

Ngāti Whātua PSGE representation - options for discussion

Purpose

1. This document sets out some options for representation (i.e., the basis on which trustees will be elected) for the Ngāti Whātua PSGE. A range of options is described, together with some advantages and disadvantages of different approaches. The document is for the project team to discuss so that a refined set of options (and potentially a favoured option) can be put forward for consultation and discussion by Ngāti Whātua uri.

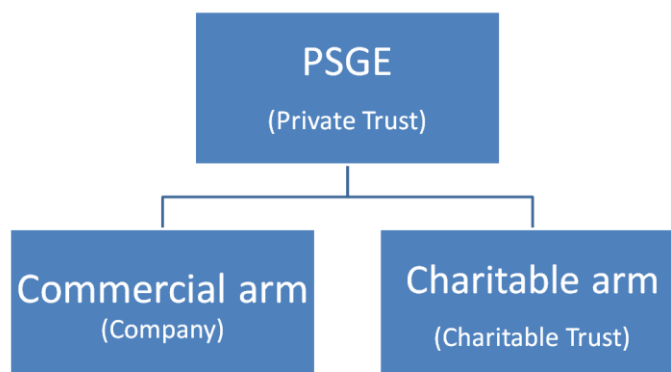
General considerations

Representation

2. A PSGE is not a traditional Māori structure – it is a relatively new type of entity established under a set of Crown requirements to hold and manage the settlement redress transferred to the claimant group under the Deed of Settlement. Therefore, as well as reflecting the needs of Ngāti Whātua uri, the PSGE has to meet specified Crown requirements. The Crown requires that the PSGE must adequately represent all members of the claimant group. In order to be **representative** of the claimant group the trustees of the PSGE must be elected in a democratic process by the adult registered members of the community that the PSGE represents.
3. Once elected, the primary role of each of the trustees is to represent and act in the best interests of all the beneficiaries of the settlement. In other words, a trustee, like the PSGE as a whole, must represent the interests of all the hapū, marae and whānau who make up Ngāti Whātua iwi – not just the marae which endorsed the trustee’s nomination or the uri who voted for that trustee.

Legal form of the PSGE

4. The PSGE will be established as a private trust, with subsidiary trusts or companies set up underneath it to manage the settlement assets – typically a commercial arm (company) to manage the asset base, and a charitable arm (incorporated charitable trust) to deliver services to iwi members.



5. The separation of governance of the parent PSGE entity from management of the assets is crucial for the effective management of settlement assets and is common to all PSGE structures. It allows the right skills to be focused on the right tasks. Typically the trustees who are elected to govern the parent body are experienced at political representation and do not necessarily have the business experience essential for the effective management of the commercial settlement assets. A separate commercial arm enables the PSGE trustees to appoint company directors with the necessary mix of skills and experience.

Number of trustees

6. TRONW currently has 11 trustees. PSGEs for iwi of similar population size to Ngāti Whātua¹ have board sizes ranging from 7 to 22 trustees. In many cases the size of a PSGE board reflects the number of marae or hapū (e.g., Ngāti Awa has 22 hapū, each of which elect a trustee to the PSGE) rather than being driven by a notionally efficient PSGE size. CFRT has suggested an “ideal” PSGE board should be 5-8 trustees. A smaller board may certainly be more efficient but it may not suit the particular circumstances and structure of every iwi.

Nomination and endorsement of candidates

7. It is important to keep in mind that the nomination and endorsement of candidates is a separate process from that of electing the trustees. For example, there could be a requirement for candidates to be endorsed by one or more marae (or by an existing PSGE), even if the voting system does not involve marae or PSGEs.

Option for PSGE electoral models

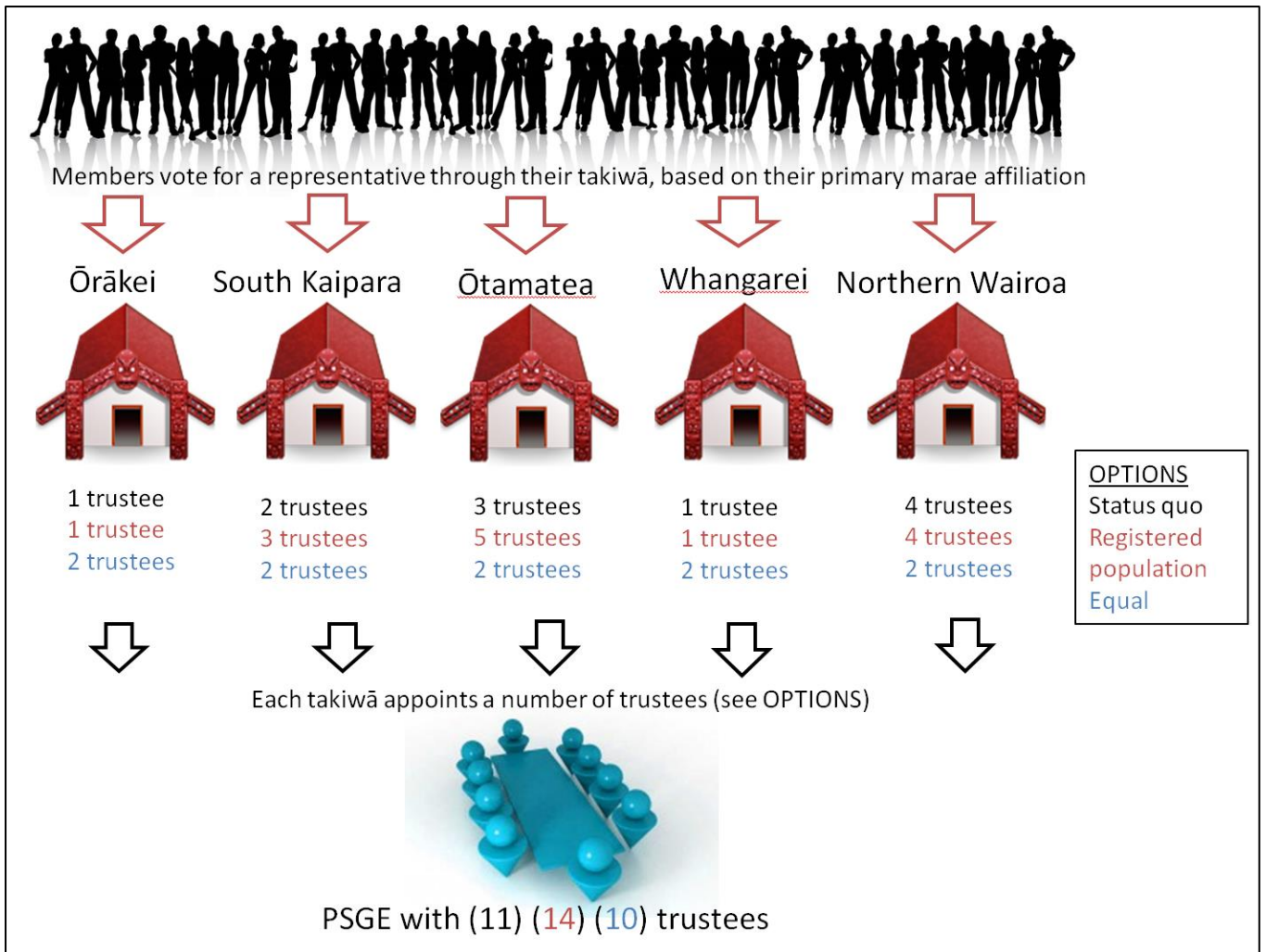
8. The different electoral models for PSGEs reflect the different ways in which individual members may exercise their vote.
9. It is recommended that Ngāti Whātua should focus on options that are based on:
 - **Marae** – i.e., members exercise their vote through their marae (note that the current representative models for TRONW, Ngāti Whātua o Kaipara, and Te Uri o Hau are marae-based); or
 - **Iwi whānui** – i.e., members exercise their votes as individuals; or
 - **PSGE** – i.e., members exercise their vote through an existing PSGE (or through marae if there is no existing PSGE).
10. Other possible electoral models have been adopted by other PSGEs, but they appear to be less suitable for Ngāti Whātua. These include hapū based models, geographical takiwā (i.e., voting based on where people live, rather than marae-based takiwā), and combination models (each individual gets more than one vote – e.g., a marae vote and an iwi whānui vote).

¹ Based on the nominal iwi populations recorded in the Maori Fisheries Act.

Marae-based electoral models

11. Examples of marae-based PSGE electoral models include Te Uri o Hau (8 trustees, 2 elected by each of 4 marae) and Ngāti Whātua o Kaipara (5 trustees, one from each of 5 marae).
12. Under the simplest form of a marae-based model, the registered adult members affiliated to each marae elect one or more representatives to the PSGE board. For Ngāti Whātua, this would result in a board with 35 members (or fewer, if some marae wish to leave the Ngāti Whātua confederation) – which is too large for an effective PSGE board. It is therefore necessary to group the marae into clusters, with each cluster electing one or more representatives. Options include:
 - M1 - Status quo:** Currently the 35 Ngāti Whātua marae are clustered into five groups or takiwā. Each takiwā elects a set number of board members broadly proportionate to the number of marae in the takiwā, as follows – Ōrākei (1), South Kaipara (2), Ōtamatea (3), Whangarei (1) and Northern Wairoa (4);
 - M2 - Population-based distribution of trustees:** Each of the five takiwā elects a number of trustees that is proportionate to their population of registered adult members. Based on the current register, this would result in the following distribution of trustees (and a board of 14 trustees): Ōrākei (1); South Kaipara (3); Ōtamatea (5); Whangarei (1); Northern Wairoa (4).
 - M3 - Equal distribution of trustees:** For example, each of the five takiwā elects 2 trustees, resulting in a board with 10 members.
13. It would also be possible, under any of the above options, to review and re-set the boundaries of the current takiwā.

Marae-based electoral model



Advantages and disadvantages

Marae-based model generally (options M1, M2 and M3)

Advantages	Disadvantages
<ul style="list-style-type: none"> • Familiarity • Relatively simple transition to PSGE (information on marae affiliations already on uri register) • Consistent with Ngāti Whātua tikanga (reflects marae focus of TRONW) 	<ul style="list-style-type: none"> • Not seen as a “fresh approach” post-settlement (but options M2 or M3 do entail change from status quo)

Comparison of marae-based options M1, M2 and M3

Option	Advantages	Disadvantages
M1 – status quo	<ul style="list-style-type: none"> • Familiarity 	<ul style="list-style-type: none"> • Not proportional on an individual voting basis (not all members’ votes carry equal weight) • If some marae leave, no longer an

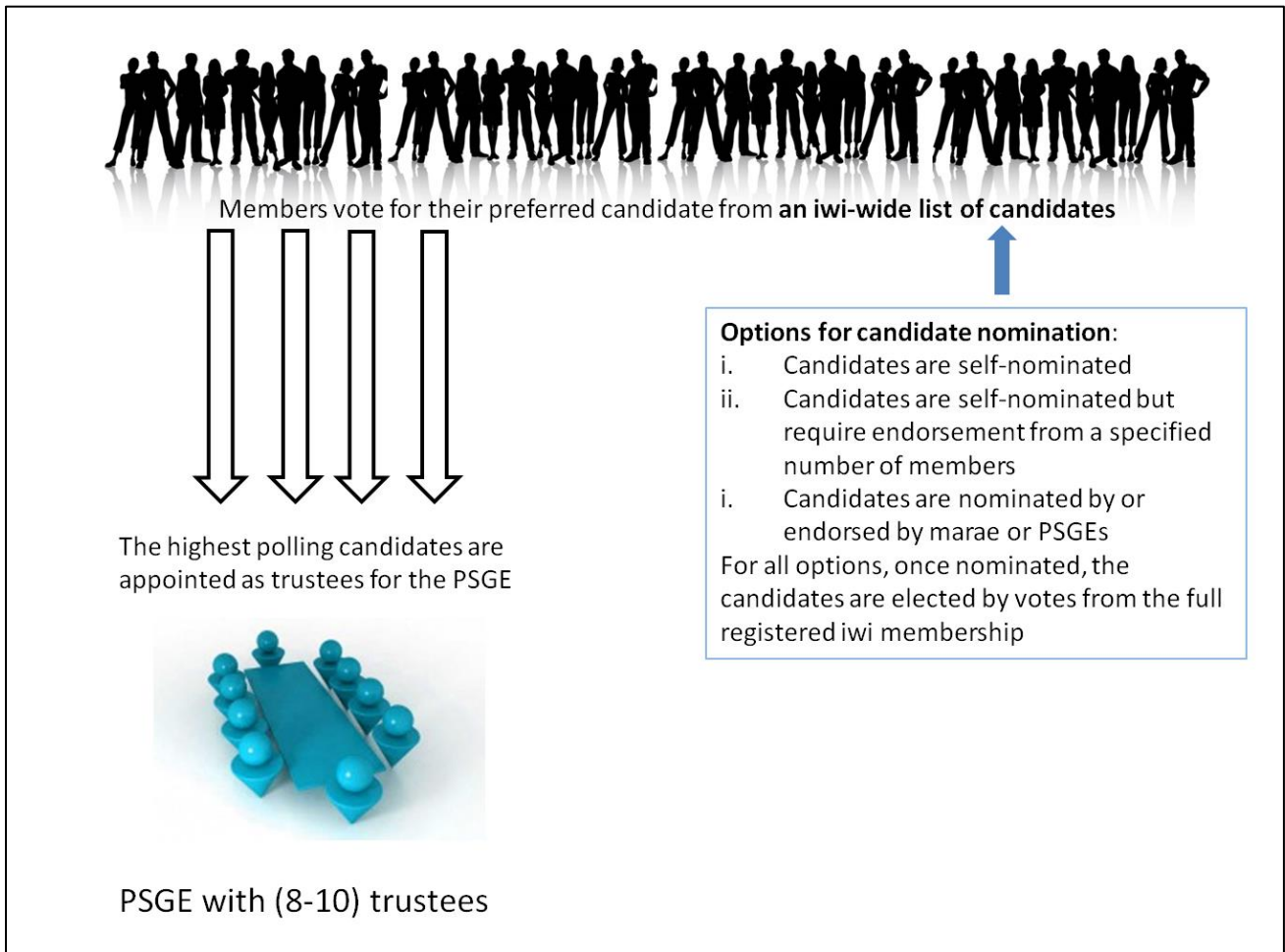
		<p>accurate reflection of number of marae in each takiwā?</p> <ul style="list-style-type: none"> • Relatively large board (11)
M2 – population-based distribution of trustees	<ul style="list-style-type: none"> • Individual votes weighted more evenly (i.e., proportionate), which may encourage people to register and to vote – i.e., higher level of engagement <p><i>Could potentially alter the number of trustees</i></p>	<ul style="list-style-type: none"> • Registered population may not match the actual population in each takiwā (but provides an incentive to register) • Population distribution may change over time (so distribution of trustees may require regular review)
M3 – equal distribution of trustees	<ul style="list-style-type: none"> • Simple • Does not require accurate population data • Slightly reduced number of trustees (10) 	<ul style="list-style-type: none"> • Not proportional on an individual voting basis

Iwi whānui electoral models (individual voting)

14. Under this model, iwi members are not divided up into electoral sub-groups such as marae, PSGE, or takiwā for the purposes of voting. Instead, each registered adult member is able to vote for the candidate of their choice from an iwi-wide pool of candidates. Examples of PSGEs based on individual voting by iwi whānui include: Ngāti Whātua o Ōrākei (11 trustees) and Te Roroa (12 trustees).
15. There are several different options for obtaining nominations for candidates, as follows –
- **W1** Candidates are self-nominated;
 - **W2** Candidates are self-nominated but require endorsement from a specified number of members;
 - **W3** Candidates are nominated by or endorsed by a PSGE (or, where there is no PSGE, by a marae);
- but in all cases, once nominated, candidates are elected as a result of voting by all registered adult members.
16. It is also possible to **adjust** the voting rules so as to ensure, or at least encourage, a spread of elected representatives across groupings within Ngāti Whātua (**W4**). For example, if a spread of representatives across existing PSGEs (and remaining marae) is desired, then:
- Candidates are nominated by or require endorsement from a PSGE (or, where there is no existing PSGE, from a marae) and, preferably the pool of candidates includes at least one nominee from each PSGE and from the other marae;
 - Each registered adult member has one vote and is able to vote for any candidate;
 - A cap is set for the maximum number of elected representatives endorsed by a single PSGE or marae (e.g., no more than three successful candidates endorsed by each PSGE or other marae).

If the number of highest polling candidates endorsed by a particular PSGE or the other marae exceeds the cap, then the position is instead filled by the overall next highest polling candidate.

Iwi whānui electoral model



Advantages and disadvantages

Iwi whānui model generally (options W1, W2 and W3)

Advantages	Disadvantages
<ul style="list-style-type: none"> • Simple (particularly in its purest form) • A fresh, post-settlement approach • More 'democratic' than other models as every vote is of equal weight. However, this is only true if the highest polling candidates are elected. If the voting rules are adjusted to obtain a spread of representatives, then the model becomes less democratic • May encourage participation by uri who are not closely affiliated with a particular marae, and means that uri who affiliate to more than one marae are not required to choose a single 	<ul style="list-style-type: none"> • Unfamiliarity for some Ngāti Whātua uri (but Ngāti Whātua o Ōrākei uses this electoral model) • Risk of disproportionate representation of particular PSGEs or marae (but if this is a concern, disproportionate voting power can be reduced by tailoring the candidate nomination and/or appointment rules to encourage a spread of candidates and representatives) • Uri may feel less connected to the trustees (and therefore, not as directly represented by the trustees) if they are not familiar with the candidates in a marae setting.

marae for the purposes of voting <ul style="list-style-type: none"> • Opportunity to secure candidates with appropriate skills (because candidates must make their case for election to all voters) • Operational efficiency from having a smaller board (e.g., 8-10 trustees) 	
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Comparison of iwi whānui options W1, W2 and W3 and

Option	Advantages	Disadvantages
W1 – candidates self-nominate W2 – candidates endorsed by specified number of members	<ul style="list-style-type: none"> • Inclusive - potentially allows a wide range of candidates with different skills and attributes to put themselves forward for election 	<ul style="list-style-type: none"> • Candidates are not vetted in any reliable way • No tangible relationship with marae or existing PSGEs – people may feel less of a connection with trustees, trustees may be less accountable
W3 – candidates endorsed by PSGE or (where no PSGE) marae	<ul style="list-style-type: none"> • Clear role for PSGE (and other marae) in endorsing candidates • Provides for an initial vetting of candidates 	<ul style="list-style-type: none"> • Adds another step to the process
W4 – as in W3 but with a voting rules to encourage a spread of elected representatives	<ul style="list-style-type: none"> • Address any concerns about disproportionate voting power of any grouping within the iwi • More likely that a wider range of groups within Ngāti Whātua will feel represented 	<ul style="list-style-type: none"> • More complex • Not aware of any precedents in other PSGEs (?)

Electoral model incorporating existing PSGEs

- Under an electoral model based on existing PSGEs, registered adult members would exercise their vote through their existing PSGE and each PSGE would then appoint a defined number of trustees to the Ngāti Whātua PSGE. There are three existing PSGEs within the Ngāti Whātua federation – i.e., Ngā Maunga Whakahii o Kaipara Development Trust, Ngāti Whātua o Ōrākei Trust Board, and Te Uri o Hau Settlement Trust.²
- However, of the 35 marae listed in the Ngāti Whātua Deed of Mandate, nearly half (16 marae) are not included within the existing three PSGEs.³ Three of these 16 marae may not wish to be included in the Ngāti Whātua settlement (Waikara, Waikaraka and Takahiwai) but that still leaves 13 marae which are not represented by an existing PSGE or where the relationship of the marae to an existing PSGE is unclear.
- In order to be representative of the claimant community, a Ngāti Whātua PSGE that was based on existing PSGEs would therefore also have to provide for votes exercised outside the existing PSGE structures. Marae not associated with an existing PSGE would need to be clustered into new takiwā for

² Assuming Te Rorora is not involved.

³ Based on the lists of marae in Te Kāhui Māngai <https://www.tkm.govt.nz/>

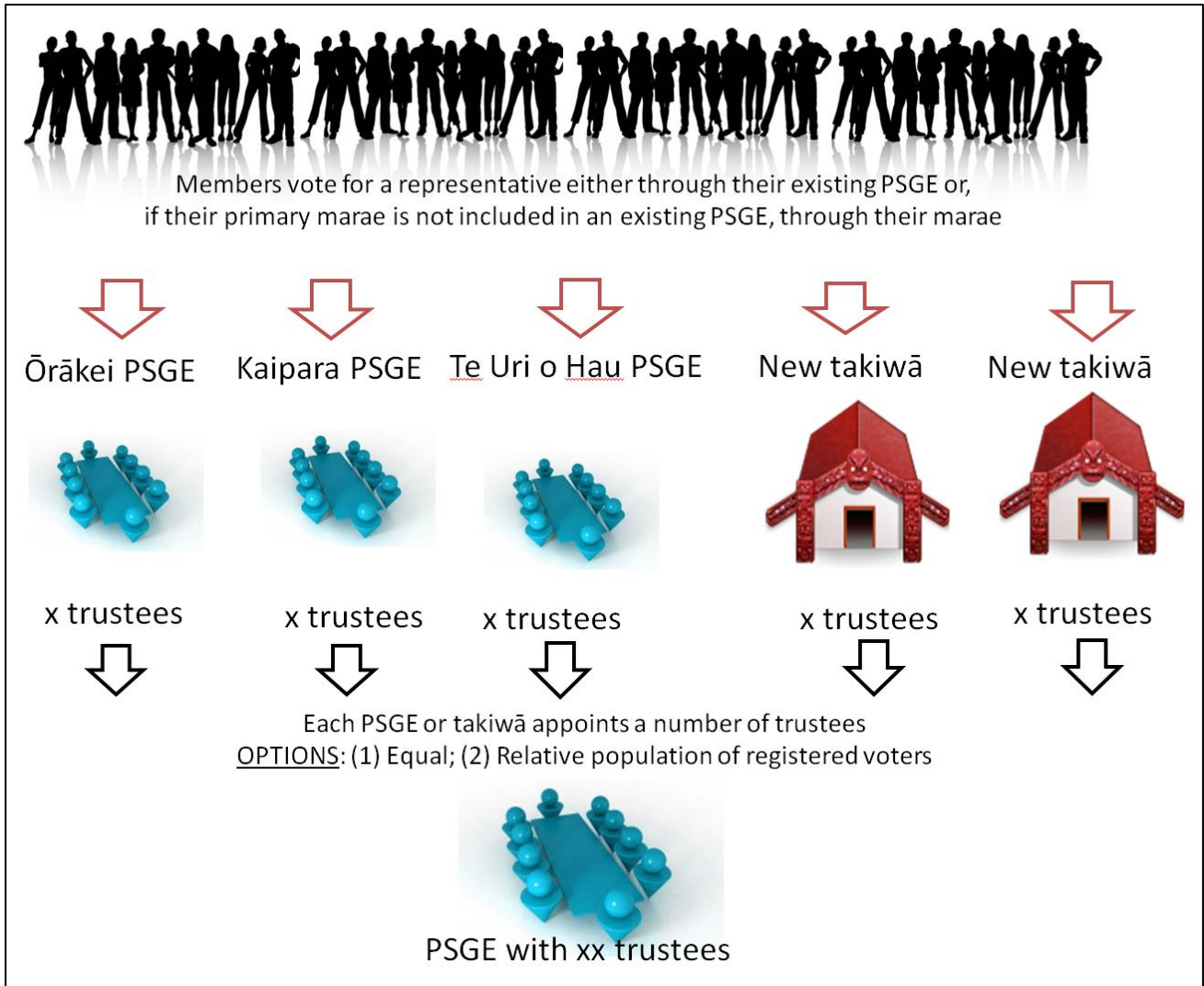
voting purposes. Note that there is not a precise alignment between current takiwā and the existing PSGEs – i.e., while the PSGEs for Kaipara and Ōrākei align with the respective TRONW takiwā (South Kaipara and Ōrākei), the PSGE for Te Uri o Hau spans two takiwā (Ōtamatea and Northern Wairoa). The marae which are not affiliated with an existing PSGE are distributed across the North Wairoa, Whangarei and Ōtamatea takiwā.

20. The number of trustees appointed by each existing PSGE or new takiwā/marae cluster could be:

- Equal distribution – e.g., each PSGE and marae cluster elects two trustees; or
- Proportionate to the registered populations of each existing PSGE and marae cluster, as recorded on the Ngāti Whātua uri register.

21. A major challenge with this model is to ensure that voters associated with marae (rather than PSGEs) are not disadvantaged in a representational sense. There are two ways in which marae-based voters could be disadvantaged in comparison with PSGE-based voters:

- **Lack of equivalent voting power.** Marae that are not part of existing PSGEs would need to be clustered within new takiwā boundaries that reflect the relationships among these marae but that also create equivalent voting power (i.e., everyone's vote should ideally carry similar weight);
- **Lack of resources.** Marae-based voters could be disadvantaged in comparison with PSGE-based voters because marae may have fewer resources to devote to elections and be less well organised than PSGEs. The Ngāti Whātua PSGE may have to assist in administering marae-based elections, but this could create a potential conflict of interest.



Advantages and disadvantages

PSGE/marae model

Advantages	Disadvantages
<ul style="list-style-type: none"> • Provides a role for existing PSGEs • A fresh, post-settlement approach 	<ul style="list-style-type: none"> • More complex than other models • Difficult to develop a model that does not disadvantage voters who are marae-based rather than PSGE-based • Requires new information to be collected on uri register (i.e., PSGE affiliation of voter)