and others.
- 11.10 Tangata whenua work on closing the gap between iwi PSGEs and Maori land trust co-operatives.
- 11.11 Partner Councils keep abreast of representation and mandate of newly established post settlement governance entities for the purposes of maintaining accurate records and facilitating effective relationships and communication with the right people.
- 11.12 BOPRC share learning's of implementing other BOP settlements in RMA context and new co-governance/management regimes.

12.0 Conclusion

- 12.1 A draft research report has been prepared by the Tu Pakari Advisor setting the scene for a significant change in Iwi participation in a broad range of areas – environmental, economic and cultural. This is as a result of more than 25 Treaty settlements being completed over the 10 years. A great number of these will be settled in the next five years. The settlements represent more than \$250m of assets, commercial and cultural rights, much of the asset worth being in property within the western Bay of Plenty.
- 12.2 There will be a range of co-governance and co-management regimes for water resources, public lands and new relationships with government agencies. There will be more than 50 new entities established as a result of settlements.
- 12.3 Traditional industries such as forestry, fishing, horticulture, health, education will be further advanced and supplemented by new impetus into property management/development, energy, aquaculture and cultural tourism.
- 12.4 This report recommends a number of actions for SmartGrowth and other strategic programmes such as Bay of Connections and SmartEconomy.

13.0References

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- Office of Treaty Settlements and the Hauraki Collective. Ngai Tai ki Tamaki Agreement in Principle Equivalent. July 2011
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SmartGrowth Tāngata Whenua Project Team . Nga Taonga Tuku Iho o nga Tipuna mai nga Kuriawharei ki Otamarakau Maori (Cultural Heritage Report), August 2003. Provides an appropriate framework for the identification and protection of Maori / Tāngata Whenua cultural heritage resources in the Western Bay of Plenty sub-region.

Te Arawa Lakes Settlement Act 2006.

Appendix 1: List of Treaty Settlements

No .	Settlement Group / Iwi	Status [as at 6 Sept 2012]	Timetable for settlement	Redress package detail
1	Hauraki – Ngai Tai ki Tamaki	Agreement in principle (equivalent) with each of twelve iwi	2 years	\$80m (offer for Hauraki Collective) Forestry Large number of properties Co-governance over waterways
2	Hauraki – Ngati Hako	Agreement in principle (equivalent) with each of twelve iwi	2 years	
3	Hauraki – Ngati Hei	Agreement in principle (equivalent) with each of twelve iwi	2 years	
4	Hauraki – Ngati Maru	Agreement in principle (equivalent) with each of twelve iwi	2 years	
5	Hauraki – Ngati Paoa	Agreement in principle (equivalent) with each of twelve iwi	2 years	
6	Hauraki – Ngati Porou ki Hauraki	Agreement in principle (equivalent) with each of twelve iwi	2 years	
7	Hauraki – Ngati Pukenga	Agreement in principle (equivalent) with each of twelve iwi	2 years	\$5m
8	Hauraki – Ngati Rahiri Tumutumu	Agreement in principle (equivalent) with each of twelve iwi	2 years	
9	Hauraki – Ngati Tamaterā	Agreement in principle (equivalent) with each of twelve iwi	2 years	
10	Hauraki – Ngati Tara Tokanui	Agreement in principle (equivalent) with each of twelve iwi	2 years	
11	Hauraki – Ngati Whanaunga	Agreement in principle (equivalent) with each of twelve iwi	2 years	
12	Hauraki – Ngati Patukirikiri	Agreement in principle (equivalent) with	2 years	

