

Office of Te Minita Whanaketanga Māori

**Chair
Cabinet Māori-Crown Relationships Committee**

MODERNISING THE MĀORI WARDENS

Proposal

1. This paper details my proposed approach to progressing discussions on modernising the Māori Wardens.

Executive Summary

2. Māori Wardens are widely respected volunteers working within communities to support and strengthen those communities. We have all seen Māori Wardens at work, quietly supporting poukai, tangihanga, and important national and community events. The assured and professional way in which Māori Wardens undertake their duties is a comforting influence at major hui and significant events throughout the country. They are in many respects the unsung heroes of the many occasions that they provide invaluable support for.
3. The social environment in which Māori Wardens operate is markedly different today than it was when the functions and powers of the Māori Wardens were set out in the Māori Community Development Act 1962. Their principal ethos derives from the edict “Aroha ki te tangata” (For the love of people). As a voluntary organisation, their services have been commonly associated with crowd management responsibilities aligned to Māori hui. Communities now have different needs for support from Māori Wardens. At the same time, in recent years, there has been an increasing desire by many Māori Wardens groups to have greater autonomy over their operations.
4. These issues have been the source of deliberations by the Māori Affairs Select Committee, the Waitangi Tribunal, the New Zealand Māori Council, and the Māori Wardens.
5. Based on these earlier discussions and deliberations, I have recently re-engaged with Māori Wardens groups and the New Zealand Māori Council to better understand:
 - how the functions and powers of the Māori Wardens can be reshaped, including options for providing for operational autonomy for Māori Wardens if that is their wish;

- the mandate, organisation structure and accountability arrangements that are required to support the aspirations of Māori Wardens;
 - ways in which the capability and training of Māori Wardens can be better supported; and
 - existing and potential future relationships between the Māori Wardens, marae, communities, the New Zealand Māori Council, Te Puni Kōkiri, the New Zealand Police, and other key stakeholders.
6. Following initial meetings, I intend to flesh out options for change for further discussion with the Māori Wardens and the Council, starting in the New Year.
 7. I intend to report back to the Māori-Crown Relationships Cabinet Committee in July 2019 on:
 - the outcomes of discussions with the Council, Māori Wardens, and other key stakeholders, on modernising the Māori Wardens;
 - a change proposal for modernising the Māori Wardens; and
 - next steps for actioning the change proposal.

Background to Māori Wardens

8. Māori Wardens have existed in some form since the late 19th century (key milestones are detailed in Appendix I), and are provided for under the Māori Community Development Act 1962. The Act gives District Māori Councils the exclusive power and authority to nominate Māori Wardens for appointment by the Minister for Māori Development. It also gives them the authority, which they can delegate to a Māori Committee or Māori Executive Committee, to control and supervise the activities of Māori Wardens carrying out duties within their districts.
9. There are currently 725 warranted Māori Wardens active throughout Aotearoa. Māori Wardens are drawn from the communities they work in. They are nominated by District Māori Councils and appointed by the Minister for Māori Development for a three year period. Reappointments are made by the Chief Executive of Te Puni Kōkiri.
10. The Act sets out the functions and powers of Māori Wardens, many of which are now considered outdated. In practice, the role of Māori Wardens in communities has broadened considerably over the last 50 years, as Māori Wardens have adapted to meet the changing needs of their communities. Māori Wardens carry out a diverse range of roles, differing from community to community.
11. The guiding principles of Māori Wardens are: respect; awahi (help); aroha (love); and whanaungatanga (relationships). Their values include:
 - Rangimārie (Peace);
 - Manaaki (Kindness);
 - Kōrero (Talking);
 - Whakaiti (Humility);
 - Tautoko (Support); and
 - Pono (Honesty).

12. In 2007, the Māori Wardens Project was established as a joint venture between Te Puni Kōkiri and the New Zealand Police. The aim of the Project was to provide support to Māori Wardens to enable them to continue their role in communities, by building their capacity and capability through: training; funding; support/coordination personnel; resources and safety equipment; and the consideration of governance options.

