

MINUTES OF MACA HUI

Co-ordinated by Te Rūnanga O Whaingaroa

Held Online Wednesday 23<sup>rd</sup> March 2022

Commencing 6pm

**Karakia: Rihari Dargaville**

**Mihimihi: Anaru Kira, Toa Faneva**

**Present**

Toa Faneva, Bryce Smith, Frances Goulton, Hinemoa Pourewa, Anaru Kira, Jessica Williams, Nyree Manuel, Roger Kingi, Stephen Rush, Makere Riwhi, Raniera Kaio (TRoW) Marlene Pivac (TRoW), Rihari Dargaville, Waiatua Hikuwai, Jean Joseph, (Kahukuraariki trust board ) Frances Goulton, Bree Davis, Charles Ohlson, Libby Masterton, Ana, Raiha Fredricsen, Hemirua Rapata

**1. APOLOGIES:**

Anihera Pomare, Robyn Tauroa, Terry Pomare, Tahua Murray, Mariameno Kapa Kingi

**2. Agenda:**

- **Te Arawhiti Presentation** - Charles Olson – Senior Analyst, Libby Masterton – Director
- **Collaborative Approach/MOU**
- **Next Steps**

**3. Te Arawhiti Presentation**

- Update on Crown Engagement Process, Funding Support, Q&As
- Numerous applicants, looking for updates on how the process is going

**Crown Engagement**

***Libby Masterton***

- Dedicated to move the Crown along, needing to engage with all applicants to look at how to move forward
- Purpose was to shift how the Crown thought about this mahi – to support having rights recognised. To look at how history has unfolded and what that means for us now
- Last few months – have been reaching out to as many applicants as possible
- Would like to support however we would like to be supported going forward
- First step: how can we help you come together in groups, like we are now, to come forward collectively. Ensure that the rights recognised acknowledge all involved.
- Application statuses are very varied across the country
- Draft strategy – timeframes don't exist anymore – received feedback that this wasn't the right approach.

***Question/Feedback – Waiatua Hikuwai***

- Crown vs. High Court options – In Whangaroa, we are not necessarily given the choice. Please direct korero to our group specifically as it is a bit confusing. Some people in the group have gone through the Crown, some have gone through High Court.
- Current confusion – is it correct that individual application has not been recognised yet until Andrew Little has checked that particular application and then made a decision?

***Libby Masterton***

- Apologies – Waiatua is correct, not everyone has a choice. Te Arawhiti will support regardless of the pathway that has been chosen.

- Not correct – That process has now changed. Previously, the minister needed to enter into a term of engagement for every applicant. This has now been removed. Minister has said that he will engage with all groups. There is nothing stopping engagement now apart from Te Arawhiti's collective time they can spend on it.
- Minister now comes in at latter end of process. Te Arawhiti helps applicants to pull together legally required information to present to the minister and then the minister makes a decision on the recognition of rights.

**Charles Olson**

- Majority of Whangaroa applicants are Crown Engagement not High Court. Advantage of that is that at High Court the judge will ask for status application; as a Crown Engagement process it is very unlikely that the application will have to go through the High Court.
- List has been sent to Toa of applications through different pathways (Crown, High Court, dual)
- First step is to go through the applications from Whangaroa. Some aspects (e.g. maps) are missing from some applications. Sort through them, correct them and then move them forward.

**Toa Faneva/Marlene Pivac**

- The maps have been sent out as a zip file to all participants on this zoom. If you haven't received them then please let her know.

**Question/Feedback – Frances Goulton**

- Dual pathway – How does the timeframe work for settling across pathways?
- Maps – What would a collective approach for Whangaroa look like? If it's acceptable to us, is it acceptable to you?
- Loss of our authority which must be retained at all costs – a discussion that needs to be had at some stage

**Libby Masterton**

- Dual pathway response – Not many people going through the High Court process. It is possible that someone individually could try to push down one pathway but collectively is better. High court judges seem reasonable and listen to what the applicants desire.
- Dual pathway is less of an issue when working collectively.

**Question/Feedback – Rihari Dargaville**

- Good to hear majority of Whangaroa applicants are Crown Engagement
- Personally, has no faith in the Crown so has opted High Court
- We must work together collectively, regardless of the individual pathways chosen

**Libby Masterton**

- Clarification that the Crown is not a negotiation – they are tied to the same piece of legislation as the High Court that has very specific tests. Judges and minister make their decision under the same tests. For rights recognition, you either do or don't have them depending on what the legislation says

**Question/Feedback – Anaru Kira**

- Do both processes have merit?

