



Rangitikei
UNSPOILT...

Rangitikei District Council

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Te Roopu Ahi Kaa Meeting

**Tuesday 14 June 2016,
10.00 am**

**Council Chamber, Rangitikei District Council
46 High Street, Marton**

Website: www.rangitikei.govt.nz

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Membership

Chair

Mr P Turia (Whangaehu),

Deputy Chair

vacant

Mr M Gray (Ngāti Rangituhia), Mr P Richardson (Ngāti Parewahawaha), Mr T Curtis (Te Runanga o Ngāti Hauiti), Mr H Albert (Ngā Ariki Turakina), Mr P Maraku (Rātana Community), Mr C Shenton (Ngāti Kauae/Tauira), Mr T Steedman (Ngāti Hinemanu/Ngāti Paki), Ms H Benevides (Ngāti Tamakopiri), Mr R Steedman (Ngai te Ohuake), Ms K Hina (Ngā Wairiki Ki Uta.), Ms T Hiroa (Ngāti Whitikaupeka)
Councillor Cath Ash
His Worship the Mayor, Andy Watson, (ex officio)

Please Note: Items in this agenda may be subject to amendments or withdrawal at the meeting. It is recommended therefore that items not be reported upon until after adoption by the Council. Reporters who do not attend the meeting are requested to seek confirmation of the agenda material or proceedings of the meeting from the Chief Executive prior to any media reports being filed.

Rangitikei District Council

Te Roopu Ahi Kaa Komiti Meeting

Order Paper – Tuesday 14 June 2016 – 10:00 a.m.



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The quorum for the Te Roopu Ahi Kaa is 6.

At its meeting of 28 October 2010, Council resolved that “The quorum at any meeting of a standing committee or sub-committee of the Council (including Te Roopu Ahi Kaa, the Community Committees, the Reserve Management Committees and the Rural Water Supply Management Sub-committees) is that required for a meeting of the local authority in SO 2.4.3 and 3.4.3.

1 Karakia/Welcome

2 Public forum

3 Apologies

4 Whakatau Nga Tuhinga Korero/Confirmation of minutes

Recommendation

That the Minutes of the Te Roopu Ahi Kaa Komiti meeting held on 19 April 2016 be taken as read and verified as an accurate and correct record of the meeting.

5 Chair's report

A verbal report will be given at the meeting.

6 Council decisions on recommendations from the Komiti

There were no recommendations from the Komiti to Council's meeting of 26 May 2016.

7 Addressing the Komiti's strategic needs – outcome of hui on 26 April 2016

A discussion document is attached.

8 Update from Council (April-May 2016)

A report is attached.

3-CT-8-1

Recommendation

That the report 'Update from Council's meetings in April and May 2016' be received.

9 Update on landlocked land

A verbal update will be given to the meeting.

10 Citizenship ceremony – Komiti involvement

Discussion item.

11 Induction process for new Council following 2016 elections

Discussion item.

12 Te Ture Whenua Maori Bill – proposed changes to Local Government (Rating) 2002 Act

A memorandum is attached.

File: 3-OR-3-5

Recommendations

- 1 That the memorandum 'Te Ture Whenua Māori Bill' be received.
- 2 That, with the following amendments and comments....., the draft submission from the Council to the Parliamentary Māori Affairs Committee on the Te Ture Whenua Māori Bill be referred to the Mayor, Deputy Mayor and Chief Executive for finalising and dispatch.

13 Update on Path to Well-being Initiative

A report is attached.

File: 1-CO-4

Recommendation

That the report 'Update on the Path to Well-being initiative and other community development programmes May/June 2016' be received.

14 Late items

15 Next meeting

Tuesday 9 August 2016, 10.00 am

16 Meeting closed/Karakia

Attachment 1

Rangitikei District Council

Te Roopu Ahi Kaa Komiti Meeting

Minutes – Tuesday 19 April 2016 – 10:10 a.m.

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Present: Mr Pahia Turia (Chair)
Ms Barbara Ball
Ms Hari Benevides
Mr Thomas Curtis
Mr Peter Richardson
Mr Chris Shenton
Mr Richard Steedman
Cr Cath Ash

In attendance: Mr Ross McNeil, Chief Executive
Mr Michael Hodder, Community & Regulatory Services Group Manager
Ms Denise Servante, Strategy & Community Planning Manager
Ms Samantha Whitcombe, Governance Administrator

Unconfirmed

1 Karakia/Welcome

Mr R Steedman opened the meeting and the Chair welcomed everyone to the meeting.

The Chair informed the Komiti that Mark Gray's son, Bobby, would be taking his place on Te Roopu Ahi Kaa but it was unclear if he knew about this meeting.

2 Public forum

Nil

3 Apologies

That the apologies for absence from His Worship the Mayor, Mr Terry Steedman, and Ms Katarina Hina be received.

Ms Benevides / Mr Shenton. Carried

4 Whakatau Nga Tuhinga Korero/Confirmation of Minutes

Resolved minute number

16/IWI/008

File Ref

That the Minutes of the Te Roopu Ahi Kaa Komiti meeting held on 9 February 2016 be taken as read and verified as an accurate and correct record of the meeting.

Mr Turia / Ms Ball. Carried

5 Chair's report

The Chair gave a verbal report to the Komiti, focusing on the Regional Growth Study.

While the published Regional Growth Study noted specific issues concerning Maori (including land-locked land and manuka honey), the project Lead Team was concerned that this essentially limited the contribution by Maori to growth to improving the productivity of Maori-owned land. As a result, a separate report on the regional Maori economy has been commissioned and funded by Te Puni Kokiri: Dr Jason Mika (GHA Consultants) is undertaking the research and will write a report outlining the potential growth opportunities for Maori.

The Chair informed the Komiti that the parameters of study were not restricted to those identified within the original study, but could take a much broader approach. Although this piece of work would not be completed in time for the launch of the action plan associated with the original Regional Growth Study, the Minister has agreed to insert some placeholders within the action plan for the opportunities that may arise from this additional study.

The Chair advised the Komiti that the opportunities that arise from this additional piece of work may not be implemented regionally immediately; however they will be able to be applied on a regional scale in the future.

Resolved minute number**16/IWI/009****File Ref**

That the Chair's report to the Te Roopu Ahi Kaa Komiti meeting on 19 April 2016 be received.

Mr P Turia / Mr T Curtis. Carried

6 Council decisions on recommendations from the Komiti

The Komiti noted that there were no recommendations from the Komiti to Council's meeting of 29 February 2016.

Mr McNeil took this opportunity to update the Komiti on two issues that have been raised in earlier meetings; mitigating the risk of flooding in Whangaehu and Kauangaroa and progress with the recommendations from the Strategic Water Assessment.

He informed the Komiti that there is no easy or quick answer to the flooding issues in these communities, but Council is committed to finding a solution. In-depth conversations will be had with the local residents before anything is decided. An application has been made to the Civil Defence & Emergency Management Resilience Fund.

Applications have been made to the Ministry for Primary Industries to remove the Hunterville Town water supply from the Hunterville Rural Water Scheme and on the establishment of a new rural water scheme around the Northern Marton/Tutaenui area.

7 'What's new, what's changed...?' –Consultation Document for the 2016/17 Annual Plan

Mr McNeil narrated a presentation on 'What's new, what's changed...?', the consultation document to Council's 2016/17 Annual Plan.

Mr P Turia 10.44am / 10.45am

Ms H Benevides 11.16am / 11.19am

8 Other simultaneous consultations:

Mr McNeil spoke briefly to the other documents out for public consultation at the same time as 'What's new, what's changed...?'

9 Update from Council (December 2015-January 2016)

Ms Servante spoke briefly to the update on the Town Centre Plans and the 7-Day Makeovers in the District. Mr McNeil then spoke briefly to the rest of the report.

Resolved minute number**16/IWI/010****File Ref****3-CT-8-1**

That the report 'Update from Council's meetings in February and March 2016' be received.

Mr P Turia / Mr R Steedman. Carried

10 Update on landlocked land

Mr McNeil commented briefly on progress with landlocked land within the District. There is still a long way to go with the production of legislation around Maori landlocked land. Te Puni Kokiri has announced a pilot programme around resolving the issue of Maori landlocked land, however there is a feeling that this won't further progress the issue at large.

11 Potential Youth Awards Scheme 2016

Ms Servante spoke briefly to the report.

The Komiti was asked to put forward the names of potential representatives to the Youth Awards Panel, via email to Ms Servante by the end of the first week of May 2016.

File ref: 3-CT-8-1

Recommendation

- 1 That the report 'Potential Youth Awards Scheme 2016' be received.
- 2 That Te Roopu Ahi Kaa approves the Rangitikei Youth Week Awards 2016 as outlined in the report "Potential Youth Awards Scheme 2016"
- 3 That Te Roopu Ahi Kaa appoints _____ as its representative to the Awards Panel.

12 Citizenship ceremony – Komiti involvement

The Komiti briefly discussed the report provided for information. It was suggested that local marae could host some of the citizenship ceremonies over the year, although there may be some capacity issues at some marae.

The Komiti requested that this item be added to a future meeting so it can be discussed further.

13 Induction process for new Council following 2016 elections

The Komiti briefly discussed the item. They are happy to host a session with the incoming Council on tangata whenua in the Rangitikei District at the start of the new triennium.

The Komiti also suggested that ward Councillors should be encouraged to meet with the local iwi/hapu/tangata whenua in their ward.

The Komiti requested that this item be added to the next agenda so it can be further discussed.

Cr Ash 11.50am / 11.53am

14 Update on proposed changes to Local Government (Rating) 2002 Act

The Komiti noted there have been no further developments with this proposal.

15 Update on the Path to Well-being Initiative

Ms Servante spoke briefly to the memorandum.

The Path to Well-Being Conference 2016 will be held on Friday 27 May 2016.

Resolved minute number	16/IWI/011	File Ref	1-CO-4
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That the memorandum 'Update on the Path to Well-Being initiative and other community development programmes – March/April 2016' be received.

Mr R Steedman / Ms B Ball. Carried

16 Evaluating Horizons' One Plan implementation – part one: water quality

The Komiti discussed the letter and expressed their disappointment with the recent publicity about Horizons' view of the Ministry for the Environment's consultation document 'Next steps for fresh water'.

The Komiti expressed concern that the accepted standard for fresh water could be reduced to being wadeable rather than swimmable (swimmable meaning you can immerse your head). The Komiti saw their role as kaitiaki (guardians): this generation had to take action when it comes to protecting and improving our environment so that future generations do not pay.

The consensus was that tangata whenua do not accept that we should accept not contemplate a standard or process which is not committed to returning waterways to a pristine standard. Economic development does (and should not) come at the expense of the environment – after all tourism depends on a high standard of protection over the country's natural resources.

Resolved minute number	16/IWI/012	File Ref
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That the letter 'Evaluating Horizons' One Plan implementation — part one: water quality' be received.

Mr P Turia / Mr C Shenton. Carried

17 Late items

Strategic Planning Session

Tuesday 26 April 2016, 10am – 2pm

18 Next meeting

Tuesday 14 June 2016, 10.00 am

19 Meeting closed/Karakia – 12.35 pm

Mr R Steedman performed closing Karakia

Confirmed/Chair: _____

Date: _____

Unconfirmed

Attachment 2

DISCUSSION DOCUMENT (2): REVIEW OF THE TE ROOPU AHI KAA STRATEGIC PLAN

Introduction

The current strategic plan has three goals:

- Goal One: Building stronger relationships between Council and Te Roopu Ahi Kaa
- Goal Two: Building stronger relationships between Council and Iwi, hapu, whanau and Māori communities
- Goal Three: Building cultural awareness

These goals focus on strengthening the relationships at governance and operational levels between Māori and Council representatives. The Komiti and hapu/marae representatives held a hui at Rata Marae on 26 April 2016¹ to begin the process to review the strategic plan. This document records the ideas generated at that hui and suggests the next step.

Key issues raised in korero

General observations:

- Relationship between ward councillors/community boards/committees is important and still needs development
- Importance of the induction process at the start of each triennium: both ways
- Importance of relationships around the table – to be able to present a united voice from tangata whenua
- The Komiti needs to be maintained because of the vagaries of personalities and electoral cycles to ensure a strong collective voice for tangata whenua
- Important to have a collective voice even if it is supporting a specific marae or hapu. This does not replace or under-value our own relationships
- Important for representatives to speak back at the hapu/marae about what TRAK/Council is doing and how the Ahi Kaa representatives fit in: most of our people do not know who we are or what we are supposed to do.
- Everyone doing their best but not enough of us and TRAK not high priority for hapu/marae

What is our agenda – do we have one?

To influence decisions that affect us, we need to be putting forward issues and agenda items. The following potential issues/items were put forward:

- a) Co-governance:- the end game is co-governance – how can we prepare for co-governance for our children, if not ourselves, where we will chose how and who represents us - hapu, iwi or church. Not important that its not right now, and that we struggle to be representative now but making choices based on good/best intention.

¹ The hui was attended by Hone Albert, Barbara Ball, Hari Benevides, Thomas Curtis, Katarina Hina, Tracey Hiroa, Sonata Karena-Saavedra, Pai Marakau and Terry Steedman, facilitated by Pahia Turia with Denise Servante in attendance. Apologies were received from Soraya Peke-Mason.

- b) Creating a strong statement about why we are here, for example, to protect, enhance and advance on behalf of our hapu, our social, cultural, environmental, political and economic status in our rohe – how does Council support that? How can Council help with our projects/programmes e.g. upgrading the Hautapu, infrastructure at marae
- c) Issues do arise where the Komiti becomes more engaged in the korero at meetings – examples are land-locked land, water quality, youth development, ultra-fast broadband, heritage strategy.
- d) Ensuring that we report back to the Komiti when we undertake actions or representations on its behalf – for example, on Creative Communities Assessment Committee, Rangitikei Heritage or attendance at meetings/conferences

Recommendations

1. Strong induction process both ways at start of triennium

Why?

- a) for Councillors to be made aware of processes and protocols around tangata whenua - where Komiti members come from and who do we stand for, and
- b) for new Komiti members to understand how Council works e.g. Long Term Plan and Annual Plan processes

Implementation?

Begin planning immediately for triennium in October 2016. Within normal budgets for triennium elections and Komiti expenses

2. Develop a strong position statement(s) to describe the 3-5 year aspirations for the Komiti

Why?

So that Council can input these aspirations into the Long Term Plan and so that conversations can be held at a very early stage whenever issues arise that may affect that statement(s).

Implementation?

A (2 day?) wananga that allows Komiti members to have come along to develop collective view.

3. Develop action plans to move closer to the aspirational statements

Why?

To identify meaningful steps that describe how the social well-being of our people may be advanced by council actions

Implementation?

Need to find lowest common denominator that people can agree on and where action can be taken

4. Standing item on Komiti agenda – progress against the Strategic Plan.

Why?

To not lose sight of the overall aims and intentions

Implementation?

Immediately – no resource implications

5. That the Komiti meetings start with 30 mins for pre-caucusing for Komiti members to discuss what has come through on the agenda.

Why?

Develops and strengthens the collective voice to be able to raise issues at the TA level – and push up to regional and national level also

Implementation?

Immediately – no resourcing implications.

Next Steps:

A starting point for the reviewed Strategic Plan which reflects some of this thinking is attached as Appendix 1.

Appendix 1



Te Roopu Ahi Kaa – Strategic Plan (updated 2016 - 2021)

Preamble:

Building on the provisions of the Local Government Act 2002 and the Memorandum of Understanding: Tutohinga, Te Roopu Ahi Kaa Komiti, as representatives of Iwi and all Māori in the Rangitikei, have developed this Strategic Plan setting out the future direction of the Komiti.

In dealing with the provisions of the Local Government Act 2002, the Iwi/Hapu members of Te Roopu Ahi Kaa have identified a need to state their definition of an Iwi Community. Iwi/Hapu from the Rangitikei District agree that Whanau, Hapu and Iwi are a community through their shared whakapapa (i.e. genealogy) and yet they may or may not necessarily reside in the Rangitikei but share interests and concerns about their respective Iwi community.

Purpose:

1. To fulfil the provisions of the Local Government Act 2002 regarding the capacity building of Iwi communities and Māori communities to participate and contribute to the decision making process with the Rangitikei District Council.
2. To build a platform from which appropriate and relevant co-governance structures may emerge that give full effect to the relationship between tangata whenua and Rangitikei District Council enshrined in te Tiriti o Waitangi
3. To describe the steps that tangata whenua and Rangitikei District Council will take to realise our aspirations for a thriving District that benefits all

Goal One: *Building stronger relationships between Council, Te Roopu Ahi Kaa and Iwi, hapu, whanau and Māori communities*

Objectives	Activity	Reason	By whom	Timeline
Induction process for Councillors	<p>To provide all Councillors with an overview of the Iwi and Māori community as reflected through Te Roopu Ahi Kaa following each triennial election.</p> <p>Prepare generic cultural induction package for Councillors to include introductions at Ward level</p>	To ensure that all Councillors are given an understanding of the working of Te Roopu Ahi Kaa.	Te Roopu Ahi Kaa.	October/November 2016 and 3 yearly
Induction process for Komiti members	<p>To provide all Komiti members with an overview of Council, its processes and services following each triennial election.</p> <p>Prepare generic induction package for Komiti members to include introductions at Community Board/Committee level</p>	To ensure that all Komiti members are given an understanding of the working of Council.	Council	October/November 2016 and 3 yearly
Ongoing relationships with Iwi/Māori communities	<p>Formulate a process for future Iwi/Māori community consultation e.g.: Source Iwi/Māori community aspirations for specific issues by</p> <ul style="list-style-type: none"> - written submissions - Iwi/Māori community meetings 	To further develop communication channels between Māori constituents and their Councillors	Te Roopu Ahi Kaa members	Ongoing

	<p>Invite Councillors for each Iwi/Māori community from within that Councillor's Ward to any significant meeting</p> <p>Te Roopu Ahi Kaa to hold two meetings per year at Marae</p>	To update Councillors and Te Roopu Ahi Kaa on Iwi specific issues	Te Roopu Ahi Kaa members/Staff support	
Objectives	Activity	Reason	By whom	Timeline
Build Council knowledge of tikanga and kawa	<p>Facilitate opportunities for Council to increase its knowledge of local tikanga and kawa.</p> <p>To provide/access appropriate cultural workshop for Council members</p> <p>To provide opportunities for Councillors to attend te Reo Maori classes.</p> <p>Facilitate a noho or day visit to Marae in the District.</p>	Ensure Rangitikei District Council is aware of issues of cultural importance to tangata whenua.	Te Roopu Ahi Kaa (sponsor)	Ongoing
Treaty of Waitangi and local history	Provide/access Treaty of Waitangi and local history workshops for all new Councillors as part of induction programmes.	To ensure that Council are aware of how tangata whenua perceive their role as Treaty partners and its implications.	Te Roopu Ahi Kaa (advisor)	Ongoing
Representation -to enhance the completeness of representation through increased opportunities for Te Roopu Ahi Kaa participation	<p>Komiti Chair or representatives of the Komiti to attend Council meetings in a non-voting capacity as the need arises to articulate specific positions.</p> <p>Regular meeting between Komiti Chair, Chief Executive and nominated Council members as required and reporting this to Komiti members at scheduled meetings of Te Roopu Ahi Kaa</p>	<p>To articulate specific positions.</p> <p>To facilitate the content of Te Roopu Ahi Kaa meetings and discuss other issues of sensitivity and/or importance</p>	<p>Komiti Chair or nominee</p> <p>Komiti Chair, Chief Executive</p>	<p>Monthly</p> <p>Bi-monthly</p> <p>Councillors to attend at least one Te</p>

	<p>Encourage Councillors to attend Te Roopu Ahi Kaa meetings. Each Councillor to receive a specific invitation to a particular scheduled meeting of Te Roopu Ahi Kaa.</p> <p>Representation from Te Roopu Ahi Kaa on Council working groups, advisory committees and at events</p>	<p>To facilitate greater understanding of each perspective.</p> <p>To ensure tangata whenua input into Council's wider deliberations</p>	<p>Komiti Chair and Mayor</p> <p>Te Roopu Ahi Kaa.</p>	<p>Roopu Ahi Kaa meeting each</p> <p>Number of invitations given/accepted</p>
<p>Maximise administrative arrangements to ensure transparency</p>	<p>Build opportunities into procedures, for example:</p> <ul style="list-style-type: none"> - invitations to Council events/workshops - copy of Council agendas/ minutes to be given to Komiti Chair - ensure that Panui is included in minutes for Council's awareness 	<p>To ensure that Te Roopu Ahi Kaa is fully informed and able to contribute</p>	<p>Staff/Council Komiti Chair <i>(to review agenda and brief the Komiti where relevant)</i></p>	<p>Ongoing</p>

Goal Two: Develop joint strategic planning in areas of common concerns for Council, Te Roopu Ahi Kaa and Iwi, hapu, whanau and Māori communities

Objectives	Activity	Reason	By whom	Timeline
To identify issues of strategic significance to Iwi/Māori communities and to develop position statements that reflect Iwi/Māori aspirations in these areas.	Undertake regular facilitated workshops to develop, review and monitor progress against these strategic objective/position statements.	<p>To understand better the Iwi/Māori communities and their aspirations which underpin Council's ability to assist all of its citizens.</p> <p>To make the Council aware of issues in Iwi, hapu or Maori communities within the District where Council assistance or advocacy may be beneficial.</p> <p>To ensure that Council can input these aspirations into its Long Term Plan</p>	Te Roopu Ahi Kaa members (facilitate provision of documents to the Chief Executive and suggest where assistance or support is needed)	Ongoing.
Knowledge of, and input into Council's major planning initiatives, specifically the 2018-28 and 2021-31 Long Term Plans	Workshops and discussions at Te Roopu Ahi Kaa to mirror the process undertaken through Council to develop the strategic objectives for each ten year plan.	To ensure that all Komiti members are aware of work with the LTP and have opportunity to input into work programmes and priorities.	Staff	Ongoing
Identify opportunities for co-governance on issues where there is good alignment of strategic objectives of Te Roopu Ahi Kaa and Rangitikei District Council	Develop joint action plans to achieve key objectives	To develop experience and "runs on the board" for co-governance arrangements	Te Roopu Ahi Kaa and Council	Ongoing

Attachment 3

MEMORANDUM

TO: Te Roopu Ahi Kaa Komiti

FROM: Samantha Whitcombe, Governance Administrator

DATE: 30 May 2016

SUBJECT: **Update from Council's meetings in April and May 2016**

FILE: 3-CT-8-1

1 Executive Summary

- 1.1 This report is to provide the Komiti with an update on issues that have been under consideration by Council over the past two months.

2 Pre-feasibility study for a Tutaenui Community Irrigation/Stock Water Scheme

- 2.1 The Ministry for Primary Industries (MPI) has confirmed acceptance of the Council application for this feasibility study at a total estimated project cost of \$150,000 (50% funded by MPI). The draft application was part of the Order Paper for Council's meeting on 29 October 2015.
- 2.2 The governance structure proposed in the application is for the Council to have overall governance responsibility for monitoring progress with the project, being assisted in this by a project governance/advisory group comprising elected members and stakeholder representatives. The provisional membership (subject to confirmation) is:
- Bob Crawford – Chair, Hunterville Rural Water Supply Management Subcommittee
 - At least one other member of that Committee
 - Chris Turner – Tutaenui area farmer (currently on the HRWS scheme)
 - Grant Huwyler or Chris Shenton – Ngati Apa
 - Brendon Williams
 - A representative from Ngati Hauiti
 - Bruce Gordon – Chair, Horizons Regional Council
 - Andy Watson – Mayor
 - Dean McManaway – Deputy Mayor
 - Cr Lynne Sheridan
 - A representative from Federated Farmers

The application notes that the Governance Group has the ability to co-opt additional members as it considers appropriate.

- 2.3 Council endorsed this governance structure and authorised the Mayor and Chief Executive to finalise and confirm the membership, with subsequent advice back to Council.
- 2.4 Delivery of the project will require external (consultant) expertise, supported with input from members of the Council's Assets team. Subject to final contract sign-off with MPI, the engagement of consultant support will be by way of a public procurement process (potentially a request for proposal process through invitation and Tenderlink).

3 Application to the Ministry of Civil Defence and Emergency Management Resilience Fund

- 3.1 The CDEM Resilience Fund has previously focussed on enhancing resilience to civil defence emergencies through the development of local and regional civil defence emergency management capability.
- 3.2 However, this year the Fund has been opened to other organisations to propose projects which would have the effect of increasing hazard risk resilience. This provided an opportunity to get an expert assessment of the options available to the communities and Whangaehu and Kauangaroa, based on an approach developed to engage with communities at risk from rising sea levels. Helpfully, the criteria for the Fund favour projects which will result in material change not just academic research.
- 3.3 Applications closed on 29 April 2016, and decisions (made by the Director of Civil Defence Emergency Management and advice from the CDEM Resilience Fund Review Panel) are expected in early June 2016.

4 Community housing

- 4.1 The requirement for a potential provider for the Council's community housing to be registered with the Community Housing Regulatory Authority has been set aside. This is because eligibility to access the income-related rent subsidy will not apply because of the comparatively low rentals Council charges. A further expression of interest will be laced on Tenderlink. Those who have previously been submitted will be informed but will not need to make a new application.
- 4.2 However, the Performance Standards and Guidelines used by the Authority to decide eligibility for registration will be the basis for the tender evaluation.

5 Update on town centre plans (including place-making initiatives)

- 5.1 A successful, youth-led 7 Day Makeover was held during the school holidays at Centennial Park. The process was facilitated by HYPE Academy and over 40 young people (mainly from Rangitikei College) took part in the activities – some of them demonstrating excellent leadership skills.

- 5.2 There was great support from the existing users of the park, particularly Saracen's Cricket Club, Marton Netball and Marton Youth Club. A range of projects were completed including pallet seating, murals, repainting of fences and painting of sporting silhouettes which were placed on fences.



6 Application to the Community Development Fund administered by the Department of Internal Affairs

- 6.1 Staff have identified the Community Development Fund as a possible source of funding for youth services in the District for a period of three years (with a possible extension for a further two years) as well as providing support for the District's growing Samoan community. If the application is successful, it should provide sufficient opportunity to demonstrate to the Ministry of Social Development the value of co-investment in the delivery of these services in the Rangitikei.
- 6.2 An application was submitted on the closing date of 18 May 2016.
- 6.3 The application is based on the Department and the Council providing equivalent funding. While the application has noted the extent of support in submissions to the

2016/17 Annual Plan for Council to continue providing youth services (particularly on a co-investment approach), it is simply an application, and does not commit Council to take up a funding offer.

- 6.4 The result of the application should be known by mid-August. If Council continues with it, and it is successful, the co-funded programme would begin on 1 September 2016.

7 Recommendation

- 7.1 That the report 'Update from Council's meetings in April and May 2016' be received.

Samantha Whitcombe
Governance Administrator

Attachment 4

Memorandum

To: Te Roopu Ahi Kaa
From: Michael Hodder
Date: 2 June 2016
Subject: Te Ture Whenua Māori Bill
File: 3-OR-3-5

1. After considerable consultation and hui around the country, Te Ture Whenua Māori Bill was introduced into Parliament on 14 April 2016, had its first reading on 11 May 2016 and has been referred to the Māori Affairs Select Committee. Submissions are due by 23 June 2016. This large and complex Bill will eventually be divided into three separate pieces of legislation. The explanatory note to the Bill (attached as Appendix 1) summarises the context, intentions and major changes proposed. This is identical to the Departmental Disclosure Statement prepared by Te Puni Kokiri.
2. The aims of the Bill include ensuring owners of Māori land have the right to take advantage of opportunities to develop their land for the benefit of present and future generations of owners, their whanau and their hapu. There is an overt objective of reducing reliance on judicial decisions and redefining the role of the Māori Land Court so it concentrates on judicial matters. This will give greater autonomy for owners of Māori land to make final decision about their land and allow administrative matters to be assigned to a Māori Land Service, which will manage a Māori Land Register. The merits or otherwise of these reforms is a matter for Te Roopu Ahi Kaa to advise.
3. Council's specific interest with this Bill is in the proposed consequential amendments which will alter the rating and valuation of Māori land. The best guide to the thinking behind the provisions is Te Puni Kokiri's 'Regulatory Impact Statement: Enabling better utilisation of Māori land (rating and valuation)'.¹
4. Changes to rating are intended to reduce administration issues for local councils as well as removing a barrier for owners of Māori land in relation to identifying their ownership interests (including for succession purposes). In 2014, rates arrears on Māori land across New Zealand were estimated at approximately \$65 million. 45% of this was in the Far North District Council. This excludes the amount of foregone rates – i.e. where the liability to pay rates has been waived through application of a rates remission policy – as is the case in Rangitikei, where the amount remitted in 2015/16 was just over \$50,000 for 34,493 ha. (A further 8,446 ha was deemed non-rateable.)

¹ <http://www.tpk.govt.nz/en/a-matou-mohiotanga/land/regulatory-impact-statements-ttwmb>

5. However, while the Regulatory Impact Statement from Te Puni Kokiri considered mandatory non-rating for wholly and partially unused and unoccupied Māori land, this was not the recommended option and has not carried through into the Bill. Councils “may” adopt a policy on the non-rateability of unused Māori freehold land and /or a policy on the write-off of rates owed for unused Māori freehold land. They are associated with a new schedule of matters which need to be included in such policies. This brings more precision to Schedule 11 in the Local Government Act 2002 (‘Matters relating to rates relief on Māori freehold land). Making land non-rateable rather than requiring applications for remissions offers a savings in administration costs (because of the monthly reconciliations required with Quotable Value), although it remains necessary from time to time to review the status of the land, which ever approach is taken.
6. Te Puni Kokiri acknowledged that the impact on councils would vary because of different uptake of discretionary (to non-rate unoccupied and unused Māori land) as well as the quality and existing use of Māori land. It was not feasible to undertake detailed calculations in the impacts on councils were feasible for council. But the voluntary nature of these provisions makes it hard to see how the provisions in the Bill will change the current situation for owners of Māori land which is currently unused and unoccupied: as noted in the Regulatory Impact Statement, “the key risk is that councils will not apply the [discretionary] policy, and the existing barriers to engagement and use of Māori land by its owners will remain.” The Committee may feel that there should be national consistency over this.
7. Consideration is also given in the Bill to Māori land used for cultural purposes. Marae and urupā are currently deemed non-rateable in Schedule 1 of the Local Government (Rating) Act 2002, but to a maximum of 2 ha. Te Puni Kokiri’s recommended option was to remove that restriction so it was unlimited (like churches). But the 2 ha limit remains in the Bill. The original proposal would have had minimal impact on rates revenue in Rangitikei, so presumably this would not be the case in some other councils.
8. Changes to valuation are intended to address an inequality issue – i.e. that there is a disproportionate rates burden on Māori land. The starting point for all valuations is the highest and best use land can be put to. With Māori land the ‘Mangatu adjustments’² provide for deductions using two factors – the number of owners and sites of significance. Te Puni Kokiri recommended introducing a downward adjustment to take into account the circumstances associated with multiple ownership and Māori Land Court processes (expressed as a percentage), at a likely cost of between \$10 and \$20 per property. This approach is taken up in the Bill (clause 482). The option of valuing against actual use was not recommended, despite its greater precision, because of the uncertainty around costs to implement.
9. Clause 319 addresses the provision of reasonable access to Māori land, but it is still a matter where the Māori Land Court has jurisdiction without any certainty of the

² This was an outcome of *Mangatu Incorporation and others v. Valuer-General* [1997]. It sets criteria for adjusting valuations of Maori land up to a maximum of 15% - based on the number of owners (up to 10%) and sites of significance (up to 5%).

outcome. However the Minister has made it clear that there is more to come on this matter.

10. A draft submission is attached as Appendix 2. It is being considered on 9 June 2016 by Council's Policy/Planning Committee, and their views will be conveyed to the Komiti. Because submissions close on 23 June 2016, a revised draft submission, taking into account the views of both committees, will be put to the Mayor, Deputy Mayor and Chief Executive for consideration. If sent, it will be included in the Order Paper for Council's meeting on 30 June 2016.

Recommendations

1. That the memorandum 'Te Ture Whenua Māori Bill' be received.
2. That, with the following amendments and comments....., the draft submission from the Council to the Parliamentary Māori Affairs Committee on the Te Ture Whenua Māori Bill be referred to the Mayor, Deputy Mayor and Chief Executive for finalising and dispatch.

Michael Hodder
Community Services Group Manager

Appendix 1

Te Ture Whenua Māori Bill

Government Bill

Explanatory note

General policy statement

This is a Bill to restate and reform the law relating to Māori land.

There have been more than 180 statutes relating to Māori land. The subject matter of these statutes has ranged from specific technical matters to substantial law reform, reflecting the changing nature of Māori land policy over the past 162 years. This Bill has had to be developed in the context of the historical regime for Māori land with all its complications.

Currently, the primary law relating to Māori land is contained in Te Ture Whenua Maori Act 1993. Te Ture Whenua Maori Act 1993 reflects a significant change of legislative focus from a legal framework that, historically, tended to regulate the ways in which Māori land could be assimilated and alienated and, instead, established a legal framework with retention of Māori land as its central policy premise.

This Bill recognises the intrinsic cultural dimension to Māori land. The Bill continues to have retention of Māori land as a central focus but its protection mechanisms are built more around procedural safeguards than around extensive reliance upon the exercise of judicial discretion.

Te Ture Whenua Maori Act 1993 has more than 200 operative provisions creating discretionary decision-making situations. In reports such as *Ko Ngā Tumanako o Ngā Tāngata Whai Whenua Māori: Owner Aspirations Regarding the Utilisation of Māori Land* (Te Puni Kōkiri, 2011) it has been noted that extensive reliance on judicial discretion creates uncertainty for owners of Māori land in the development of aspirations for their land and in the implementation of actions to achieve those aspirations.

Utilisation goes hand-in-hand with retention and Te Ture Whenua Maori Act 1993 expressly refers to the dual kaupapa of retention and utilisation of Māori land in its Preamble. However, the Act treats the two objectives quite differently. Provisions in the Act relating to alienation are given a clear focus in order to avoid ambiguity in their

application but provisions associated with utilisation have not been given the same focus.

The Bill addresses this imbalance with new provisions associated with the governance and utilisation of Māori land that set clear and unambiguous parameters for decision making and action. The Bill's provisions are designed to support and promote the use of Māori land by its owners and future generations and to more closely align legislative policy with the principle of rangatiratanga by facilitating the pursuit by Māori land owners of their aspirations for their land.

The policy settings for Te Ture Whenua Maori Act 1993 drew on advice contained in *The Māori Land Courts: Report of the Royal Commission of Inquiry* (1980) and the New Zealand Māori Council's discussion paper *Kaupapa Te Wahanga Tuatahi* (February 1983). The policy for this Bill continues to draw on that advice together with advice contained in the report of *Te Ture Whenua Māori Act 1993 Review Panel* (March 2014), and feedback from multiple rounds of consultation, workshops, and engagement with relevant Māori organisations. The Bill has been strongly influenced by submissions on an exposure draft released for public consultation in May 2015.

The development of this Bill has also been informed by advice and information contained in a number of other reports, including the Māori Land Investment Group's *Securing Finance on Multiple-Owned Māori Land: Options for Government* (1996), the Federation of Māori Authorities' *Māori Land Court and Utilisation Options Under Te Ture Whenua Māori Act 1993* (1997), the Māori Multiple-Owned Land Development Committee's *Māori Land Development* (1998), Te Puni Kōkiri reports arising from the 1998 review of Te Ture Whenua Maori Act 1993 including feedback reports on consultation hui, *Report of the National Wānanga Held to Discuss the Principles to Underpin Māori Land Legislation* (1999), the New Zealand Institute of Economic Research's *Māori Economic Development: Te Ōhanga Whanaketanga Māori* (2003), the Controller and Auditor-General's *Māori Land Administration: Client Service Performance of the Māori Land Court Unit and the Māori Trustee* (2004), the Hui Taumata's *Māori Land Tenure Review: Report on Issues* (2006), Te Puni Kōkiri's *Ko Ngā Tumanako o Ngā Tangata Whai Whenua Māori: Owner Aspirations Regarding the Utilisation of Māori Land* (2011), the Ministry of Agriculture and Forestry's *Māori Agribusiness in New Zealand: A Study of the Māori Freehold Land Resource* (2011), and the Ministry for Primary Industries' *Growing the Productive Base of Māori Freehold Land* (2013).

Whenua Māori/Māori land

The total amount of Māori freehold land is now reduced to 1.456 million hectares out of a total land mass of 26.771 million hectares. This is approximately 5.5% of all land in New Zealand. Ninety-five percent of Māori freehold land, 1.390 million hectares, is in the North Island, and makes up approximately 12% of all land in the North Island. The greatest concentrations of Māori freehold land are in the Bay of Plenty/East Cape region, the central North Island, and Northland.

In *Kaupapa Te Wahanga Tuatahi*, the New Zealand Māori Council described Māori land in the following terms:

Māori land has several cultural connotations for us. It provides us with a sense of identity, belonging and continuity. It is proof of our continued existence not only as a people, but as tangatawhenua of this country. It is proof of our tribal and kin group ties. Māori land represents turangawaewae.

It is proof of our link with the ancestors of our past, and with the generations yet to come. It is an assurance that we shall forever exist as a people, for as long as the land shall last.

But also land is a resource capable of providing greater support for our people – to provide employment – to provide us with sites for our dwellings – and to provide an income to help support our people and to maintain our marae and tribal assets.

The Bill reflects these special characteristics by keeping Māori land retention as a core focus and by continuing to regulate transactions where retention may be placed at risk. This is done using the same high thresholds for sales and permanent alienations applying under Te Ture Whenua Maori Act 1993 and building on those thresholds by enabling owners of Māori land to set even higher thresholds within the governance arrangements for their land. The Bill prescribes a clear decision-making process and provides the Māori Land Court with jurisdiction to ensure due process is followed and legal protections are complied with. The Bill also provides the Māori Land Court with some discretion over whether Māori freehold land status can be removed and over whether partitions will assist owners of Māori freehold land to retain, occupy, or develop their land.

In order to reflect the dual kaupapa expressed by the New Zealand Māori Council, the Bill reflects a policy shift to more clearly support land utilisation as determined by the owners themselves. This is done by providing a new framework within which owners of Māori land are themselves better able to determine, design, establish, and operate effective governance arrangements for their land. The new framework establishes a clear and explicit governance environment, providing certainty for those working within it, flexible options for governance structures, the ability to reflect tikanga Māori in governance arrangements, baseline thresholds for certain decisions, appropriate measures for governor accountability, and new dispute resolution procedures.

Tikanga Māori

One of the principles of the Bill is that tikanga Māori is central to matters involving Māori land. The Bill expressly defers to tikanga Māori for a range of matters including, as examples, the way associations with Māori customary land are determined, the way preferred recipients of Māori freehold land are determined, the way relationships of descent are determined, and the way disputes are resolved.

While the common law as applied in New Zealand has always been amenable to development to take account of tikanga Māori, which is considered to be part of the values of the New Zealand common law (*Takamore v Clarke* [2012] NZSC 116), stat-

ute law has tended to be less cognisant of tikanga Māori. However, a statute dealing with Māori land is one in which tikanga Māori should clearly be recognised and applied.

In making references to tikanga Māori in the Bill, care has been taken to avoid a statutory codification of what constitutes tikanga Māori. The Bill directs courts to determine any question as to the tikanga Māori that applies in a particular situation on the basis of evidence.

As noted by the Chief Justice, Rt Hon Dame Sian Elias, in *Takamore v Clarke*, what constitutes tikanga Māori in any particular case is a question of fact for expert evidence and a court asked to identify the content of tikanga Māori by evidence is not engaged in a process of interpretation or law-creation.

Whenua tāpui

The Bill provides for whenua tāpui, which are the equivalent of Māori reservations under Te Ture Whenua Maori Act 1993 but with some differences.

Under the Bill a Māori Land Court order is required in order to reserve land as whenua tāpui but in most cases the process will no longer require the 2 steps of a court recommendation and, then, a notice by the Chief Executive of Te Puni Kōkiri published in the *Gazette*.

Unless the relevant land is Crown land, the court will have jurisdiction to make, rather than merely recommend, the reservation of whenua tāpui and a subsequent notice in the *Gazette* will not be required.

In the case of Crown land, the Bill provides that the Minister responsible for that land is able to reserve it as whenua tāpui by publishing a declaration to that effect in the *Gazette* without requiring a Māori Land Court order.

The Bill enables land owners to agree that the underlying beneficial ownership of land reserved as whenua tāpui for the purposes of a marae or urupā may vest in the collective group for whom the marae or urupā is established. For this to occur, the holders of at least 75% of the pre-existing beneficial ownership interests must agree.

The Bill provides for court-appointed administering bodies, rather than individual trustees, to administer whenua tāpui. This is more consistent with the administration of reserves, generally.

The Bill provides that land reserved as whenua tāpui cannot be disposed of or vested under an Act or in any other way. This does not prevent cancellation of the reservation or any vesting associated with the cancellation, nor the granting or cancellation of certain easements and leases, nor the disposition of an individual freehold interest in the underlying beneficial ownership.

To avoid undue complexity, Māori freehold land held by a governance body cannot be reserved as whenua tāpui but the Bill provides an alternative mechanism in that case through a new instrument called a kawenata tiaki whenua.

A kawenata tiaki whenua may apply to an area of cultural or historical interest or a place of special significance according to tikanga Māori and requires the area to be managed so as to preserve and protect those values.

Status of Māori land

The Bill continues to provide specific land statuses for the Māori land categories of Māori customary land and Māori freehold land, both of which are unique forms of private land with characteristics that differ significantly from other private land.

The focus of the Bill is Māori land and accordingly the statuses of general land and general land owned by Māori are not provided for. They are no longer required.

The status of Māori customary land is a statutory recognition of land held by Māori in accordance with tikanga Māori. It is neither a codification of the common law doctrine of aboriginal title nor an extinguishment of aboriginal title.

The Bill continues the jurisdiction of the Māori Land Court to determine whether land is Māori customary land and makes important changes to other aspects of the court's jurisdiction in relation to Māori customary land.

The jurisdiction of the Māori Land Court to determine and vest ownership of Māori customary land on the basis of individual interests is discontinued and replaced with a jurisdiction to determine ownership only on a collective basis. If the court exercises its jurisdiction to change the status of Māori customary land to Māori freehold land, the land must remain in collective ownership. This provides a closer alignment of the law with tikanga Māori and ends the process of individualisation of customary land, the implementation of which has been found to have been inconsistent with the principles of the Treaty of Waitangi.

Since 1909, Māori customary land has been deemed to be Crown land for the purposes of preventing trespass or other injury to the land, recovering damages for trespass or injury, and recovering possession from anyone in wrongful occupation. The Bill discontinues this method of dealing with trespass and related matters affecting Māori customary land and, instead of deeming such land to be Crown land, enables the Māori Land Court to appoint a kaiwhakahaere to act as the agent of the owners to deal with those matters. If there is no kaiwhakahaere, the Bill empowers the Māori Trustee to represent owners for those purposes.

The Bill provides that Māori customary land cannot be disposed of or vested under an Act or in any other way. This does not prevent recognition of customary transfers, the establishment of whenua tāpui, a change of status to Māori freehold land, or the creation and cancellation of certain easements and access arrangements.

Under the Bill, all land that has previously become, or subsequently becomes, Māori freehold land under any enactment continues to have that status until it ceases to be Māori freehold land by declaration of the Māori Land Court, or as a consequence of an exchange or boundary adjustment, or under an enactment. The Bill places limitations on the jurisdiction of the Māori Land Court to make an order declaring that Māori freehold land ceases to have that status.

The Bill places protective restrictions on a wide range of dispositions of Māori freehold land.

Māori land tenure

Unlike other forms of private land, Māori land tenure is derived from customary rights that have their basis in tikanga Māori rather than from the Crown through a system of estates. Owners of Māori customary land hold their interests on the basis of tikanga Māori, not on the basis of an originating Crown grant.

Owners of Māori freehold land hold individual or collective freehold interests that, with a few exceptions arising from historical anomalies in the law, are based on connections with the land and with one another that are derived through whakapapa.

The Bill reflects these unique factors through the principles that tikanga Māori is central to matters involving Māori land and that Māori land endures as a taonga tuku iho by virtue of whakapapa and by providing that a parcel of Māori freehold land does not vest in the Crown as *bona vacantia* but, instead, vests in the collective owners who would, in accordance with tikanga Māori, hold it if it were Māori customary land. Similarly, the Bill provides that individual freehold interests in Māori freehold land do not vest in the Crown as *bona vacantia* but, instead, vest proportionately in the remaining owners.

The nature of property rights in the context of Māori land

The Bill strikes a balance between two important public policy issues. First, laws that enable ancestral Māori land to be held as individual personal property are inconsistent with the principles of the Treaty of Waitangi and, secondly, those who have acquired a property interest through the historic legal framework applying to Māori land should not be arbitrarily deprived of their interest.

Property interests in Māori land, even individualised interests, are not the same as interests in a freely tradable economic commodity and, in particular, are not the same as property interests in other private land.

As a rule, notions of “ownership” of Māori land tend to be regarded by Māori in terms of stewardship and connection, rather than proprietorship, and in terms of permanence rather than transience.

Property interests in Māori land are characterised by the cultural importance of the land as a taonga tuku iho, as a source of connection and of identity, and by the fact that, despite individualisation in the late 19th century, the ongoing multiplicity of interests has meant there remains a collective characteristic to Māori land ownership.

In the context of legal theory, “property” is not a thing in itself. It is a legal relationship with a thing. The registered proprietor of an estate in fee simple in land does not own the land itself but, rather, owns an abstract thing called an estate in land. In the same context, “property rights” have come to be regarded as a “bundle of rights”.

It is necessary to take into account the bundle of rights and obligations that make up a property interest in Māori land in order to strike an appropriate balance between the two public policy issues referred to above.

Generally accepted elements of the bundle of rights, which include obligations, and how they relate to Māori land include the following.

The right to exclude—collectively, the owners of Māori land are entitled to exclude non-owners from using or enjoying their land but in practice the right is constrained by the multiple nature of Māori land ownership (individually, owners cannot exclude other owners or those who are invited or have the permission of other owners) and if the land is vested in a governance body the right passes to the governance body and becomes a right, at law at least, to exclude not just non-owners but also owners.

The right to possess—to the extent that the right to possess includes the right to occupy, this is a constrained right for multiple owners of Māori land due to the practical issue that when everyone has the same right they cannot all exercise it at once without interfering with each other's rights (in effect the right is held collectively, not individually).

The right to use—for the same reasons that the right to possess is constrained, the right to use is also a constrained right for multiple owners of Māori land individually and, as it can only be exercised collectively, generally requires a governance body to exercise the right on behalf of the owners or the creation of a third party right to use through an instrument such as a lease.

The right to alienate—

- in relation to a whole parcel of land, the right to alienate is constrained, first, by the practical difficulty of requiring every owner to participate in the transaction, secondly, by a legal framework that places restrictions on the alienation of Māori land and, thirdly, by the widely accepted view that Māori land is taonga and should be protected from alienation:
- in relation to individual shares in Māori freehold land, the right to alienate is constrained by a legal framework that places restrictions on the capacity to alienate shares, and that has historically included the requirement to obtain an order from the Māori Land Court, which must satisfy itself on a range of jurisdictional threshold requirements and has been given a discretion as to whether, ultimately, to make the order.

The right to receive income—in principle, the owners of Māori land enjoy the right to receive income but the effect of fragmentation and ever-diminishing interests renders the right meaningless for many and the ability to generate income is constrained by the practical limitations arising from multiple ownership. If a governance body is in place, the right may also be affected by the discretion of the governance body to retain earnings for future investment (the right to receive income passes to the governance body).

The duty to refrain from using property in a way that harms others—in the context of Māori land, this duty can be likened to a duty to a wider, inter-generational commu-

nity of interest associated with Māori land, given its generally accepted status as taonga tuku iho, and includes a duty to care for the land and ensure it remains to be passed to future generations.

Many legal frameworks that have general application to land, such as the Rating Valuations Act 1998, are not well aligned with the unique characteristics of Māori land and the Bill contains measures designed to lead to a more equitable application of those frameworks to Māori land.

Ownership of Māori freehold land

In the case of Maori freehold land in multiple ownership (other than a collective class of owners), the Bill contains a presumption of a tenancy in common in equal shares unless there is other proof to the contrary. This provides a closer alignment of the law with principles of tikanga Maori.

Existing ownership interests in Māori freehold land are preserved but the Bill provides a new option for the owners to convert to collective ownership. If the land is owned by tenants in common, converting to collective ownership will require the agreement of owners holding at least a 75% share of the land. If the land is owned by joint tenants they will all need to agree.

Establishing whānau trusts for ownership interests in Māori freehold land is an important mechanism for mitigating the effects of fragmented interests and whānau trusts are continued under the Bill, but instead of requiring a Māori Land Court order to establish them they will be able to be set up by owners by registering a declaration of trust or by making provision for them under a will. Whānau trusts also become the default mechanism on intestate succession unless members of the whānau enter into an alternative family arrangement.

The Bill replaces the jurisdiction of the Māori Land Court to establish kai tiaki trusts for owners under a disability with a new jurisdiction to appoint kaiwhakamarumaru to act as managers for owners needing protection, being owners under 18 years of age or owners who, in the opinion of the court, wholly or partly lack the legal capacity or competence to manage their own affairs in relation to their land interests. The new jurisdiction aligns more closely with the provisions for the appointment of managers under the Protection of Personal and Property Rights Act 1988.

Preferred recipients and preferred entities

The Bill continues the policy of limiting those who may acquire, or have preference to acquire, Māori freehold land or individual freehold interests in Māori freehold land. This approach is consistent with the principles of retention of Māori freehold land in Māori ownership, of tikanga Māori being central to matters involving Māori land, and of Māori land enduring as a taonga tuku iho by virtue of whakapapa.

There are important differences in the way the Bill defines “preferred recipients” when compared with Te Ture Whenua Maori Act 1993. In particular, no-one can be a preferred recipient under the Bill unless they have an association with the relevant Māori freehold land in accordance with tikanga Māori.

In addition to a change in terminology from “preferred classes of alienees” (Te Ture Whenua Maori Act 1993) to “preferred recipients” (the **Bill**), the main changes made by the Bill are summarised as follows:

Bill

Children, grandchildren, and other descendants of the owner if the children, grandchildren, or other descendants are associated with the land in accordance with tikanga Māori.

Grandparents, parents, uncles, aunts, siblings, nieces, nephews, and first cousins of the owner if the grandparents, parents, uncles, aunts, siblings, nieces, nephews, or first cousins are associated with the land in accordance with tikanga Māori.

Other owners of the relevant land if those owners are associated with the land in accordance with tikanga Māori.

Former owners of the relevant land if those owners are associated with the land in accordance with tikanga Māori.

Descendants of former owners of the relevant land or any former parcel the land formed part of if the descendants are associated with the land in accordance with tikanga Māori.

Te Ture Whenua Maori Act 1993

Children and remoter issue of the owner whether or not the children or issue are associated with the land in accordance with tikanga Māori.

Whanaunga of the owner if the whanaunga are associated with the land in accordance with tikanga Māori.

Other owners of the relevant land if those owners are members of the hapū associated with the land.

No equivalent.

Descendants of former owners if the former owner is or was a member of the hapū associated with the land.

Under Te Ture Whenua Maori Act 1993, a Māori incorporation has a second right of preference, behind members of the preferred classes of alienees, to acquire shares in the incorporation (ie, individual freehold interests in the land). The Bill extends this right to “preferred entities”. Preferred entities are a “rangatōpū” and a “representative entity”. A rangatōpū is a new type of governance body. To qualify as a preferred entity a rangatōpū must be managing the relevant Māori freehold land or any other Māori freehold land that has one or more owners who are preferred recipients in relation to the relevant land. A representative entity is an entity that represents a hapū or an iwi associated with the relevant land in accordance with tikanga Māori and that is recognised by the owners of the land as having authority to represent the hapū or iwi.

Decision making by owners of Māori land

Under the Bill, the role of the Māori Land Court changes from having final discretion over a range of decisions to one of ensuring due process and legal requirements are complied with. The Bill provides greater autonomy for owners of Māori land and their own entities to make final decisions about their land. This change recognises the

principle of rangatiratanga, articulated by the late Dr Apirana Tuahae Mahuika as follows (Te Ture Whenua Māori hui, Pakirikiri Marae, Tokomaru Bay, 15 August 2014):

Nooku te whenua, kei a au te korero...Nooku te whenua, ko au te rangatira.

The land is mine, I have all the say...The land is mine, I make all the decisions.

There are more than 2.5 million individual freehold interests in Māori freehold land. The number of owners for each parcel ranges from one through to 14,286, with an average of nearly 100 owners per parcel. This presents a unique set of challenges for decision making.

Under the Bill, owners of Māori freehold land with a governance body are able to prescribe decision-making processes of their own choice or preferences to be included within the governance agreement for their land. If a process is not included in the governance agreement or if the land is not managed by a governance body, the Bill prescribes a default decision-making process designed to ensure as many owners as possible are aware that a decision is to be made and have the opportunity to participate.

The Bill provides that owners may participate in decision making using postal or email voting forms or by using an electronic voting system and may attend meetings of owners in person, via a nominated representative, or via telephone or Internet-based technology.

Certain decisions require the agreement of a minimum threshold of all the ownership interests in the relevant parcel of Māori freehold land. Those decisions are, for the most part, decisions that will affect the ownership and retention of the land and include decisions to apply to the Māori Land Court for an order declaring that the land ceases to be Māori freehold land, decisions to convert to collective ownership, decisions to offer the land for sale, and decisions to agree to a disposition of the land under an Act other than Te Ture Whenua Maori Act, all of which require the agreement of owners together holding a 75% or more share in the land.

Decisions to exchange Māori freehold land, to agree to a boundary adjustment that changes the area of the parcel by more than 2%, to partition the land, or to grant a long-term lease of more than 52 years require the agreement of owners together holding more than a 50% share in the land.

The Bill also provides for certain decisions, mostly to do with the management and utilisation of the land, to be made with the agreement of a minimum threshold of the ownership interests of owners who actually participate in making the decision (referred to in the Bill as the “participating owners”) as distinct from all the owners.

Decisions that can be made by “participating owners” include decisions to appoint a governance body, to approve a governance agreement, to change the name of a parcel of Māori freehold land, or to amalgamate parcels of Māori freehold land (all of which require the agreement of owners who together hold more than 50% of the combined share in the land of the participating owners) and decisions to set a land management plan, to revoke the appointment of a governance body, or to aggregate the ownership of Māori freehold land or cancel an aggregation (which require the agreement of

owners who together hold 75% or more of the combined share in the land of the participating owners).

Prescribed thresholds are included in the Bill rather than subjective criteria such as “a sufficient degree of support” or “no meritorious objection” used in Te Ture Whenua Maori Act 1993. The Bill provides an objective framework with clear and unambiguous decision-making criteria so as to facilitate final decision making by the owners themselves rather than having the final decision dependent on a subjective assessment by the court.

For decisions that can be made by “participating owners” the Bill provides a graduated set of participation thresholds. These are not the same as the decision thresholds and set the minimum level of participation needed before a decision can be considered.

If there are 10 or fewer owners, they are all required to participate. If there are more than 10 but not more than 100 owners, at least 10 owners together holding a 25% or more share in the land are required to participate. If there are more than 100 but not more than 500 owners, at least 20 owners together holding a 25% or more share in the land are required to participate. If there are more than 500 owners, at least 50 owners together holding a 10% or more share in the land are required to participate.

If the applicable participation threshold is not met, the Bill provides that the decision-making process can be re-run without the required threshold requirement provided the second process is commenced within 20 working days and is notified to the owners in a way that clearly explains that the resulting decision will be valid if it is agreed to by the required majority of the participating owners, irrespective of how many owners participate in making the decision.

The “participating owner” provisions are designed to address the practical difficulties associated with owner decision making for parcels of Māori freehold land.

Representation of owners of Māori land

The Bill continues to provide a mechanism for court-appointed agents for owners of Māori land that does not have a governance arrangement in place. The Bill refers to agents as kaiwhakahaere.

The role of a kaiwhakahaere is to represent owners for mostly one-off, specific issues such as responding to a notice issued by a local authority or the Crown, or when the land is affected by a process under the Resource Management Act 1991, or implementing a decision of the owners.

The kaiwhakahaere process under the Bill involves the owners, is within the purview of the court, and is a protective mechanism.

Governance of Māori freehold land

The Bill contains important reforms for the governance of Māori freehold land, moving from a regime of trusts and incorporations appointed by the court to a regime of

owner-appointed governance bodies operating under owner-approved governance agreements.

The Bill's approach continues and builds on an ongoing policy direction first noted by Mahon J in *Alexander v Maori Appellate Court* [1979] 2 NZLR 44 (SC) at 53 when he said—

...I should think it no longer safe to rely upon the historical view that members of the Māori race are incapable of managing their own affairs without supervision. As I see it, there has been a shift in legislative policy directed towards liberating the Māori race from juridical control of their transactions in relation to Māori land and for that reason, as already stated, I should think it unsatisfactory to place too much reliance today upon those judicial opinions expressed many years ago, which stressed the parental role of the Māori Land Courts in relation to matters within their jurisdiction.

The Bill's framework for Māori land governance bodies is based on—

- enabling owners to easily appoint whatever form of governance body they choose, with compliance measures limited to those things essential to ensure the process is fair and transparent:
- providing options for owners to form their own legal entity and design its constitution to reflect their aspirations and their culture:
- enabling existing trusts and incorporations to transition as simply as possible without disrupting their ongoing operations:
- providing a clear, straightforward legal framework within which to operate and that protects the interests of owners if things go wrong.

Owners forming new governance bodies will have a wide choice of entity. They may choose to form a new entity referred to in the Bill as a rangatōpū or they may appoint an existing rangatōpū. A rangatōpū may take the form of a private trust or an entity registered under another Act (such as a company, a limited partnership, or an incorporated society) or the owners may choose to register it as a body corporate under new provisions contained in the Bill.

Instead of forming a rangatōpū, owners have the option to appoint an existing statutory body, namely a Māori Trust Board, the Māori Trustee, Public Trust or a trustee company, or to appoint a representative entity. The Bill defines a representative entity as an entity that represents a hapū or an iwi associated with the land in accordance with tikanga Māori and that is recognised by the owners of the land as having authority to represent the hapū or iwi.

Existing ahu whenua trusts, whenua tōpū trusts, and Māori incorporations will transition as they are, with the terms of their existing trust orders or constitutions preserved. After a transition period, existing trustees and incorporation committee members will need to meet eligibility criteria contained in the Bill and trustees' terms will be for a finite period.

Under the Bill, appointing and forming governance bodies is a matter for the owners of the relevant Māori freehold land themselves through a process of decision making and registration instead of requiring a discretionary decision from the Māori Land Court by way of application, hearing, and adjudication. This change provides consistency with the principle of rangatiratanga and contributes to a new framework in which Māori land utilisation in accordance with the aspirations of the owners is supported and facilitated.

The appointment process for governance bodies requires the appointing owners to approve a governance agreement under which the body is to operate. The Bill sets out minimum, as well as default, provisions for governance agreements while providing owners with the flexibility to set up governance arrangements tailored specifically for their own circumstances and preferred way of operating, whether that be with a commercially oriented focus or with a strong tikanga focus.

In terms of accountability, the Bill continues to provide the Māori Land Court with jurisdiction to investigate governance bodies within prescribed parameters. The court's powers include a new power to disqualify individual governors, referred to as kaitiaki, from holding such a position on any governance body. That power can be exercised in specified circumstances, such as fraudulent, reckless or incompetent performance, and is consistent with similar powers under the Companies Act 1993 relating to the disqualification of company directors.

In addition to the right of owners or governance bodies to initiate cancellation of a governance agreement, the Māori Land Court is given power to do so if it is satisfied the governance body is insolvent, the governance body has failed to comply with statutory duties or obligations, or continuation would materially prejudice the owners.

Māori freehold land and succession

The Bill's succession provisions reflect policy preferences that the community of ownership of Māori freehold land should comprise individuals who have an association with the land that accords with tikanga Māori and whakapapa links, that intestate succession should not result in excessively fragmented individual interests, and that as far as possible succession should be an administrative process.

The Bill provides that individual freehold interests in Māori freehold land may be gifted under a will but only to a preferred recipient or to the rangatōpū, if there is one, managing the land in which the interest is held. A whole parcel of Māori freehold land may only be gifted to a preferred recipient or a preferred entity.

The Bill makes changes to the way eligible beneficiaries are determined on intestacy and the way in which individual freehold interests or parcels of Māori freehold land devolve on intestacy. The determination of who might be an eligible beneficiary does not go further back than the descendants of the deceased owner's grandparents, after which the interest vests in all the other owners of the relevant land. This differs from Te Ture Whenua Maori Act 1993 under which the determination traces back through the chain of title of the deceased owner until a beneficiary is found.

Descent relationships are crucial to determinations about whether a person is an eligible beneficiary or a preferred recipient in relation to Māori freehold land. Descent relationships by birth are clear but when there is an adoption, whether by custom (whāngai) or by adoption order, descent relationships are more complex.

The Bill provides that it is the tikanga of the relevant iwi or hapū that determines whether a whāngai relationship at any link in the chain of descent is to be treated as a relationship of descent for the purposes of any provision that refers to a child, grandchild, brother, sister, parent, grandparent, whānau, or descendant, or that refers to an association with land in accordance with tikanga Māori.

The Bill overrides the Adoption Act 1955 by providing that it is the tikanga of the relevant iwi or hapū, rather than that Act, that determines whether an adopted child is in a relationship of descent with either or both of the adopting parents or the birth parents.

Under the Bill, there is an automatic whānau trust if there is more than one eligible beneficiary on intestacy unless one or more beneficiaries do not want to participate in a whānau trust. If that is the case, a family arrangement may be entered into and the Māori Land Court has jurisdiction to give effect to the family arrangement.

This approach is consistent with the aim of mitigating or reducing excessive fragmentation of ownership interests in Māori freehold land and also reflects the nature of property rights in the context of Māori land described above. It aligns with views such as those expressed by the late Sir Robert Mahuta in *He Matapuna* (New Zealand Planning Council, 1979; cited in the report of the 1980 *Royal Commission of Inquiry on the Māori Land Courts*) when he said, “Perhaps we should be subscribing to some kind of title structure which ensures group inheritance; trusteeship rather than individual ownership.”

Generally, successions under the Bill do not require an application to the Māori Land Court and can simply be registered administratively in the Māori land register. Transparency remains important so a succession on intestacy cannot be registered without publication of notice of the application to register it.

Māori incorporations will continue to be able to process transfers of, and testate successions to, shares in the incorporation.

The special powers of the Chief Judge of the Māori Land Court to correct errors or omissions is continued under the Bill and extended to include errors or omissions in the Māori land register arising from the new administrative processes.

Māori land register

Historically, details about Māori freehold land title and ownership have been held in the records of the Māori Land Court. The Bill establishes a formal Māori land register of Māori land title, ownership, and governance. The establishment of the Māori land register is important because, under the Bill, many of the dealings affecting Māori land title, ownership, and governance will be transacted by the owners themselves

and their governance bodies without requiring Māori Land Court orders so they will not be recorded in the records of the court.

The Māori land register will record both legal and beneficial interests in Māori freehold land. Māori freehold land will continue to be subject to, and registered under, the Land Transfer Act 1952. Legal interests in Māori freehold land will be recorded in the land transfer system as well as in the Māori land register.

The Māori land register will—

- enable owners of Māori land and interests affecting Māori land to be identified:
- enable people to know whether a parcel of Māori freehold is managed by a governance body and, if so, to access information about the body and the governance agreement under which it operates:
- enable people to know whether Māori freehold land or an interest in Māori freehold land is managed by any other person such as a kaiwhakamarumaru and, if so, to access information about that person and the land or interest:
- facilitate—
 - decision making, by enabling owners of Māori freehold land and other interested persons to be identified when decisions need to be made in relation to the land:
 - dealings with beneficial interests in Māori freehold land:
 - giving effect to the purpose of the Act:
- assist the court, the chief executive, Registrars of the Māori Land Court, and the Registrar-General of Land in the exercise or performance of their powers, functions, or duties under the Act or any other enactment:
- enable compliance with the requirements of the Act or any other Act for recording instruments or other matters affecting Māori land or interests in Māori land.

Given the broad nature of its content, the Māori land register will have a public part and an administrative part. The administrative part will be accessible by Māori land governance bodies and those authorised to act on behalf of owners of Māori land or to arrange meetings of owners of Māori land.

Dispute resolution

The Bill establishes a new dispute resolution mechanism for disputes about Māori land. The approach to dispute resolution is based on a concept of mātauranga takawaenga, which is a process to assist people and groups to resolve disagreements and conflicts in accordance with the tikanga, values, and kawa of the relevant hapū or whānau, both as to process and in substance.

The dispute resolution process recognises that the parties will often be connected with one another in an ongoing relationship and mitigating the risk of relationship damage is important. The process is designed to reflect the principle of rangatiratanga and to

empower parties to achieve their own solutions and outcomes rather than having to accept an outcome imposed on them by a court.

The Bill makes it mandatory for certain disputes to be referred to dispute resolution before the court has jurisdiction to consider them on a litigated basis. Examples include disputes over whether a person is a whāngai or whāngai descendant.

Mandatory mediation is not a new concept. It has been operating successfully in a number of jurisdictions such as the Canadian province of Ontario where it applies to a range of civil disputes, such as disputes related to estates and trusts.

The Bill also provides Judges of the Māori Land Court with a previously unavailable power to hold judicial settlement conferences in which the Judge is able to assist parties to negotiate their own settlement.

Māori Land Court

The Māori Land Court remains a key institution for the determination of matters relating to Māori land. Both the Māori Land Court and the Māori Appellate Court are continued under the Bill.

In addition to jurisdiction conferred under the Bill, the Māori Land Court continues to have jurisdiction under more than 25 other Acts.

The Bill provides for the jurisdiction of the Māori Land Court along lines similar to that first suggested by the 1980 *Royal Commission of Inquiry on the Māori Land Courts*, which recommended (among other things)—

There should be as far as possible a separation of the administrative and judicial functions relating to Māori land. This would minimise the necessity for Judges to be involved in other than judicial matters. The court should aim at being a court of law and not an administrative body.

The focus of the Bill is Māori land and its ownership, protection, and governance. The Māori Land Court and the Māori Appellate Court are provided for as part of the supportive institutional framework rather than as the central focus of the legislation, as has tended to be the case historically.

Omnibus Bill to be divided into 3 Bills

The Bill is an omnibus Bill introduced in accordance with Standing Order 263.

It is intended to divide the Bill at the committee of the whole House stage so that—

- *Parts 1 to 9 and Schedules 1 to 4* become Te Ture Whenua Māori Bill;
- *Parts 10 to 15 and Schedules 5 to 7* become Te Kooti Whenua Māori Bill;
- *Part 16 and Schedules 8 to 12* become Te Ture Whenua Māori (Repeals and Amendments) Bill.

Appendix 2

2 June 2016

File No: 3-OR-3-5

Tutehounuku Korako
Chair
Māori Affairs Committee
Parliament Buildings
Private Bag 18041
Wellington 0

Tena Koe Nuk

Te Ture Whenua Māori Bill

The Rangitikei District Council thanks the Committee for the opportunity to comment on this highly important Bill.

At an operational level, the Council's interest in this Bill is in the proposed consequential amendments which will alter the rating and valuation of Māori land. In the Rangitikei District in 2015/16, the amount remitted in 2015/16 on unoccupied and unproductive Māori land was just over \$50,000 over an area of 34,493 ha. (A further 8,446 ha was deemed non-rateable.)

The Council supports the proposed changes allowing a policy on the non-rateability of unused Maori freehold land and a policy on the write-off of rates owed for unused Māori freehold land. Being able to deem this land non-rateable will slightly reduce administration costs for the Council.

However, we question why these policies continue to be discretionary. As is noted in the Regulatory Impact Statement from Te Puni Kokiri, "the key risk is that councils will not apply the [discretionary] policy, and the existing barriers to engagement and use of Māori land by its owners will remain".

While Council accepts that owners should have the right to determine how their land is used, we are acutely aware that productive use of much of the large blocks of Māori land in the northern Rangitikei is impossible because of being land-locked. Council hopes the Minister's intention to address this issue later in the year is achieved: clause 319 of the Bill does not seem likely to secure resolutions to these long-standing anomalies.

An earlier version of the Bill envisaged lifting the 2 ha limit for Māori land used for cultural purposes such as urupa and marae, and we were comfortable that its rating impacts would be negligible. So we wonder why the 2ha limit has been retained.

Council supports the proposed changes in valuation. It is appropriate to take into account circumstances of multiple ownership and Māori Land court processes, particularly while the land is unused and unoccupied.

But in addition to these specific matters, Council has a strong interest in seeing the objectives of the Bill's proposal achieve the success intended, in particular that all owners of Māori land have the right to take advantage of opportunities to develop their land for the benefit of present and future generations of owners, their whanau and their hapu – and do so.

There is an overt objective of reducing reliance on judicial decisions and redefining the role of the Māori Land Court so it concentrates on judicial matters. We understand that this is intended to give greater autonomy for owners of Māori land to make final decision about their land and allow administrative matters to be assigned to a Māori Land Service, which will manage a Māori Land Register. The merit or otherwise of these proposals is a matter which we have discussed with Te Roopu Ahi Kaa (the Council's standing Iwi Advisory Committee) and these are the points they have suggested are put to your Committee for consideration.

I hope these comments are useful and that there is an opportunity for me to talk with the Committee.

Nāku noa, nā

Andy Watson
Mayor of the Rangitikei District

Attachment 5



Rangitikei
UNspoilt...

MEMORANDUM

TO: Te Roopu Ahi Kaa

FROM: Samantha Whitcombe

DATE: 30 May 2016

SUBJECT: **Update on the Path to Well-Being initiative and other community development programmes – May/June 2016**

FILE: 1-CO-4

1 Background

- 1.1 The aim of this memorandum is to provide the Komiti with an update on the actions and progress of the Path to Well-Being Initiative.

2 Youth Leadership Forum

- 2.1 The Level Up Rangitikei Youth Forum, was organised Bulls and Community District Trust, with the support of Rangitikei District Council as the 2015/16 Path to Well-being Conference. Previous work with the Marton Community Charter and MSD has highlighted a need for youth development to have increased direction from youth.
- 2.2 The forum was held on Friday 27 May 2016. Approximately 40 year 9 and 10 students from Nga Tawa and Rangitikei College attended the event, as well as 20 representatives from various youth related agencies. The event was facilitated by Drummond Street Family Services from Melbourne, an organisation experienced in working with youth.
- 2.3 The youth at the event were highly engaged and developed a range of ideas/projects which they thought would make the Rangitikei a better place. These ideas included, a youth café, more youth spaces, resurfacing of the netball courts for multi-use, improved transportation options, increased number of activities and the development of a youth forum.
- 2.4 The service providers were fully engaged, helping the youth to develop their ideas and also provided feedback about how their services could support the ideas and issues the youth raised throughout the day. Examples include the Marton ICT Hub offering the space afterschool for homework help and Sport Whanganui offering to work closely with the youth about the sporting programmes they run.
- 2.5 The Bulls and Community Development Trust will be writing up a fuller report of the day which will be reported on when available.

3 Swim-4-All

- 3.1 The Swim-4-All programme aims to provide free or subsidised swimming lessons to primary school students in the Rangitikei District, to ensure that they are confident and capable to stay safe in the water. During this season, 14 out of 16 state schools, and approximately 920 school children in years 1-8, took part directly in the Swim-4-All programme managed at one of the two Council-owned pools in Marton and Taihape.
- 3.2 Whanganui Community Foundation and COGS each provided \$10,000. KiwiSport provided up to \$10,000 additional funding to ensure all schools could participate with any balance to be held over to support the school swim programme for 2016/17.
- 3.3 In addition, Council agreed to waive pool entry fees for any student using the pool for swimming lessons – not only for the school programmes but for the pre-school swim programmes and the regular swim school lessons. Council provided free pool entry for approximately 920 students to have 8 lessons each. A pool entry (for ages 5-18 years) costs \$2.40 so this amounted to approximately \$17,700 in foregone income.
- 3.4 Each child received up to 8 subsidised lessons and all schools were reimbursed their transport costs.

4 Recommendations

- 4.1 That the memorandum 'Update on the Path to Well-Being initiative and other community development programmes – May/June 2016' be received.

Samantha Whitcombe
Governance Administrator