Issues

13. Since 2010 there have been a number of inquiries, reports and proposals (see Appendix II for further detail) related to the Māori Wardens, including:
- The 2010 Māori Affairs Select Committee *Inquiry into the operation of the Māori Community Development Act 1962 and related matters*;
 - The 2013 consultation, led by Te Puni Kōkiri, on proposed changes to the Māori Community Development Act 1962;
 - The 2014 Waitangi Tribunal *Whaia te Mana Motuhake* Report on the claim filed on behalf of the New Zealand Māori Council (Wai 2417) regarding the consultation on proposed changes to the Māori Community Development Act 1962; and
 - A 2017 Joint Advisory Group, comprising representatives of the Council and Māori Wardens, in an attempt to resolve issues between the two organisations.
14. In summary these inquiries, reports and proposals identified a need to:
- modernise the **functions and powers** of the Māori Wardens;
 - consider the **mandate, organisation structure, accountability** for the Māori Wardens;
 - identify ways in which the **capability and training** of Māori Wardens can be better supported; and
 - reassess the **relationships** between the Māori Wardens, marae, communities, the New Zealand Māori Council, Te Puni Kōkiri, the New Zealand Police, and other key stakeholders.

Modernising the Māori Wardens' Functions and Powers

15. The Māori Community Development Act 1962¹ sets out the functions and powers of Māori Wardens. No significant changes have been made to these since 1962. Under the Act, Māori Wardens have the powers conferred by the Act, or by regulations made under the Act. These include the powers to:
- enter any licensed premises and warn the licensee to abstain from selling or providing liquor to any Māori who is intoxicated, violent, quarrelsome, or disorderly or likely to become so (Section 31);
 - enter any licensed premises and order any Māori who is or appears to be intoxicated, violent, quarrelsome or disorderly to leave the premises, and if they fail to do so, may request any constable to expel the person (Section 32);

¹ The original title was the Māori Welfare Act 1962; the title changed in 1979.

- without warrant, enter a meeting place where Māori are gathered to search for and seize liquor for removal and forfeiture, where the Warden suspects a breach of section 33 [Section 33(5)];
 - forbid any Māori to drive a motor vehicle or require him to deliver up his keys or take steps to immobilise the vehicle, where the Warden is of the opinion that the Māori is incapable of exercising proper control of the vehicle by reason of physical or mental condition [Section 35 (1)];
 - exercise the section 35 (1) power on any other person (i.e. not a Māori) where in the vicinity of a gathering of Māori assembled for any lawful purpose [Section 35 (2)]; and
 - undertake any specified duties (consistent with the Act) assigned to the Warden by the responsible District Māori Council [Sections 7(5) and 16 (5)].
16. In response to changes in the needs of the communities they serve, Māori Wardens have moved away from performing many of the functions set out under the Act, to a role centred on community development and support for whānau.
17. Submitters to the Māori Affairs Select Committee 2010 Inquiry characterised the role of Māori Wardens as being to serve and support their local communities, according to the needs identified by those communities. In practice, their roles include:
- crowd and traffic management (primarily for marae);
 - first aid services;
 - security services;
 - supporting whānau dealing with welfare, courts and/or prison services and other Government agencies;
 - truancy prevention;
 - tangihanga/hui duty; and
 - support of te reo and tikanga Māori.
18. These issues raise questions about how the statutory functions and powers of the Māori Wardens can be updated to strengthen and support their community and whānau development contributions.

Mandate, Organisation Structure, Accountability

19. The Māori Community Development Act 1962 established the Māori Wardens, and gives District Māori Councils the authority to control and supervise the activities of Māori Wardens carrying out duties within their districts. Through the Māori Wardens Project, Te Puni Kōkiri provides coordination and capability support for Māori Wardens, including training, resources and safety equipment.
20. Submitters to the Māori Affairs Select Committee 2010 Inquiry felt that practical day-to-day administrative support, coordination and leadership was not being provided to some wardens by District Māori Councils and the New Zealand Māori Council. “As District Māori Councils are the only means for passing on, amongst other things, requests for warrants, this breakdown was seen as severely affecting the ability of many wardens to do their job”.

21. Many Māori Wardens groups have also been calling for greater control of their operations. There is an apparent desire for the Māori Wardens to “move away” from both Te Puni Kōkiri (capability and coordination support) and from the New Zealand Māori Council (oversight).
22. The 2010 Inquiry Report² included a finding that: “... any changes to the Act must focus urgently on improving the environment for wardens, an invaluable body of volunteers who deserve comprehensive support, which they have done without for too long. Essential to this is an adequately resourced Māori Wardens governance structure to deliver timely, cost-efficient, consistent support for wardens throughout New Zealand.”
23. These issues raise questions about whether operational autonomy is appropriate, what this might look like, and how a transition to operational autonomy (if that is what the Māori Wardens want) could be supported. It also raises questions about where the mandate for Māori Wardens comes from, and what accountability and oversight provisions may be required to support the new arrangements.

Capability and Training

24. The Crown provides funding through Vote Māori Development, and support from the New Zealand Police, for Māori Wardens training. As communities’ needs have changed, the Māori Wardens have found themselves undertaking new roles and functions. Regardless of whether these are statutorily sanctioned, they do raise questions about the capability of Māori Wardens and additional training/qualification needs to meet new role requirements.
25. Examples of new roles³ include:

Function	Capability/Training Implication
Crowd Management	Crowd and conflict management (non-formal).
Traffic Management	Traffic management (NZQF Level 1-2 qualifications).
Emergency Management/Civil Defence Support	Emergency management (NZQF Level 1-3 credits/ qualifications).
First Aid Services	First Aid (non-formal and NZQF Level 1-2 qualifications).
Security Services	Security (NZQF Level 2 credits).
Supporting at risk tamariki and whānau dealing with agencies	Agency-specific training courses on Family, Youth Court and District Court law and processes, understanding of welfare entitlements and access processes, and understanding of Corrections policies and processes.
Truancy Prevention, education support	School-specific policies and processes (non-formal), and agency supports/access processes.

26. These issues raise questions about how the Crown might better support the Māori Wardens in effecting their current roles, and whether there are any limits to new roles.

² Māori Affairs Select Committee *Inquiry into the operation of the Māori Community Development Act 1962 and related issues* (December 2010).

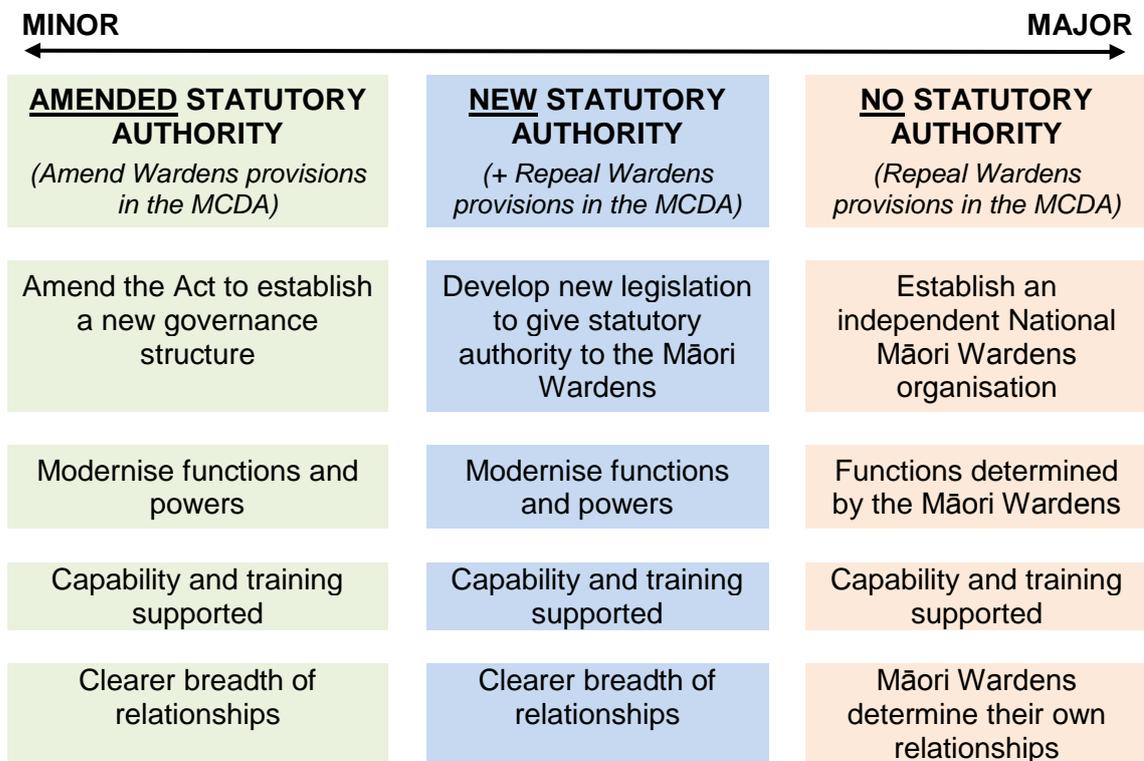
³ Note that Māori Wardens groups access funding from Te Puni Kōkiri to access some of this training locally.

Relationships

27. As community-based volunteers, Māori Wardens have a myriad of relationships ranging from the statutory (New Zealand Māori Council), the formal (e.g. Te Puni Kōkiri, New Zealand Police), the ongoing (e.g. marae), and event-based (e.g. local government and other community groups). Calls from Māori Wardens groups for greater operational autonomy may result in a need to reassess the nature of some of these relationships to ensure they are appropriate to the changing circumstances.