**Libby Masterton**

- Yes – As long as one application is with the high court, you can move the process there at the end if you don't like the response given by the Crown
- Te Arawhiti will support however they can. High Court is looking for a collective response and Te Arawhiti will help with that. If you go individually then the High Court will most likely send you away to work collectively.

**Question/Feedback – Bryce Smith**

- Didn't want the impression given that Whangaroa is naïve regarding the Crown

- Comment of “how can we help?” from Te Arawhiti – there’s a problem with this. As an individual that sits on the Maori text of Te Tiriti o Waitangi and those individuals that sit on the English text of Treaty of Waitangi – they can’t actually help.
- Feels disrespected to be referred to as “claimants” as it was the Crown that made us claimants, not us. If going to be called a claimant, that means we have to fit into what the Crown have asked them to tell us. This is another problem, if you want to help then sort this out. We are not claimants, we are Tangata Whenua.
- As a claimant, getting to the point of filling out an application, and getting to where they want us to go, which is in front of the judge, how do they join claimants together with mana whenua and mana moana within Whangaroa?
- Been sitting here for many years waiting for help. They’ve now come to us with money but it’s not about the money, it’s about the coastal marine area and mana.
- Would like to hear what the Runanga’s position is – been waiting a long time, there was one read by the kaumatua before he passed away but it has never been sent out, it was not in the minutes. It is important, we do want to come together collectively

**Charles Olson**

- Maps response – Looking for clarity about what the area of interest is and what it means to them. Some interest is to whenua, some to moana – this needs to be clarified. Which area applies to which group(s).
- Applications can be amended so if there is a correction to the maps then it can be done

**Question/Feedback – Frances Goulton**

- If 70 claimants all put dots on the map – this is a map in itself instead of lines. Does that mean those claims get taken away and then does the judge base it on Whangaroa not individual dots
- Does it give authority given to the Whangaroa group to determine where those dots are and the mana there?

**Libby Masterton**

- As an example - in Tauranga they came together as 5 groups collectively to show individual areas for hapu as well as collectively shared areas
- Think about exclusive areas and shared areas in our area

**Funding**

**Libby Masterton**

- Funding for every applicant regardless of pathway which means you can apply
- Changing the scheme so that the funding is better and makes more sense
- Waiting for budget announcements before the scheme can be changed – can still receive funding straight away but the scheme will be changing (for the better)
- If you do need funding straight away, contact Charles and he will help you apply for it.
- Working collectively you will have access to a large amount of money – as many of the applications require the same information there is no need to pay for the same information/research multiple times especially when working collectively

**Question/Feedback – Anaru Kira**

- Previously the Runanga was given the capacity to administer a whole process – can they be funded as well?

**Libby Masterton**

- Yes – The Runanga has a current application as well which means they are able to receive funding

**Question/Feedback – Rihari Dargaville**

- Applicants have beneficiaries. Bring on more of the beneficiary hapu – as we get near the end of the process, someone will speak up and say that they weren't consulted. Best to bring them all on board. More people involved
- Runanga carried us for a while which was good – funding hui, administration, research, legal
- How do we apply this given that all applicants are entitled to funding?

**Question/Feedback – Waitua Hikuwai**

- If applicants get funding for research for personal hapu, are they entitled to keep that information or must the information be shared with the Crown & wider community?

**Libby Masterton**

- Enough information will need to be shared to enable a decision to be made. Whether you share that to the collective group will be something that the collective group will need to discuss – who is doing what research and what will be shared around
- Applicant research is more based on personal connection to the land and history. Crown research is more based on what the Crown has historically done, who else may use the land. The information is then all brought together to see how it fits the tests. When a good evidence-based case is created – a collective report is written and presented to the minister.
- If at any stage there are points that the Crown doesn't believe the application will be successful then applicants can argue their case. The Crown does not put anything forward that applicants don't agree with. Ideally they want to put "yes" decisions in front of the minister. If there is still no agreement then the Crown will ask whether you wish for the application to still be brought forward. How can we collectively go to the minister for the yes decision to be made?
- The shared information is not released by the Crown, it does not become public information. Charles and Libby currently working in office on how does it relate to OIA and when asked for the information. When information is provided, reminding the Crown how important and protected that information is. Until the process is complete the Crown won't release anything. Where they become unstuck is when one person gives the information and then another of the OIA asks for the information. This is why they ask groups to work collectively.
- The Crown wants to make sure that the korero stays linked to the original voice

**Charles Olson**

- A discussion for Whangaroa to discuss the research options – whether you have a smaller number of researchers doing the research on behalf of the hapu and whanau
- Applicants all having relationships with each other is important evidence to showing your connections to the area. If you all have a connection to an area, your relationships are very important

**Libby Masterton**

- It's not just about your historical connections – it is about your connections now. What do you do now to tell council they can't do things? What do you do to look after the land and sea? Involvement in consent processes? Other Crown processes your involved in?

**Question/Feedback – Rihari Dargaville**

- Information that you raise as your hapu is to substantiate your case. But your case is my case. You have responsibility to share that case because you have the information. If we want to move forward we should be transparent – but the originator of that case is where that information belongs.
- As we go along and draw the dots we are drawing our own maps. When it gets formalised is when it creates problems as boundaries go up. Very formal divisions that will create overlaps. We know some hapu have exclusive rights to certain areas which can be shown by dots
- Looking for a pragmatic way based on tikanga on how we best share this

- Agenda for next time – what is a strategy and Kaupapa on this matter?

**Question/Feedback – Bryce Smith**

- Biggest dilemma we have in our hui's is that we have overlapping claims – not about hapu. We have blanket claims – not about hapu. There are very minimal hapu claims in Whangaroa.
- Not all applicants are known, 50 or 60 applicants that never show face – don't know if they've put evidence in, if they've got lawyers
- Whangaroa as a collective group have agreed to a boundary however at the last meeting we have a list of claimants that don't live in Whangaroa but are claiming Whangaroa rohe – we can't do anything about it. Something that the minister needs to deal with swiftly.
- The other applicants that have never shown – they are relevant because the Crown has made them relevant and allowed them to be there, but the Crown is doing nothing to find them and finding how they are contributing to this passionate group of people. Every hui we have, this comes up. Where do we find that information on what other claimants are doing.

**Libby Masterton**

- This is a very good point – would like the group to help with producing a list of who is in the collective and which applications they represent, which claims we don't know who they are and how they relate, which claims overlap
- This is an error of the process where anyone can claim over any area and overlap
- How do we collectively approach the applicants and ask them to remove or ask the Crown to have that conversation. Preference is with the collective approach having that conversation.

**Question/Feedback – Waitua Hikuwai**

- This is the reason why hesitant around sharing the information to the collective group as applicants who are on the outside can run with that korero and share it to the Crown before the originator can

**Question/Feedback – Anaru Kira**

- Is there a process where we can eliminate those people – calling a hui with everyone to eliminate them. Other options will be too complicated, time consuming and waste of resources. If people don't attend, we've given the option

**Charles Olson**

- Very important to go through the applications and find those that don't whakapapa in Whangaroa. We do need to find those that do have linkages to Whangaroa through whakapapa though as they may have validity in their claims

**Question/Feedback – Bryce Smith**

- The original purpose of why we are here – to justify customary use as mana moana. If you are outside of this area and you put in a claim for inside this area – how can you do that? It should be a simple elimination

**Libby Masterton**

- Those people should be identified. Where we will be concerned is if there are applications that are within your area that aren't being represented by the people
- Identify those and then what is the process

**Question/Feedback – Bryce Smith**

- It is not us who should apply tikanga to eliminate – that is a declaration of war under tikanga. It is the systems responsibility to do it because it was the Crown that did it.
- Supports Anaru however believes that a hui will be more detrimental by giving them access in

**Libby Masterton**

- How would we make that decision? It has to be based on something – it is currently just based off of individual word

	<p><b>Question/Feedback – Jessica Williams</b></p> <ul style="list-style-type: none"> <li>• Scenario – applicant who has put in a claim on behalf of hapu (a collective of hapu) both for High Court and for Crown Engagement. Have spoken directly to this applicant as their claim directly overlaps her hapu’s claim. Korero that was had – Do you have the mana/mandate to korero on behalf of these hapu? We were put through a process, a hapu claim was put in, hui with hapu and have them turn up and have them agree. We went through it but understanding is that not everyone has to. This claimant has 4 claims – 3 as hapu, 1 as trust – and he is running parallel investigations without the hapu’s knowledge. This is a flaw in the system. Should he be able to take claims to High Court without hapu knowledge?</li> <li>• Agrees that it should not be our mahi to have those conversations of elimination</li> <li>• Applicants lawyers are “avoiding us like the plague” – still waiting for responses</li> <li>• Some applicants are hiding because as long as they can’t be contacted they can continue to use their funding and move forward with their claims/process</li> </ul>
<b>4.</b>	<b>Collaborative Approach</b>
	<p><b>Toa Faneva</b></p> <ul style="list-style-type: none"> <li>• Some of the korero from the presentation suggests that importance of working collaboratively. Hearing setting up conditions for ourselves around how we are going to collaborate</li> <li>• In 2019 approximately Tamaki Legal tabled a document as an MOU as potentially a way for us to collaborate.</li> <li>• Where do we want to go with this? Do we still want to go ahead with something like this? If we do get to that point, it may push forward the other matters that we need to collectively do going forward such as research, addressing overlapping applicants and how we want to address.</li> <li>• If we get some of the agreements together of how we want to collaborate, it may mean the other ones fall into place and we may get some answers</li> </ul> <p><b>Rihari Dargaville</b></p> <ul style="list-style-type: none"> <li>• Supports the approach. It keeps us on a track that unites us through stages we are going to go through. As we progress the pathway, the MOU supports where there is a wide majority support/collective agreement to move forward</li> <li>• Important to note, there are hapu that have exclusive rights to areas along the coastline which needs to be made known</li> </ul> <p><b>Anaru Kira</b></p> <ul style="list-style-type: none"> <li>• Supports the approach. Would like to note it doesn’t matter what we draft together, we will not be able to do it in a way that everyone is happy because of the lack of trust</li> </ul> <p><b>Bryce Smith</b></p> <ul style="list-style-type: none"> <li>• The only agreement we have made collectively is the boundary. In his mind has put the MOU aside and brought the boundary over by itself.</li> <li>• Administration of MACA meetings – asks as an individual for some consistency to give some assurance. Stop/start, absences – are half of the problem. Is causing to lose faith. When is our next meeting?</li> <li>• Could take a long time to resolve this – multiple chairs &amp; CEOs over that time. This group is burdened by the political dynamics of the Runanga. Asking to give assistance to the Runanga, allow them to facilitate, been great &amp; appreciative so far of facilitation, but allow group to administer the meetings.</li> </ul> <p><b>Toa Faneva</b></p> <ul style="list-style-type: none"> <li>• Very good points. Runanga does need support. Back-office functions could be a role we could do going forward. Agrees with facilitation of hui – about building trust among the group. May be better person/collective group within us to keep the momentum going</li> </ul>

	<p><b>Waiatua Hikuwai</b></p> <ul style="list-style-type: none"> <li>• Not in support of the approach. Doesn't see why we have to have something we all have to sign but isn't legal. We didn't contribute to it, Tamaki Legal drew it up without our direction. Is in agreement of the boundary but not the MOU until we can work through issues like trust.</li> <li>• Doesn't like seeing threads of emails that we're only thinking of ourselves. It's unnecessary to pull each other down, we need to lift up.</li> </ul> <p><b>Anaru Kira</b></p> <ul style="list-style-type: none"> <li>• What is the solution?</li> </ul> <p><b>Waiatua Hikuwai</b></p> <ul style="list-style-type: none"> <li>• Not sending the threads</li> </ul> <p><b>Rihari Dargaville</b></p> <ul style="list-style-type: none"> <li>• The Runanga did a great job to bring us together at that time, supports the Runanga to keep administration of facilitating this. Believe we are here tonight to propose a continuum of meetings so that we can continue to meet.</li> <li>• Principles of an MOU are great even if we don't like it, leave that to one side if it's too complicated though.</li> <li>• Regular meetings are a must</li> </ul> <p><b>Nyree Manual</b></p> <ul style="list-style-type: none"> <li>• Been in meetings going round in circles for ages. Would really like us all to remain solution focused and think about how working together is going to happen and push hard to get over the barriers we have. We are here for what our tamariki are going to have one day.</li> </ul> <p><b>Jessica Williams</b></p> <ul style="list-style-type: none"> <li>• Knows that the MOU is important but if we don't know where we're going then we won't know how to get there</li> <li>• Suggests to back track a little bit to take a huge step forward. Look at strategic planning – “paving alternative tomorrows with hope” everything is solution based – we're going to have barriers, it's about how we are going to identify them and then identify group strengths and move around the barriers. Otherwise we're going to keep having the same korero from lack of vision, we don't know where we're going. Would like to put hand up to help deliver this process</li> </ul> <p><b>Toa Faneva</b></p> <ul style="list-style-type: none"> <li>• We were at this point last time round. We were going to do multiple wananga with a number of different groups for exactly this reason, COVID got in the way.</li> <li>• Wananga to look at strategic intent amongst us – supports Jessica's korero</li> <li>• Will link in with Jessica and other interesting group members to arrange this</li> </ul>
5.	<p><b>Final Comments</b></p>
	<p><b>Anaru Kira</b></p> <ul style="list-style-type: none"> <li>• The evidence can be as simple or as complicated as we want it to be</li> </ul> <p><b>Jean Joseph</b></p> <ul style="list-style-type: none"> <li>• Thoroughly enjoyed the korero tonight. Would like to acknowledge those that have spoken</li> <li>• Mana &amp; how you have been speaking to each other has been decent &amp; fair – think it will go well going forward because you are listening to each other which is a good start</li> </ul>
6.	<p><b>Next Steps/ Timeframes</b></p>
	<ul style="list-style-type: none"> <li>• Evidence gathering will be part of the hui that we set</li> <li>• Continue to hold fortnightly hui</li> <li>• Next meeting – we should have proposal, dates for wananga, confirmation from marae to host</li> </ul>

<b>7.</b>	<b>Closing</b>
	<p><b>Karakia:</b> Rihari Dargaville</p> <p><b>Meeting Closed:</b> 7.45/8pm</p> <p><b>Next Meeting:</b> Wednesday 6<sup>th</sup> April, 2022</p>
<b>Key Points</b>	
<b>Te Arawhiti's Presentation</b>	
<b>Crown Engagement</b>	The process has changed. Minister has agreed to engage with all applicants and only enters at latter end of the process
	Te Arawhiti will help regardless of which pathway has been chosen (Crown, High Court, Dual)
	We must work collectively, regardless of the individual pathways chosen
	The Crown is not a negotiation – The Crown & High Court are tied to the same piece of legislation that have very specific tests. Judges & ministers make their decision of rights recognition under the same tests and therefore under specific legislation
<b>Funding</b>	There is funding available for every applicant regardless of pathway
	A change will be happening to the funding soon to make it better. You can still receive funding straight away however be mindful of changes to come.
	Sharing of information that is gathered through research – enough information must be shared in the application to enable a decision to be made. Whether that is shared to the collective group is something for the collective group to discuss. Discussion later encouraged a shared collective approach, however for the korero to ideally stay recognised & linked to the originator
	Your relationships with each other are important evidence to show your connection to the area
	There are many applicants who don't live in Whangaroa but are claiming Whangaroa rohe. It was agreed that the list of applicants should be reviewed and those irrelevant eliminated however who that mahi sat with (the Crown or the collective) was left undecided
<b>Collaborative Approach</b>	MOU discussion sitting favourably with most however some noted to not be in favour
	Administration of MACA meetings – consistency of meetings is needed. It has been asked for the Runanga to allow the collective to help
	We must remain solution focused to ensure that we are moving forward



Actions			
Date	Task	Who	Completed
23/3/22	Contact Marlene if you have not received zip file of maps	Collective	
23/3/22	Create a collective approach for mapping for Whaingaroa	Collective	
23/3/22	Provide a written position for the collective group	TRoW	
23/3/22	Create a list of who is in the collective and which applicants they represent	Collective	
23/3/22	Create a list of claims that are not known (unclear who they are or how they relate) and which claims overlap	Collective	
23/3/22	Sort through the list of applicants & eliminate those that are irrelevant/unknown	Collective/ Crown	
23/3/22	Organise wananga to discuss strategic intent so we have a clearer vision. Confirm marae to hold the wananga.	Toa/Jessica/ Collective	
23/3/22	Organise next meeting for Wednesday 6 <sup>th</sup> April, 2022	Toa	