		each of twelve iwi		
13	Ngaiterangi	Letter of offer	DOS Dec 2012	Quantum offer not agreed
14	Ngapotiki	In negotiations with Ngaiterangi	DOS Dec 2012	Unknown
15	Ngāti Makino	Legislation 2012	Completed 2012	\$11.3m Forestry RFR School
16	Ngāti Haua	Subject to negotiations leading to agreement in principle.	2 years	Not applicable at present
17	Ngāti Hinerangi	Deed of Mandate in progress	unknown	Not applicable at present
18	Ngāti Ranginui	Deed of Settlement (June 2012)	Legislation 2013	\$39.5m 41 properties Reserves Schools RFRs
19	Ngati Rangitahi	Deed of Mandate	Terms of Negotiation 2012	Have already settled CNI. \$17m
20	Ngāti Rangiwewehi	Agreement in Principle	2012	\$6m 4 properties
21	Ngati Raukawa	Deed of Settlement	Legislation 2013	\$52m 13 cultural properties 25 deferred selection properties RFR over 36 properties
22	Tapuika	Agreement in Principle	2012	\$6m 18 properties RFRs 13 cultural sites Work on co-governance for Kaituna River
23	Tauranga Moana Iwi Collective	Statement of Position and Intent (Dec 2011)	DOS Nov 2012 Legislation 2013	RFRs Sale and lease back options Co-governance model for Tauranga Moana Vestings \$250,000 (operations)
24	Tauranga Moana Maori Trust Board Act 1981	Completed	Completed	\$250,000 land
25	Te Arawa Affiliates	Legislation	Completed	\$38.6m
26	Te Arawa (Lakes)	Legislation	completed	Previous Te Arawa Trust Board Vesting of 13 lakes

				Cash
27	Waitaha a Hei	Deed of Settlement (Nov 2011)	Legislation 2013	\$11.8m plus interest 6 reserves 1 property Education endowment
28	Ngāti Whakaeu Tribal Lands Trust	In Negotiation	Unknown	Properties
29	Treaty of Waitangi Fisheries Settlement Act 1992	Completed	Completed	\$3.9m Cash, quota and shares allocated to each iwi
30	Aquaculture	completed	Completed	Rights allocated to each iwi
	Total of identified quantum of Treaty settlements			\$256.45m

Appendix 2: Summaries of Settlements

Ref # <h1>018</h1>	NAME OF TREATY SETTLEMENT GROUP Nga hapu o Ngati Ranginui Settlement Trust REPRESENTING Nga hapu o Ngati Ranginui								
STATUS / DATE 									
AREA OF INTEREST <p>Waihi Beach to Mt Aroha, western side of harbour to Otawa mountain. Rivers and streams, Tauranga harbour, coastal area out to coastal marine area limits.</p>									
<table border="1"> <thead> <tr> <th colspan="2">NATURE OF REDRESS</th> </tr> </thead> <tbody> <tr> <td>Financial</td> <td>\$39.5</td> </tr> <tr> <td>Commercial</td> <td>properties</td> </tr> <tr> <td>Cultural</td> <td>properties \$500,000 for hapu development</td> </tr> </tbody> </table>	NATURE OF REDRESS		Financial	\$39.5	Commercial	properties	Cultural	properties \$500,000 for hapu development	ASPIRATIONS <ul style="list-style-type: none"> • Move from grievance mode to development mode • Land holdings in each hapu rohe • Co-governance in management of water resources • Enhancement of harbour and coastal resources • 5 communities pursuing Papakainga • 3 hapu pursuing new marae • Long-term investments •
NATURE OF REDRESS									
Financial	\$39.5								
Commercial	properties								
Cultural	properties \$500,000 for hapu development								
SmartGrowth Implications									
Leadership: new entities									
Partnership: new co-management regimes									
Management: new management operations									
Maori Land Development and zoning: zoning of land for Papakainga (urban zonings)									
Economic Development: long-term land-based investments in the area of property management and development, energy production, housing,									
Infrastructure: water and energy infrastructure for existing and future papakainga									
Natural & Cultural Environment: enhancement of costal and water resources									

Development Allocation:
Settlement Pattern: focused on existing and historical settlement patterns.
Housing: 4 communities pursuing Papakainga developments – Bethlehem, Wairoa (2), Waimapu
Population: no comment
Education: established education committee and
Health: established health services
Conservation: no comment
Minerals: no comment
Aquaculture / Fisheries: established Fisheries Trust and Company
Cultural / Education Programmes: a number of historical publications and cultural revitalisation programmes
Statutory Acknowledgements and other mechanisms: small number of statutory acknowledgements
New Marae: Potential to build three new marae for hapu communities.
Other: