

# Te Roopu Ahi Kaa Meeting

**Tuesday 07 August 2018  
11.00 am**

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

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## Nga mema

**Tumuaki**  
**Mr P Turia** (Whangaehu)

**Tumuaki Tuarua**  
**Ms T Hiroa** (Ngāti Whitikaupeka)

**Mr B Gray** (Ngāti Rangituhia), **Ms K Savage** (Ngāti Parewahawaha),  
**Mr T Curtis** (Te Rūnanga o Ngāti Hauiti), **Ms C Raukawa-Manuel**  
(Ngā Ariki Turakina), **Mr C Mete** (Rātana Community),  
**Mr C Shenton** (Ngāti Kauae/Tauira), **Mr T Steedman**  
(Ngāti Hinemanu/Ngāti Paki), **Ms H Benevides** (Ngāti Tamakopiri),  
**Ms N Wipaki** (Ngai te Ohuake), **Ms K Hina** (Ngā Wairiki Ki Uta),  
**Cr A Gordon**, and His Worship the Mayor, **Andy Watson**, (ex officio)

**Manuhiri:** **Mr J Twomey** (Horizons Regional Council - Iwi Liaison)

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**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

Agenda – Tuesday 7 August 2018 – 11:00 am

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The quorum for the Te Roopu Ahi Kaa is 7.

Council's Standing Orders (adopted 3 November 2016) 10.2 provide: The quorum for Council committees and sub-committees is as for Council, ie half the number of members if the number of members (including vacancies) is even or a majority if the number of members is odd.

## **1 Karakia/Welcome**

## **2 Apologies**

## **3 Members' conflict of interest**

Members are reminded of their obligation to declare any conflicts of interest they might have in respect of items on this agenda.

## **4 Confirmation of order of business and late items**

That, taking into account the explanation provided why the item is not on the meeting agenda and why the discussion of the item cannot be delayed until a subsequent meeting, ..... be dealt with as a late item at this meeting. Such matters will be dealt with at the end of this agenda.

## **5 Whakatau Nga Tuhinga Kōrero / Confirmation of minutes**

The Minutes from the meeting held on 12 June 2018 are attached.

File ref: 3-CT-8-2

### **Recommendation:**

That the Minutes of the Te Roopu Ahi Kaa Komiti meeting held on 12 June 2018 be taken as read and verified as an accurate and correct record of the meeting.

## **6 Chair's report**

A verbal report will be provided at the meeting.

## **7 Feedback on the Komiti's workshop**

Discussion item.

## **8 Council decisions on recommendations from the Komiti**

There were no recommendations to Council made at the last meeting.

## **9 Council responses to queries raised at previous hui**

### **Maori land stocktake**

It is not yet certain whether Council can undertake a Maori land stocktake from its records: the search function in the rates database does not systematically identify the ethnicity of property owners (and currently shows fewer than 30 properties as in Maori ownership). Yet to be tested is whether a customised search will yield a more comprehensive result through

the ownership field in the property descriptions. The rates database specifies use in a general way only, including whether a property is vacant.

A key concern for the Komiti is ensuring that properties eligible for consideration under the Policy on Rates Remission for Maori Land are considered. The rates database documents arrears and remissions of rates. Council regularly reviews arrears in rates payments but section 38 of the Local Government (Rating) Act 2002 prohibits members of the public, when inspecting rates records, from seeing arrears, remissions or postponed rates. This means that disclosing the results of any investigation of arrears on Maori land identifying particular properties would need to be done in a public excluded session of the Maori Land Rates Remission Committee.

## **10 Altering Komiti membership on Maori Land Rates Remission Committee: Robert Gray to replace Mark Gray**

### **Recommendation:**

The members of Te Roopu Ahi Kaa approve the replacement of Mark Gray with Robert Gary on the Maori Land rates Remission Committee.

## **11 Update from the Komiti's representative to Council's Assets/Infrastructure Committee**

A verbal update will be provided from the Assets/Infrastructure meeting held on 12 July 2018.

## **12 Update from the Komiti's representative to Council's Policy/Planning Committee**

A verbal update will be provided from the Policy/Planning meeting held on 12 July 2018.

## **13 Update from Council (June-July)**

A report is attached.

File ref: 3-CT-8-1

### **Recommendation:**

That the report 'Update from Council's meetings in June-July 2018' be received.

## **14 Representation review – results from survey on community boards**

Council is required to undertake a representation review once every six years. The review is important for ensuring effective and fair representation of the District's communities – it considers the number of elected members, the ward structure and community boards. Council is scheduled to decide its initial proposal at its 26 July 2018 meeting. This proposal will be open for public submissions during August 2018.

Further information following Council's decision will be tabled at the meeting.

## **15 Upcoming Bylaw Reviews**

Council is in the process of reviewing its Animal Control Bylaw and Control of Liquor in a Public Place Bylaw. Public consultation on these documents may occur in September prior to the next meeting of Te Roopu Ahi Kaa. Members will be notified of the consultation once open.

## **16 Update from Horizons**

A verbal update will be provided at the meeting.

## **17 Update on Land-locked land**

A report is attached.

### **Recommendation:**

That the report 'Directions of Judge L R Harvey: Early reporting on landlocked land claim issues' be received.

## **18 Update on Te Pae Tawhiti**

Te Pae Tawhiti is the Manawatū-Whanganui Economic Development Strategy, 2016-40.

A verbal update will be provided by the Chair.

## **19 Update on the 'Path to Well-Being' initiative – June 2018**

A memorandum is attached.

File ref: 1-CO-4-8

### **Recommendation:**

That the memorandum 'Update on the Path to Well-Being Initiative – June 2018' be received.

## **20 Pānui/Announcements**

## **21 Late items**

As accepted in item 4.

## **22 Future Items for the Agenda**

## **23 Next meeting**

14 August 2018 at 11.00 am (Komiti only hui from 10.00 - 11.00 am)

## **24 Meeting closed/Karakia**

# Attachment 1

# Rangitīkei District Council

## Te Roopu Ahi Kaa Komiti Meeting

Minutes – Tuesday 12 June 2018 – 11:00 AM



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**Present:**

- Mr Pahia Turia (Tiamana)
- Ms Tracey Hiroa
- Mr Robert Gray
- Ms Kim Savage
- Mr Charlie Mete
- Mr Chris Shenton
- Mr Terry Steedman
- Ms Naumai Wipaki
- Ms Katarina Hina
- Cr Angus Gordon
- His Worship the Mayor, Andy Watson (ex officio)

**In attendance:**

- Mr Ross McNeil, Chief Executive
- Mr Blair Jamieson, Strategy and Community Planning Manager



## 1 Karakia/Welcome

Te Tiamana welcomed everyone to the meeting.

## 2 Apologies

That the apology for the absence of Mr Curtis, Ms Benevides, and Ms Raukawa-Manuel be received.

Ms T Hiroa / Ms K Hina. Carried

## 3 Members' conflict of interest

There were no declared conflicts of interest.

## 4 Confirmation of order of business and late items

There was no scheduled change to the order of business.

## 5 Whakatau Nga Tuhinga Kōrero / Confirmation of minutes

<b>Resolved minute number</b>	<b>18/IWI/017</b>	<b>File Ref</b>	<b>3-CT-8-2</b>
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That the Minutes of the Te Roopu Ahi Kaa Komiti meeting held on 10 April 2018 be taken as read and verified as an accurate and correct record of the meeting.

Mr T Steedman / Mr R Gray. Carried

## 6 Chair's report

Te Tiamana provided a verbal report. The key points were:

- The Hon Shane Jones will be making an announcement shortly around the construction of a high-speed gondola at the Whakapapa ski field on Maunga Ruapehu.
- There is a working party/reference group made up of Iwi/hapū leaders from Whanganui around inclusiveness in collaborating on projects for the Provincial Growth Fund. An update on this working party will be given at the next hui.
- Te Tiamana notified the Komiti on the appointment of Lequan Meihana for the Strategic Advisor – Mana Whenua position.

## 7 Feedback on the Komiti's workshop

Te Tiamana updated elected members and staff on the following outcomes of the Komiti's workshop. The main points were:

- The Komiti has collectively decided to declare Lequan Meihana's position as kairāanga, meaning to weave together; being symbolic of the position.

Undertaking	Subject	Workshop
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The Komiti to have a workshop from 1.00 pm on 17 July, to be around the creation of a values based document that the Komiti would hope Council staff and Elected Members consider in decision making processes.		
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Undertaking	Subject	Māori land stocktake
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To investigate the feasibility of Council undertaking a Māori land stocktake, focused around rural land, with only papakāinga included from urban areas, the stocktake to include land that belongs to Māori (customary and freehold), with information around its present usage, and whether the rates are in arrears.		
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- At the end of Te Tiamana's report a whakatau was given for Mr Lequan Meihana, with Mr Meihana introducing and taking questions from the Komiti.

## 8 Council decisions on recommendations from the Komiti

The Komiti noted the commentary in the agenda.

## 9 Council responses to queries raised at previous hui

The Komiti noted the commentary in the agenda. The Kaiwhakahaere matua, Mr McNeil explained the Long Term Plan process and the outcomes from this consultation, noting that in moving forward further engagement and involvement would be required to increase the numbers of submissions.

In regards to the future of processing rubbish and recycling on a national scale, Mr McNeil noted that the Hon Eugenie Sage, Associate Environment Minister, has signalled intent that there will be an intensification of rubbish and recycling processing within New Zealand rather than exporting it.

## 10 Komiti representative on Councils Finance/Performance Committee

The Komiti received no desire from its membership at present to sit on the Finance/Performance Committee, partly through capacity and capability. The Policy/Planning and Assets/Infrastructure Committees are seen to have a more significant

strategic alignment for Te Roopu Ahi Kaa at present, but the Komiti may make a recommendation at a later date.

His Worship the Mayor gave a mihi to Ms Raukawa-Manuel for her involvement in the most recent citizenship ceremony. His Worship and the Komiti agreed that having Mana Whenua in these ceremonies is an important part of this welcoming process.

## **11 Update from the Komiti's representative to Council's Assets/Infrastructure Committee**

Ms Raukawa-Manuel was not present to give an update.

## **12 Update from the Komiti's representative to Council's Policy/Planning Committee**

A verbal update was given by Ms Hiroa. It was noted that the alignment of the Policy/Planning Committee is more suited to her outlook and work experience.

## **13 Update from Council (April-May)**

Mr McNeil addressed the Komiti on the intended developments at Santoft Domain, with Council agreeing to come back with a framework for how the planning of this development will proceed. It was agreed that Ngāti Apa will be a consulted party for this process.

In regards to the Marton A Dam, Ngāti Apa wish to be consulted with on any intended programme. The premise for this is based around the Tūtaenui Stream, where any water that can be returned to the stream would meet the aspirations of mana whenua.

<b>Resolved minute number</b>	<b>18/IWI/018</b>	<b>File Ref</b>	<b>3-CT-8-1</b>
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That the memorandum 'Update from Council's meetings in April-May 2018' be received.

Mr T Steedman / Ms K Savage. Carried

## **14 Proposed Strategic Advisor – Iwi/hapū**

Addressed in Item 7.

## **15 Update from Horizons**

Mr Twomey was not present to give an update.

<b>Undertaking</b>	<b>Subject</b>	<b>Financial contribution</b>
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Mr McNeil agreed to seek financial contribution from Horizons for the Komiti hui and associated costs.

## 16 Update on Land-locked land

Addressed in Item 7.

## 17 Update on Te Pae Tawhiti

Te Tiamana noted the appointment of Mr Hayden Turoa as the lead for Te Pae Tawhiti.

## 18 Update on the 'Path to Well-Being' initiative – June 2018

The Komiti noted the attached memorandum.

Resolved minute number	18/IWI/019	File Ref	1-CO-4-8
That the memorandum 'Update on the Path to Well-Being initiative – April 2018' be received.			

Ms Hina / Mr Turia. Carried

## 19 Pānui/Announcements

Nil

## 20 Late items

Nil

## 21 Future Items for the Agenda

Nil

## 22 Next meetings

17 July 2018 at 1:00 pm – Workshop: Values Based Approaches.

7 August 2018 at 11.00 am – Te Roopu Ahi Kaa Komiti (Komiti only hui from 10.00 - 11.00 am)

## 23 Meeting closed/Karakia

12:45 pm

Confirmed/Tiamana: \_\_\_\_\_

Date:

# Attachment 2

# Memorandum

To: Te Roopu Ahi Kaa

From: Christin Ritchie, Governance Administrator

Date: 28 July 2018

Subject: **Update from Council's meetings in June-July 2018**

File: 3-CT-8-1

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

An update on progress with Council's Top Ten Projects is attached as **Appendix 1**.

## **1 Adoption of 2018-28 Long Term Plan**

- 1.1 At its meeting on 28 June 2018, having been informed by the Audit Director of her intention to issue an unmodified opinion, Council adopted the 2018-28 Long Term Plan. Responses have been sent to all submitters.
- 1.2 Council has also adopted the Waste Management and Minimisation Plan.

## **2 George McIrvine**

- 2.1 George's sudden and unexpected passing on 2 July 2018 has created a substantial gap in Council's management and operations. As Group Manager, Finance & Business Support, George played a key role in preparing the Long Term Plan and ensuring Council has appropriate policies and procedures under the Health and Safety at Work Act.
- 2.2 In particular, there will be additional demands on Ashley Dahl, Team Leader, Financial Services and Damian Turner-Steele, IT Support Officer, who were both direct reports to George. We are currently reviewing activities and projects across the Finance and Business Support group to ensure we can continue to deliver on the agreed priorities.

## **3 MoU partnering organisations**

- 3.1 Council has signed off the 2018/19 work plans and funding for the four MoU partnering organisations – i.e. Mokai Patea Services, Taihape Community Development Trust, Project Marton and Bulls and District Community Trust. This is a one-year trial for the two Taihape organisations, a three-year contract for the other two. Each organisation will brief the relevant bi-monthly meetings of Community Board or Community Committee

## **4 Community housing**

- 4.1 Market rents will apply to Council's community housing from 1 November 2018. Most of this increase will be covered by accommodation benefits from Work & Income; in addition, Council will absorb (on a reducing scale) the balance through a subsidy of electricity to tenants.
- 4.2 This change will provide funds for upgrades to the housing, particularly heating and insulation, ensuring compliance with the Healthy Homes Guarantee Act 2017.

## **5 Marton A Dam site**

- 5.1 At its meeting on 13 July 2018, the Assets/Infrastructure Committee requested a detailed analysis of the estimated costs and revenue for various options discussed for this surplus land – from selling it as a single block without any further work to creating a multi-lot serviced development connected to Marton's water/wastewater reticulation.

## **6 37 Kensington Road, Marton**

- 6.1 Arrangements have been made to survey off approximately 1.5 ha of the site alongside the parcels subdivided earlier. It will be advertised for sale by open tender subject to survey and title.
- 6.2 Tonkin and Taylor (who prepared the Site Management Plan in 2013) are providing estimates for the development of a remediation plan, which will be the basis of an application to the Provincial Growth Fund. Addressing the remaining contamination in the site will reduce what has proved a barrier to the intended sale and development of the site.

## **7 Centennial Park, Marton**

- 7.1 Council has allocated a further \$60,000 for the new skatepark at Centennial Park from the Parks Upgrade Partnership budget and agreed to fund repairs and enhanced surface to the existing Marton skatepark.
- 7.2 Council is also considering applying to Pub Charity for a grant of \$80,000 for the project. The Centennial Park Development – Skatepark Extension Committee asked Pub Charity to allow Rotary Club of Marton to apply for funding. However, this has not been agreed to as Rotary is not the end beneficiary; with Council being the land and asset owners; the application must be made directly by Council.

## **8 Bonny Glen – amendment to trade waste agreement**

- 4.1 Mid-West Disposal Ltd has flagged a point of concern around the trade waste agreement limits that have been set for Biochemical Oxygen Demand (BOD<sub>5</sub>) and Suspended Solids (SS). These have been inadvertently set at a level which is too stringent, and while Mid-West Disposal Ltd are targeting these levels of BOD<sub>5</sub> and SS in their treated leachate, they cannot guarantee that they will be able to achieve these all of the time. Officers are confident that the requested increased limits for BOD<sub>5</sub> and SS will not affect the operation

or performance of the Marton WWTP (in relation to the conditions of resource consent) given the concern to date has been in relation to the Ammonia levels in the leachate. An amendment is proposed to the trade waste agreement with Mid-West Disposal Ltd to reflect the following:

- BOD<sub>5</sub> limit increased from 20 g/m<sup>3</sup> to 200 g/m<sup>3</sup>
- Suspended Solids (SS) limit increased from 1 g/m<sup>3</sup> to 50 g/m<sup>3</sup>

## **9 Submissions to Government proposals**

- 9.1 Council has submitted on the Litter (Increased Infringement Fee) Amendment Bill, the Local Electoral Matters Bill, and the proposed International Visitor Conservation and Tourism Levy.
- 9.2 The Policy/Planning Committee is also considering the National Planning Standards issued by the Ministry for the Environment. It has requested clarification be provided to its next meeting (9 August 2018) on two matters:
- the benefits of introducing the standards earlier than required by the Government, and
  - the implications and costs of giving effect to the e-Plan requirements.

## **10 Final representation proposal from Horizons Regional Council**

- 10.1 Horizons has issued its final representation proposal which continues the arrangements in the initial proposal – including Rangitikei and Manawatu Districts being a two-member constituency. The Council's submission looked for the two districts to each be a separate constituency, as is the case for Taranaki, Whanganui and Ruapehu.
- 10.2 Horizons did not agree that its initial proposal fails to implement effective and fair representation criteria. While accepting that (without making such a change) the initial proposal did not fully comply with the +/- 10% fair representation criteria, Horizons considered this is one of three factors that must be balanced (the others being communities of interest and effective representation).
- 10.3 Council decided not to appeal against the final representation proposal.

## **Recommendation**

That the report 'Update from Council's meetings in June-July 2018' be received.

Christin Ritchie  
Governance Administrator



# *Appendix 1*

# Memorandum

**To:** Council

**From:** Ross McNeil

**Date:** 19 July 2018

**Subject:** **Top Ten Projects – status, July 2018**

**File:** 5-EX-4

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This memorandum updates the information presented to the June 2018 Council meeting.

## **1. Mangaweka Bridge replacement**

As noted last month, the preparation of the required detailed business case is underway. Feedback from the New Zealand Transport Agency points to completion in August 2018 (as the question of options for the existing bridge need to be addressed in the business case).

## **2. Upgrade of the Bulls wastewater treatment plant to meet new consent conditions**

As noted in the March report, the application for a new resource consent lodged with Horizons has been placed 'on-hold' pending the outcome of the business case process for the upgrade of the Marton wastewater plant. A meeting involving Infrastructure staff, Council's consent advisors and Horizons compliance staff has been held to progress the consenting strategy for Bulls/Marton. However, Horizons needs clear commitment from the Council about the proposed upgrade to be confident that any interim (short term) consent is a genuine stepping stone to new long-term consent with associated plant upgrades. A full briefing is planned for the Assets/Infrastructure Committee's meeting in August 2018, together with a District-wide strategy towards consenting. Prior to that a meeting of the Advisory Group will be convened to allow a full update to be provided and discussed with them. An updated consent application, incorporating consideration of the Marton wastewater treatment upgrade, will be lodged before the end of October 2018.

## **3. Upgrade of the Marton wastewater treatment plant to meet new consent conditions**

The trade waste agreement with MidWest Disposal for acceptance of treated leachate at the Marton wastewater treatment plant is now in place. MidWest Disposal has sought an amendment to the agreement, to be considered separately by Council at its July meeting.

Horizons has made it clear that lodgement of a new consent application by October 2018 will allow the current consent arrangements to apply until a new consent is issued.

## **4. Upgrade of the Ratana wastewater treatment plant**

The proposed programme to enable the installation of a land-based disposal of treated effluent (i.e. removal of discharge to Lake Waipu) starts from 1 July 2018 (as per the

agreement with the Ministry for the Environment). Consideration is now being given to identifying the most suitable land for this disposal, following which purchase will be negotiated with the owner.

As noted in previous reports, an application for a new consent was lodged by 30 April 2018 (the extended timeframe agreed to by Horizons), which means the existing consent continues to apply until a new consent is issued.

#### **5. Sustainable provision of stock and irrigation water within the area now serviced by the Hunterville Rural Water Scheme, extended south to Marton, and provision of a safe, potable and affordable supply to Hunterville town**

As previously noted, a site has been identified in the Hunterville Domain for a test bore for a new water source for the Hunterville township. There is a cost efficiency to expand the scope of the work to include drilling the test bore and getting that bore to production status. A yield of between 200 and 400 cubic metres per day would be needed for a production bore to be viable. A new request for tender has been issued to allow for the progression with a production bore should the test bore process verify good water (volume and quality).

#### **6. Future management of community housing**

The future options and opportunities, including funding, for Council's continued management of community housing has been informed by the Government's policy position on community housing. At its meeting on 14 June 2018, the Policy/Planning Committee considered the question of moving to market rentals and its recommendations were approved at Council's meeting on 28 June 2018. All tenants have been advised (in writing) of the change, to take effect from 1 November 2018, and meetings are being arranged in Taihape, Marton and Bulls at which a Work & Income representative is being invited to attend.

The proposed upgrade programme will be presented to the Assets/Infrastructure Committee's meeting in August.

#### **7. Bulls multi-purpose community centre**

The detailed design has been finished and an application for a building consent has been submitted. Tenders have been called, with a closing date of 6 August 2018, a milestone which attracted local media interest. This means the contract should be let before the end of August 2018. The target completion time remains December 2019.

There have been discussions with Heritage New Zealand to gain an archaeological authority before the tender is awarded and estimates of costs have been provided: these could affect the price of the tendered work. This authority is needed because the site was in human occupation before 1900.

Work continues on sourcing further external funding for the project. Since the last report, the Whanganui Community Foundation has approved a grant of \$300,000 for the project. His Worship the Mayor has met with representatives of Te Puni Kokiri concerning funding to highlight Ngati Apa within the development. Arrangements have been finalised to relocate the house made available by Central House Movers – the makeover will be a significant

community project. The additional resource contribution to this project by Central House Movers has been significant

#### **8. Development of Cobbler/Davenport/Abraham & Williams site in Marton for Council's administration centre and the town library**

The Lottery and Heritage Fund Committee declined the Council's application for a grant for a heritage feasibility precinct study for Marton's CBD. An application will shortly be made for this study to be accepted as a project to the Provincial Growth Fund. A decision is expected by the end of October.

A business case is being prepared on the principal options for the redevelopment of the proposed civic centre site. These are the status quo (i.e. not moving from the current Administration and Library sites), demolition of all buildings on the Cobbler/Davenport/Abraham & Williams site and erecting an entirely new facility; retaining all structures on the Cobbler/Davenport/Abraham & Williams site and refurbishing; retaining facades only on the Cobbler/Davenport/Abraham & Williams site and building behind.

WSP-Opus have been invited to submit a proposal for developing the concepts designs to support the next phase of this project, which will involve community engagement. A draft proposal is expected by the end of July.

Outline project plans for the Marton heritage precinct project and the Broadway/High Street Council building project are attached as [Appendix 1](#).

#### **9. Taihape Memorial Park development**

While Council set out its position on the initial stage of development on Memorial Park in the draft Long Term Plan consultation document, subsequent deliberations and discussions led to a request for a further report outlining various options and their costs. That was provided to the Assets/Infrastructure Committee's meeting on 12 July 2018. Further information was requested for consideration at the Committee's August meeting, before which a public meeting (including the Park User Group) will be held to gain clearer insights into community views and preferences.

#### **10. Taihape civic centre.**

As previously noted, further engagement with the Taihape community to determine a preferred option for the development of the Taihape Civic Centre is planned for 2018/19. This engagement will be better informed following a final decision on the nature and scope of the development of community facilities on Memorial Park.

#### **Recommendation**

That the memorandum 'Top Ten Projects – status, July 2018' be received.

Ross McNeil  
Chief Executive

# Attachment 3

IN THE WAITANGI TRIBUNAL

Wai 2180

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Taihape: Rangitīkei ki  
Rangipō District Inquiry

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DIRECTIONS OF JUDGE L R HARVEY:  
EARLY REPORTING ON LANDLOCKED LAND CLAIM ISSUES

23 July 2018

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**Claimant counsel**L Watson for the *Ngā Iwi o Mōkai Pātea amalgamated claim* (Wai 1705, 647, 588, 385, 581, 1888)A Sykes / J Bartlett / R Jordan (Annette Sykes & Co.) for the *Ngāti Hinemanu me Ngāti Paki amalgamated claim* (Wai 662, 1835, 1868)K Feint (Thorndon Chambers) for the *Ngāti Tūwharetoa amalgamated claim* (Wai 61, 575)C Hockly (Hockly Legal) for the *Ngāti Hikairo amalgamated claim* (Wai 37, 933)P Walker / M Tukapua (Kahui Legal) for the *Waiouru to Ohakune Lands claim* (Wai 151)S Loa and S Zellman (Tamaki Legal) for the *Horowhenua Block claim* (Wai 237) and *Tongariro Power Development Scheme Lands claim* (Wai 1196)B Gilling, C Bulow (Morrison Kent) for the *Ōwhāoko C3B claim* (Wai 378), *Kāweka Forest Park and Ngaruroro River claim* (Wai 382), *Ahuriri Block claim* (Wai 400), and *Ngāti Kauwhata ki te Tonga surplus lands claim* (Wai 972)T Afeaki, J Lewis, N Lambert (Afeaki Chambers) for the *Renata Kawepo Estate claim* (Wai 401)J Burgess / C Bollen (McCaw Lewis) for the *Te Reu Reu Land claim* (Wai 651), *Tamakana Waimarino (No. 1) Block claim* (Wai 954), and *Ngāti Pīkahu claim* (Wai 1872)P Johnston / E Stretch / D Hunt (Rainey Collins) for the *Kauwhata Lands and Resources claim* (Wai 784) and *Te Kotahitanga o Te Iwi o Ngāti Wehiwehi claim* (Wai 1482)Yashveen Singh (Legal Hub) for the *Awakino and Other Lands claim* (Wai 868), *Ngāti Hekeawai Land Block claim* (Wai 1299), *Lands and Resources of Ngāti Ngutu/Ngāti Hua claim* (Wai 1409), *Ngāti Ngutu Hapū claim* (Wai 1497), *Hauturu Waipuna C Block (Herbert) claim* (Wai 1978), and *Ngāti Kinohaku and Others Lands (Nera-Tuaupiki) claim* (Wai 2131)M Tuwhare for the *Ngā Poutamanui-a-Awa Lands and Resources claim* (Wai 1254)T Williams / C Linstead-Panoho (Wackrow Williams & Davies) for the *Ngāti Waewae Lands claim* (Wai 1260), *Ngāti Hikairo ki Tongariro Lands claim* (Wai 1262), and *Ngāti Parewahawaha (Reweti) claim* (Wai 1619)T Bennion / L Black (Bennion Law) for the *Waimarino No. 1 Block and Railway Lands claim* (Wai 221), *Ngāti Tara Lands claim* (Wai 1261), and *Tahana Whānau claim* (Wai 1394)D Hall / J Hamel (Woodward Law) for the *Ngāti Kauwhata ki te Tonga and Rangitīkei-Manawatū, Reureu blocks and Awahuri reserve lands claim* (Wai 1461)M Sinclair / D Jones (Te Haa Lega) for the *Raketapauma (Descendants of Ropoama Pohe) claim* (Wai 1632)M McGhie for the *Te Wai Nui a Rua (Ranginui and Ranginui - Tamakehu) claim* (Wai 2157)**Unrepresented claims***Te Kōau Block and Ruahine Ranges claim* (Wai 263)*Gwavas Forest Park claim* (Wai 397)*Parakiri and Associated Land Blocks claim* (Wai 1195)*Descendants of Mōkai-Pātea (Cribb) claim* (Wai 1639)**Crown counsel**

S Eccles (Crown Law), R Ennor

**Interested parties**P Majurey (Atkins Holm Joseph Majurey) for *Genesis Power*

## Introduction

1. This direction confirms that the Taihape Tribunal will issue, in respect of claim issues concerning landlocked land in this district:
  - (a) Our preliminary views (in August 2018); and
  - (b) A priority report (following the completion of hearings).

## Background

2. During the fourth hearing week in December 2017, we proposed to issue an early report on claims concerning landlocked land. Our rationale, as we stated in subsequent directions, was:

Our intention in suggesting an early discrete report on select issues relating to landlocked land was that it may contribute to immediate and meaningful change irrespective of any future settlement of historical Treaty claims. Some of the reasons why this may be warranted include:

- (a) The unusually high proportion of Māori land that is landlocked in this district – making it, in effect, a case study for the nation as a whole;
- (b) The apparent lack of success of resolving this issue through other channels; and
- (c) The separate and ongoing work stream concerning barriers to Māori land development that was discussed by counsel during the chambers conference.<sup>1</sup>

3. We informed counsel during a chambers conference convened during hearing week four that the Tribunal would issue directions outlining some preliminary views on our proposal and directing counsel to file submissions. Prior to issuing our preliminary views, we also asked parties to prepare further evidence regarding the level of access to landlocked land in the district:

[T]he Tribunal would find it useful if parties prepared evidence as to the feasibility of reasonable access to landlocked lands (be that from a surveyor or other qualified professional). If the terrain is such that the cost of access becomes prohibitive, then this should be made clear. While some of this information is identified in plate 85 of the inquiry map book (Wai 2180, #A55), it does convey all of the requisite information – the topography of the adjacent land, other geographical features obstructing access and so forth. This will assist us in deciding how to proceed on the matter of claims concerning landlocked lands.<sup>2</sup>

4. On 19 February 2018, we issued directions outlining our preliminary thoughts on early reporting, and sought submissions from counsel by 27 February 2018 on several questions relating to scope, timing, evidence, the nature of any findings and recommendations, and any potential conflicts of interest.<sup>3</sup> Short extensions were subsequently granted to Mr Hockly, Mr Johnston and Ms Stretch.<sup>4</sup>

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<sup>1</sup> Wai 2180, #2.6.36, para 9

<sup>2</sup> Wai 2180, #2.6.30, para 45

<sup>3</sup> Wai 2180, #2.6.36

<sup>4</sup> Wai 2180, #2.6.40, paras 8, 11

## Submissions received

5. Nine memoranda of counsel were filed in response to our directions. This included a joint memorandum of counsel filed by Mses Lang and Bulow, which was supported by:
  - (a) Mses Sykes, Bartlett and Jordan; Mr Hockly; and Mr Williams and Ms Linstead-Panoho;<sup>5</sup> and
  - (b) Mr Watson and Messrs Naden, Loa and Munro, with some exceptions and/or additions as necessary.<sup>6</sup>
6. Ms Ennor and Mr Eccles noted that the Crown does not oppose the procedural path and timetabling suggested in the joint memorandum, but made several additional submissions.<sup>7</sup>
7. Further submissions were made orally by counsel during the judicial conference held on 8 March 2018 during hearing week five.

## Nature of findings and recommendations

### *Our questions*

8. We asked counsel whether an early report be more useful if it outlined the Tribunal's initial opinions only, or if it included findings and recommendations as per section 6(3) of the Treaty of Waitangi Act 1975?<sup>8</sup>

### *Joint memorandum*

9. Mses Lang and Bulow submitted that the early report should include findings and recommendations pursuant to section 6(3) of the Act, as this would provide claimants with an opportunity to achieve a practical and imminent outcome.<sup>9</sup>

### *Other submissions*

10. During the judicial conference on 8 March 2018, Ms Ennor submitted that the Crown has no objection to an early report being issued, provided that all Crown evidence on the matter is heard first.<sup>10</sup>

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<sup>5</sup> Wai 2180, #3.2.251, para 2; #3.2.246; #3.2.247; #3.2.255

<sup>6</sup> Wai 2180, #3.2.248, para 3; #3.2.254, para 2

<sup>7</sup> Wai 2180, #3.2.251, para 3

<sup>8</sup> Wai 2180, #2.5.36, para 17

<sup>9</sup> Wai 2180, #3.2.238, paras 4-5

<sup>10</sup> Wai 2180, #4.1.13, p 21



## Scope

### *Our questions*

11. We asked counsel:

- (a) If an early report were prepared, what claim issues should it focus on?
- (b) To what extent is the issue of landlocked land separable from other issues in the inquiry, such that the Tribunal could report on landlocked land before fully considering those other matters? If there are overlaps, how should these be managed?<sup>11</sup>

### *Joint memorandum*

12. Ms Lang and Bulow submitted that the early report should address all the questions relating to landlocked land outlined in the Tribunal Statement of Issues (TSOI). Where there is overlap with other processes (such as the Native Land Court), the Tribunal should focus on the 'linkage' between these processes rather than the processes themselves.<sup>12</sup>

### *Other submissions*

13. Mr Johnston and Ms Stretch submitted that their clients do not have any claim issues regarding landlocked land and will abide by the Tribunal's decision. However, to the extent that there are overlaps between landlocked land and other issues (such as the Native Land Court and public works takings), counsel requested that reporting on those issues be:

- (a) Limited to the extent required to make conclusions with respect to landlocked land; and
- (b) Dealt with in full in the subsequent final report, once all evidence has been heard.<sup>13</sup>

14. Mr Watson submitted that, in addition to the questions relating to landlocked land outlined in the TSOI, the issue of paper roads may also become relevant.<sup>14</sup>

15. Mr Watson further submitted that the Tribunal should commence at a 'baseline presumption' that Māori land should have reasonable lawful access. Where the land is not the subject of such access, counsel argued that this should be considered a breach of Treaty principles. The Crown should consider conceding on this point or else rebut it on a case-by-case basis.<sup>15</sup> If this baseline presumption were adopted, counsel submitted the Tribunal's early report could then focus on recommendations providing the claimants and the Crown with a robust analysis of the current situation

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<sup>11</sup> Wai 2180, #2.5.36, paras 20(a)-(b)

<sup>12</sup> Wai 2180, #3.2.238, paras 6-8

<sup>13</sup> Wai 2180, #3.2.239; #3.2.259

<sup>14</sup> Wai 2180, #3.2.248, para

<sup>15</sup> Wai 2180, #3.2.248, paras 6-8

and future opportunities to unlock the affected land. The broader inquiry would then focus on historical circumstances, including previous attempts to unlock the land and prejudice that arose from landlocking.<sup>16</sup>

16. Messrs Naden, Loa and Munro similarly argued that a case-by-case analysis of landlocked land is unnecessary. Counsel contended that Ms Woodley's report demonstrates that the Crown is responsible for all examples of Māori landlocked land because of deficiencies in legislation that only provided for road access to Crown land that had been sold to settlers. The onus, they argued, is therefore on the Crown to provide evidence where access issues are of a geographical nature.<sup>17</sup>
17. During the judicial conference on 8 March 2018, Ms Bulow supported Mr Watson's proposed baseline presumption.<sup>18</sup>
18. Ms Ennor contended during the conference that Mr Watson's proposal appeared to be contrary to the established practice of the Waitangi Tribunal, and might involve importing aspects of civil or criminal law into an area of administrative law. Counsel added that more detailed submissions could be provided if required.<sup>19</sup>

## Evidence

### *Our questions*

19. We asked counsel:

- (a) What evidence (both existing and anticipated) should the Tribunal take into account before it issues an early report?
- (b) If the Tribunal is to make findings and recommendations, what evidence (both existing and anticipated) must the Tribunal take into account to meet the threshold of 'having regard to all the circumstances of the case'?
- (c) If the answer [to the above] includes anticipated evidence, does it need to be heard and tested before the Tribunal proceeds with early reporting, or will it suffice to be filed in writing only?
- (d) If this anticipated evidence needs to be heard and tested first, when should this occur in the hearing programme?
- (e) Does the Tribunal need to take into account targeted closing submissions on claims concerning landlocked land? If so, do they need to be heard and tested or simply taken as read?<sup>20</sup>

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<sup>16</sup> Wai 2180, #3.2.248, paras 9-10

<sup>17</sup> Wai 2180, #3.2.254, para 3

<sup>18</sup> Wai 2180, #4.1.13, p 5

<sup>19</sup> Wai 2180, #4.1.13, p 21

<sup>20</sup> Wai 2180, #2.5.36, para 24(a)-(e)

*Joint memorandum*

20. Mses Lang and Bulow submitted that the Tribunal should take the following evidence into account when preparing an early report:

- (a) All claim-specific evidence (a list was attached to the joint memorandum);
- (b) Targeted opening submissions (including amendments to opening submissions already presented);
- (c) Relevant technical evidence:
  - i. Ms Woodley's *Māori Land Rating and Landlocked Blocks Report*;<sup>21</sup>
  - ii. Mr Walzl's *Twentieth Century Overview*;<sup>22</sup>
  - iii. Messrs Subasic and Stirling's *Sub-District Block Study – Central Aspect*;<sup>23</sup> and
  - iv. Messrs Stirling and Fisher's *Sub-District Block Study – Northern Aspect*.<sup>24</sup>
- (d) Anticipated evidence and submissions:
  - i. The further professional evidence regarding feasibility of access;
  - ii. Crown witnesses concerning landlocked land;
  - iii. Any further claim-specific evidence not yet presented; and
  - iv. Targeted closing submissions.<sup>25</sup>

21. Mses Lang and Bulow also advised the Tribunal that the proposed research on the feasibility of access to landlocked land should cover the following issues:

- (a) Outline of the practical realities, difficulties and opportunities for development of landlocked land;
- (b) Outline of some suggested remedies for the situation and analysis of the pros/cons/feasibility of each;
- (c) Reference to the national context, and acknowledgement that this is a national problem as well as a regional one;
- (d) Address issues of costs to landowners for obtaining access e.g. compensation to neighbouring land owners;
- (e) Review of materials held by the Rangitīkei District Council on the subject of landlocked land; and
- (f) Accompanied by a comprehensive map book which identifies each parcel of landlocked land in the inquiry district and the legal status of the land adjoining it.<sup>26</sup>

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<sup>21</sup> Wai 2180, #A37

<sup>22</sup> Wai 2180, #A46

<sup>23</sup> Wai 2180, #A8

<sup>24</sup> Wai 2180, #A6

<sup>25</sup> Wai 2180, #3.2.238, paras 9-13

<sup>26</sup> Wai 2180, #3.2.238, para 14

22. Mses Lang and Bulow submitted that the evidence listed above should all be presented and tested viva voce, although targeted closings could be taken as read if timing is an issue, and Tribunal questions then put in writing.<sup>27</sup>

*Other submissions*

23. Messrs Naden, Loa and Munro submitted that further evidence may be needed on:
- (a) The amount of non-Māori landlocked land in the district, and how much of this is formerly Māori landlocked land;
  - (b) The nature and extent of private agreements between the Crown and private landowners to provide access to landlocked land; and
  - (c) The full extent of Māori land that was sold on account of being landlocked, and whether the price received matched the market price per acre.<sup>28</sup>
24. Ms Ennor and Mr Eccles advised that the Crown intends to file evidence and call witnesses from the New Zealand Defence Force, the Department of Conservation, and Te Puni Kōkiri in respect of landlocked land in the district.<sup>29</sup>
25. Mr Watson submitted that, in addition to the evidence outlined in the joint submission, the Rangitikei District Council (and Te Roopu Ahi Kaa) may need to be involved as interested parties.<sup>30</sup> Counsel further submitted that closing submissions should be presented and tested viva voce rather than taken as read.<sup>31</sup>

*Discussion on further evidence concerning feasibility of access*

26. During the judicial conference on 8 March 2018, Mr Watson advised that he intends to propose a panel approach to preparing the further evidence requested by the Tribunal concerning feasibility of access to landlocked land. This would involve professionals with historical, surveying, and mapping expertise. Counsel also hopes to draw on those with existing experience wherever possible (including practitioners who have assisted the Rangitikei District Council).<sup>32</sup>
27. Mr Watson also proposed that the researchers should engage with Crown officials regarding the work stream on non-legislative solutions that has been running in parallel with the proposed Te Ture Whenua Māori Act reforms.<sup>33</sup> Counsel suggested that collaborating with the Crown would ensure that the evidence was more robust and helpful to the Tribunal, and might obviate the need for the Crown to take a more adversarial approach.<sup>34</sup> Mr Hockly submitted that a 'hot-tubbing' process might result in a useful joint statement.<sup>35</sup>

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<sup>27</sup> Wai 2180, #3.2.238, paras 19, 21

<sup>28</sup> Wai 2180, #3.2.254, paras 4-7

<sup>29</sup> Wai 2180, #3.2.251, para 4

<sup>30</sup> Wai 2180, #3.2.248, para 11

<sup>31</sup> Wai 2180, #3.2.248, para 15

<sup>32</sup> Wai 2180, #4.1.13, pp 11, 13

<sup>33</sup> Wai 2180, #4.1.13, p 14

<sup>34</sup> Wai 2180, #4.1.13, p 19

<sup>35</sup> Wai 2180, #4.1.13, p 21

28. Ms Sykes commented that, during the latest work on reforming the Te Ture Whenua Māori Act, a compendium of advice was prepared for the Crown by officials. Counsel suggested that this be placed on the Wai 2180 record to assist the researchers, along with any advice prepared for the Māori Affairs Select Committee.<sup>36</sup>
29. Ms Ennor submitted that some of this information will be brought by Te Puni Kōkiri during the Crown's hearing week.<sup>37</sup> Counsel also suggested that it would be useful if the further evidence regarding feasibility of access also considered the quality of landlocked land, how it was being used, and what form of access was appropriate.<sup>38</sup>
30. Mr Watson sought directions from the Tribunal that the additional report on feasibility of access was 'desirable and important'. Leave was sought to discuss funding for this project with the Tribunal should counsel be unable to secure Crown Forestry Rental Trust (CFRT) funding.<sup>39</sup>
31. During the sixth Taihape hearing on 12 April 2018, Mr Watson updated the Tribunal on progress with this project. Counsel confirmed that Mr David Alexander has been approached to undertake the project, but is not available to commence until July 2018. Counsel also submitted that the New Zealand Defence Force has agreed to work collaboratively with the researchers selected to undertake the project. Mr Watson seeks directions from the Tribunal endorsing their proposed approach so that he can progress a funding application with CFRT.

## Timing

### *Our questions*

32. We asked counsel:

(a) If an early report were prepared, when would it be most useful for parties to have it completed by?

(b) Would the production of an early report justify a potential reconsideration of the forward inquiry programme as presently agreed?<sup>40</sup>

### *Joint memorandum*

33. Ms Lang and Bulow submitted that all evidence and submissions should be heard before the end of 2018, with a report issued soon after. Counsel argued that additional hearing time would be needed to accomplish this. It was suggested that hearing week eight be reassigned to hear all remaining evidence for landlocked land, and hearing week nine be reassigned for closing submissions.<sup>41</sup>

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<sup>36</sup> Wai 2180, #4.1.13, p 18

<sup>37</sup> Wai 2180, #4.1.13, p 15

<sup>38</sup> Wai 2180, #4.1.13, pp 22-23

<sup>39</sup> Wai 2180, #4.1.13, p 14

<sup>40</sup> Wai 2180, #2.5.36, paras 28(a)-(b)

<sup>41</sup> Wai 2180, #3.2.238, paras 20, 22-25

### *Other submissions*

34. Ms Ennor and Mr Eccles submitted that the Crown's evidence on landlocked land could be filed one month ahead of a November 2018 hearing.<sup>42</sup>
35. Mr Watson submitted that tangata whenua evidence on landlocked land may be completed in hearing weeks five to seven. However, counsel suggested that a decision on the implications for the hearing programme should be made after parties receive clarity as to the timing of further professional and Crown evidence. Counsel sought to make supplementary submissions on this point.<sup>43</sup>
36. During the judicial conference on 8 March 2018, Mr Watson suggested that it may not be realistic for all evidence concerning landlocked land to be heard by October or November 2018.<sup>44</sup>

### **Potential conflict of interest**

#### *Our questions*

37. We asked counsel the following questions:
  - (a) To what extent should an early report consider (and potentially weigh the merits of) any material associated with Māori Land Court cases in which myself and/or inquiry parties were involved?
  - (b) Would such consideration by the Tribunal present any actual or appearance of conflicts of interest?<sup>45</sup>

#### *Joint memorandum*

38. Mses Lang and Bulow submitted that the proceedings regarding Awarua o Hinemanu and Owhaoko D6 Subdivision 3 should be considered. Counsel argued that my involvement in these proceedings does not present a conflict of interest, as it is the facts and extent of the problem that are of most significance for this inquiry.<sup>46</sup>

### *Other submissions*

39. Mr Watson agreed that a conflict of interest does not arise as a Māori Land Court judge is bound by the law as it stood at the time, unlike the broader focus of the Waitangi Tribunal. In addition, counsel noted that no conflict of interest has been raised by parties to date in this inquiry.<sup>47</sup>
40. Ms Ennor and Mr Eccles submitted that an early report should consider contemporary Māori Land Court proceedings, but cannot include findings on Māori Land Court

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<sup>42</sup> Wai 2180, #3.2.251, para 4

<sup>43</sup> Wai 2180, #3.2.248, paras 12-14

<sup>44</sup> Wai 2180, #4.1.13, p 9

<sup>45</sup> Wai 2180, #2.5.36, paras 30(a)-(b)

<sup>46</sup> Wai 2180, #3.2.238, paras 26-27

<sup>47</sup> Wai 2180, #3.2.248, paras 16-19

decisions as they are not acts of the Crown.<sup>48</sup> Counsel further submitted that issues of bias and conflict of interest are for the Tribunal to address itself. They argued that the extent to which Māori Land Court proceedings and related systemic matters can be impartially considered is something that we will need to carefully consider.<sup>49</sup>

41. During the 8 March 2018 judicial conference, Mr Watson commented that the memorandum of Ms Ennor and Mr Eccles was “ambivalent” on whether or not the Crown perceived a conflict of interest, and noted that it would be better if the Crown clarified its position now instead of later.<sup>50</sup> Ms Ennor replied that the Crown would abide by the Tribunal’s decision on the matter.<sup>51</sup>

## **Other matters**

### *The Taihape inquiry district as a case study*

42. Ms Ennor and Mr Eccles disagreed with our suggestion that the high proportion of landlocked land in the Taihape inquiry district made it a case study for the nation as a whole. Counsel suggested that the Taihape inquiry district was an outlier rather than being representative of landlocked Māori land issues in general.<sup>52</sup>
43. During the judicial conference on 8 March 2018, we clarified that, while the proportion of landlocked land in the Taihape district is not representative of the nation as a whole, we considered that this district has a greater range of examples to draw upon.<sup>53</sup> Ms Ennor agreed that the range of issues in this district were relevant to issues elsewhere in the country.<sup>54</sup>

### *Cost of access and private land*

44. During the judicial conference on 8 March 2018, a discussion was held about the costs associated with seeking to gain access to landlocked land (such as land transfers and exchanges). Mr Bennion suggested that this should be an important aspect of an early report, but that the Tribunal would need to be careful when making findings or recommendations which relate to private land.<sup>55</sup> Mr Watson agreed that, while the cost of negotiating access is a major impediment, the legislation itself can result in some adjoining landowners acting in an unhelpful and obstructive manner.<sup>56</sup>
45. Ms Ennor agreed that the Tribunal would need to be sensitive about making findings and recommendations which relate to private land. Counsel also agreed with us that it may be appropriate to provide notice of our proceedings to private landowners in the interests of natural justice.<sup>57</sup>

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<sup>48</sup> Wai 2180, #3.2.251, paras 6-9

<sup>49</sup> Wai 2180, #3.2.251, paras 10-11

<sup>50</sup> Wai 2180, #4.1.13, p 20

<sup>51</sup> Wai 2180, #4.1.13, p 26

<sup>52</sup> Wai 2180, #3.2.251, para 5

<sup>53</sup> Wai 2180, #4.1.13, p 4

<sup>54</sup> Wai 2180, #4.1.13, pp 21-22

<sup>55</sup> Wai 2180, #4.1.13, p 7

<sup>56</sup> Wai 2180, #4.1.13, pp 11-12

<sup>57</sup> Wai 2180, #4.1.13, pp 24-25

## Discussion

### *Areas of agreement*

46. Parties are unanimously supportive of our proposal to issue an early report on landlocked land issues. In particular, parties agree that the early report:
- (a) Should include findings and recommendations pursuant to section 6(3) of the Act;
  - (b) Should be produced after all remaining tangata whenua, Crown, and technical evidence concerning landlocked land, as well as targeted closing submissions, have been heard; and
  - (c) Should consider proceedings regarding Awarua o Hinemanu and Owahaoko D6 Subdivision 3.
47. Parties were also in agreement that:
- (a) All remaining evidence and submissions concerning landlocked land should be heard before the end of 2018, preferably viva voce (although there is some concern that it may be optimistic to expect the report on the feasibility of access to be completed by this time);
  - (b) All parties need to work collaboratively on the project regarding feasibility of access;
  - (c) The examples of Māori landlocked land in the Taihape inquiry district are relevant to the general, nation-wide issue of landlocked land; and
  - (d) The Tribunal should carefully consider how private land, and private landowners, are involved in the hearing and reporting process.
48. We will therefore prepare an early report following these broad parameters, and provide further detail in our decision below.

### *Areas of disagreement*

49. There is some disagreement on what the scope of an early report should be. As we noted in our directions dated 19 February 2018, there are two aspects to the claims concerning landlocked land and the questions set out in the TSOI:
- (a) *Historical issues*: How did the land end up with a lack of access, and what were the impacts on the land owners (both economic and cultural)?
  - (b) *Contemporary issues*: What has the Crown done in more recent times to address the situation, and what is it obliged to do?<sup>58</sup>
50. Many counsel supported the early report covering both historical and contemporary issues, with the caveat that, where historical matters are intertwined with other

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<sup>58</sup> Wai 2180, #2.6.36, para 18



alleged Crown actions and omissions, the Tribunal limit its findings and recommendations.

51. In contrast, Mr Watson suggested that the early report focus on the current situation and future opportunities, leaving the broader inquiry report to deal with historical matters. We think Mr Watson's distinction between contemporary, 'forward-looking' solutions and alleged historical Treaty breaches is an important one; indeed, it goes to the heart of our rationale for proposing an early report.

## Decision

52. Counsel have made us aware through their submissions of the Crown work streams that are presently underway concerning barriers to Māori land development, and the material that has been prepared by officials to advise Ministers concerning these work streams.
53. We believe that we may be in a position to assist these work streams by issuing our preliminary views on the landlocked land claim issues before us, and potential solutions to these issues, as soon as possible. Therefore, in addition to the proposal to issue an early report, we believe that it would be useful to parties if our preliminary views were issued prior to the completion of hearings.

### *Preliminary views*

54. We intend to issue our preliminary views on the claims before us concerning landlocked land by the end of August 2018 in the form of a memorandum-directions.
55. We are mindful that we will not have heard all of the relevant evidence and submissions concerning landlocked land by this date, in particular the Crown's evidence. We therefore stress that our preliminary views will be of an interim nature only. The Tribunal has issued similar preliminary views in previous inquiries, including the decision issued in the Eastern Bay of Plenty inquiry regarding the disposal of Crown surplus lands and, more recently, the 'panel guidance' issued during the hearings for the Whakatōhea Deed of Mandate inquiry.<sup>59</sup>
56. Given that our preliminary views will be based on the evidence and submissions we have received to date, we may choose to revisit our conclusions later in the inquiry when we are in a position to issue formal findings and recommendations pursuant to section 6(3) of the Act.

### *Priority report*

57. Following the completion of hearings for this inquiry, we will issue a priority report on the claims before us concerning landlocked land. Similar priority reports have been issued in a number of previous Tribunal inquiries, including most recently the *Priority Report Concerning Māui's Dolphin* that was issued in the Te Rohe Pōtae district inquiry.<sup>60</sup> Our priority report will include findings and recommendations pursuant to section 6(3) of the Act.

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<sup>59</sup> Wai 46, #2.88; Wai 2662, #2.7.2

<sup>60</sup> For other examples, see Wai 1040, #2.6.173, paras 13-22

58. Given that the remaining evidence is unlikely to be heard in its entirety until the end of 2018 at the earliest, we do not consider it necessary for counsel to file targeted closing submissions specifically for the priority report. Rather, counsel may file their closing submissions on landlocked land issues alongside all other closing submissions in 2019. It remains our intention to hear these closings *viva voce*.
59. We confirm that the priority report may consider the Māori Land Court decisions regarding Owhaoko D6 Subdivision 3 and Awarua o Hinemanu, as no objections have been raised concerning my involvement in those proceedings.

*Further evidence*

60. We are not persuaded to commission the further evidence as suggested by Messrs Naden, Loa and Munro.
61. We note the approach proposed by counsel in respect of a proposed report providing additional information regarding possible remedies to access landlocked lands, in particular in the joint memoranda filed on 2 and 28 February 2018.<sup>61</sup> We would find this report helpful for our inquiry, and we ask that it include the following matters:
- (a) The proportion of Maori land in this inquiry district which has no suitable legal access and this is the only barrier to owner access to that land;
  - (b) The proportion of land without legal access where legal access cannot be provided because of physical/geographic barriers to access; and
  - (c) Any additional information as to why current legislative remedies are not working for providing legal access to landlocked Maori lands in this inquiry district and practical recommendations for overcoming this for the blocks concerned.
62. This evidence will need to be filed by the end of December 2018 in order for it to be considered in our priority report. We ask that counsel advise us when the terms of reference for this project have been completed.
63. We appreciate the Crown's commitment to collaborating in the preparation of this further evidence. We agree with Ms Sykes that it would be useful to the Tribunal and to the researchers if the Crown filed a copy of the compendium of advice that was prepared during the recent proposed reforms to Te Ture Whenua Māori Act 1993, along with any advice prepared for the Māori Affairs Select Committee. Crown counsel are directed to file this material by no later than **midday, Thursday 30 August 2018**.
64. We have identified the following parties that appear to us to have an interest greater than the general public in our proceedings concerning landlocked land:
- (a) The Rangitīkei District Council;
  - (b) Te Roopu Ahi Kaa; and

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<sup>61</sup> Wai 2180, #3.2.206; #3.2.238, para 14

(c) Private landowners whose land adjoins landlocked Māori land in this district, or through whose land an access route exists, and which is the subject of a claim in this inquiry.

65. If any of these parties wish to apply to become interested parties to these proceedings, they or their counsel should do so by no later than **midday, Thursday 30 August 2018**.

*Baseline presumption regarding landlocked land*

66. Crown counsel is to file a memorandum responding to Mr Watson's proposed 'baseline presumption' regarding access to Māori land by no later than **midday, Thursday 30 August 2018**.

The Registrar is to distribute this direction to:

- The Rangitīkei District Council;
- Te Roopu Ahi Kaa;
- Private landowners whose land adjoins landlocked Māori land in this district, or through whose land an access route exists, and which is the subject of a claim in this inquiry; and
- All parties on the notification list for Wai 2180, the record of inquiry for claims in the Taihape: Rangitīkei ki Rangipō District Inquiry.

DATED at Whakatāne on this 23<sup>rd</sup> day of July 2018



Judge L R Harvey  
Presiding Officer  
WAITANGI TRIBUNAL

# Attachment 4



# Memorandum

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TO: Policy/Planning Committee

FROM: Blair Jamieson

DATE: 5 July 2018

SUBJECT: **Update on the Path to Well-Being initiative and other community development programmes – June 2018**

FILE: 1-CO-4-8

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## 1 Background

- 1.1 This report identifies meetings that have taken place involving members of the Policy Team through the Community Partnerships activity, focussing on the Path to Well-being initiatives. Added commentary is provided where necessary.
- 1.2 This report also covers applications for external funding as required by the Policy on external grant applications made by Council.
- 1.3 This report covers the month of June 2018.

## 2 Meetings

Name / Location / Date	Agenda	Reasoning / Outcomes / Conclusions
Regional Community Development Forum  1 June RDC Chambers - Marton	Community Network Updates and Collaboration..	To continue existing lines of communication and provide staff at RDC with updates and advice for Youth Development.
Bulls & District Community Trust  21 June Supper Room – Bulls Hall	AGM and presentation of outcomes for the last financial year.	As part of our MOU arrangement and consideration of the outcomes within the Bulls Ward.
Te Pai Urungi Māori Capacity Hui  25/26 June Whakatane	Update on regulatory and four wellbeing requirements.	Mana Whakahono a Rohe templates.  A stoketake on positions, programmes and works being undertaken by Councils across New Zealand.

### **3 Youth**

- 3.1 As noted in the report for Item

### **4 Funding**

- 4.1 An update on all funding applications is summarised in [Appendix 1](#).
- 4.2 A funding application for the publishing of Les Vincents Memoirs has been made to the Whanganui community Foundation for \$8000.
- 4.3 Two funding applications have been submitted to the Ministry of Youth Development.
1. A mentoring programme called 'Kiritau – Helping Others' has been drafted and a request for \$99,500 for further development and operation has been submitted.
  2. A youth application to start a social enterprise for an event business. Outcomes include increasing youth employment capabilities by learning soft skills associated with event organising and business acumen include positive behaviour, attitude, self-management, resilience, problem solving and critical thinking. Hard skills to be learnt include but aren't limited to financial acumen, health and safety, staffing, promotion/marketing and data input. Event proceeds will be used to support youth projects or scholarships. Training and support has been offered by Sport Whanganui. The application is for \$14,320.
- 4.4 The Bulls and District Community Trust were successful in the application to the Whanganui Community Foundation for \$300,000 under the capital projects fund. The application sought funding to contribute to the construction costs of the pending multi-purpose community centre on the corner of Bridge Street and Criterion Street in Bulls.

### **5 Recommendation**

- 5.1 That the memorandum 'Update on the Path to Well-Being initiative and other community development programmes – June 2018' be received.
- 5.2 That the Policy/Planning Committee endorse the funding application to the Whanganui Community Foundation of \$8000 for the publishing of Les Vincents Memoirs.
- 5.3 That the Policy/Planning Committee endorse the funding application to the Ministry of Youth Development of \$99,500 for the 'Kiritau – Helping Others' mentoring programme.
- 5.4 That the Policy/Planning Committee endorse the funding application to the Ministry of Youth Development of \$14,320 for the youth-led social enterprise for an event business.

Blair Jamieson  
Strategy & Community Planning Manager

# *Appendix 1*

Fund	Project description	How much	Desired outcomes and milestones	Lead Agency	Council role	Policy Team Role	Status	Final report due
Community Facilities Fund, Lottery	Capital contribution to the Bulls multi-purpose community centre (\$700,000 applied for)	\$500,000	To develop the centre in Bulls	RDC	Lead agency, fundholder	Prepared application, holds funds, manages project, reports back to funder	Successful - Reporting Required	Following project completion
Mid-Sized Tourism Facilities Fund	Public toilets in visitor hotspots	\$140,000	Toilets in Mangaweka, Bulls River, Papakai Park and Bruce's Reserve	RDC	Lead agency, fundholder	Prepared application, holds funds, manages project, reports back to funder	Successful - Reporting Required	Dec 2017 - extension sought until July 2018
COGS	Swim-4-All 2017/18 (\$10,000 applied for)	\$4,000	For the swim programme in the coming season	RDC	Lead agency, fundholder	Prepared application, holds funds, manages project, reports back to funder	Successful - Reporting Required	Sep-18
JBS Dudding Trust	Capital contribution to the Bulls multi-purpose community centre	\$200,000	To develop the centre in Bulls + ongoing support to libraries	RDC	Lead agency, fundholder	Prepared application, holds funds, manages project, reports back to funder	Successful - Reporting Required	Jul-18
Community initiatives fund	Rangitikei Heritage for the publication of an historical memoir	\$2,000	Publishing memoir of Les Vincent	RDC	Lead	Prepared application, holds funds, manages project, reports back to funder	Successful - Reporting Required	Jul-18
Community initiatives fund	The feasibility of re-locating a church/community hall in Whangāehu.	\$2,500	Feasibility study	RDC	Lead	Prepared application, holds funds, manages project, reports back to funder	Successful - Reporting Required	Jul-18
Whanganui Community Foundation	Swim 4 All (applied for \$10,000)	\$4,000	To run the Swim 4 All programme.	RDC	Lead agency, fundholder	Contributed to application, holds funds, manages project, reports back to funder.	Successful - Reporting Required	Sep-18
Health Promotion Agency Community Partnership Fund	Support for the Swim for All Programme. Free swimming lessons for Taihape	\$5,000.00	Children up to 4 years of age will have access to free swimming lessons in Taihape (as is already the case with sponsorship in Marton)	RDC	Lead agency, fundholder	Prepared application, holds funds, manages project, reports back to funder	Successful - To be carried forward 2018/19	To be advised
Freshwater Improvement Fund	Contribution to the Upgrade of the Ratana Wastewater treatment	\$875,000	To dispose of treated effluent to land rather than Lake Waipu	Horizons	Support Agency	None	Successful - Pending Works	To be advised



Whanganui Community Foundation	Capital contribution to the Bulls multi-purpose community centre	\$300,000	To contribute to the costs of construction for the Bulls community centre.	RDC	Lead agency, fundholder	Co-prepared application, present to decision makers, reports back to funder	Successful - Pending Payment	To be advised
Ministry for Youth Development	Youth Mentoring Programme	\$99,500	To help Council facilitate a youth mentoring programme within the district; training youth on one to one interactions.	RDC	Lead agency, fundholder	Prepared application, holds funds, manages project, reports back to funder	Lodged	To be advised
Ministry for Youth Development	Youth Social Enterprose	\$14,320	To facilitate and provide resources to help youth fundraise for community projects.	RDC	Lead agency, fundholder	Prepared application, holds funds, manages project, reports back to funder	Lodged	To be advised
Upcoming		\$2,146,320						
Community led Development Fund	Youth/Samoan development programme in the District	tbc	To implement Council's youth development proposals and support Samoan community	RDC	Lead agency to be decided	To be discussed		Open for EOI