Potential Degrees of Change

28. Consideration of degrees of change to modernise Māori Wardens gives rise to three broad options, within which there are potentially numerous gradations:



29. Maintenance of the status quo is also a possibility; just not as a ‘modernisation’ option.

30. As all options would require some degree of legislative change, we must have regard to the 2014 Waitangi Tribunal *Whaia Te Mana Motuhake* Report on the claim filed on behalf of the New Zealand Māori Council. The Tribunal largely upheld the New Zealand Māori Council’s claims that the Crown’s review of the Act breached the principles of the Treaty of Waitangi and that any reform of the Act should be Council-led and negotiated with the Crown. In addition, the Tribunal stated that the Crown’s recognition of Māori self-government and self-determination must underpin all future administration, policy development and law reform in this area.

31. [Redacted]
Withheld under Section 9 (2) (h) of the Official Information Act 1982.

32. [Redacted]
Withheld under Section 9 (2) (h) of the Official Information Act 1982.

33. [Redacted]
Withheld under Section 9 (2) (h) of the Official Information Act 1982.

Approach to Change

34. My approach to this modernisation exercise is to work at the grass roots with Māori Wardens groups, to identify their issues and aspirations. Anything we do in this space requires the involvement of the Māori Wardens as well as the New Zealand Māori Council. Discussions with the Māori Wardens must also be mindful of the interests that the New Zealand Māori Council has with respect to the Māori Wardens and the recommendations of the Waitangi Tribunal.

35. As shown below, my approach is comprised of three stages, culminating in the presentation of a policy position to Cabinet in July 2019.



Stage 1: Initial Discussions

36. I have begun initial discussions with both the New Zealand Māori Council and Māori Wardens groups on modernising the Māori Wardens.

New Zealand Māori Council

37. In recent months I have met twice with members of the Council, including the Chair and Deputy Chair to discuss, amongst other things, my interest in modernising the Māori Wardens. Our discussions have included reference to the Waitangi Tribunal Report and the aspirations of many Māori Wardens groups for operational autonomy.
38. I have invited the Council Chair to consider areas of the Māori Community Development Act 1962 that could be modernised to better reflect the contemporary functions of the Māori Wardens. In response, the Council Chair has emphasised the importance of retaining the underlying principles for the Māori Wardens, and indicated a preference for the Māori Wardens to be under the control of the New Zealand Māori Council.
39. My officials are now working directly with the New Zealand Māori Council to identify process and participation support requirements. I will meet with the Chair and Acting Executive Director of the New Zealand Māori Council in the week beginning 17 December 2018, to confirm our next steps together with regard to the Māori Wardens. I will continue to meet with the New Zealand Māori Council over the coming months to explore issues, aspirations and potential approaches.

Māori Wardens Groups

40. I have also recently met with the Māori Wardens District Chairs, and continue meeting with Māori Wardens groups as I make my way around the country on other business. These meetings are assisting me to identify issues and the appetite for change.
41. Māori Wardens groups appear to be welcoming of the opportunity to discuss options for modernising their role, functions, and nature of relationships with Māori communities and wider community groups. I have recently received an invitation to support and attend a National Māori Wardens Conference in 2019.

Stage 2: Detailed Options Discussions

42. I propose to have more detailed discussions on options for modernising Māori Wardens, with Māori Wardens, the Council, and other stakeholders between February and June 2019. This will involve drilling down to the pros and cons of the three broad options (and any amendments thereto) shown in Paragraph 28 above.

Stage 3: Presentation of Approach(es) to Cabinet

43. I propose to report back to this Committee by July 2019 on the outcomes of engagement with the New Zealand Māori Council, Māori Wardens and other key stakeholders, on modernising the Māori Wardens.

Consultation

44. I have had initial engagements with the New Zealand Māori Council and Māori Wardens groups in developing my proposed approach to progressing discussions on modernising the Māori Wardens.
45. This paper has been developed in consultation with the New Zealand Police. The Department of the Prime Minister and Cabinet has received a copy.

Financial Implications

46. There are no financial implications. Engagement costs in 2018/2019 will be met from within the existing Vote Māori Development baseline.

Human Rights

47. There are no human rights implications.

Legislative Implications

48. There are no legislative implications at this stage.

Regulatory Impact Analysis

49. There are no regulatory impacts at this stage.

Gender Implications

50. There are no gender implications. Gender-related issues will be specifically explored in discussions with Māori Wardens, particularly in relation to their current role(s) and functions. It should be noted that it is estimated that around 80% of current Māori Wardens are female.

Disability Perspective

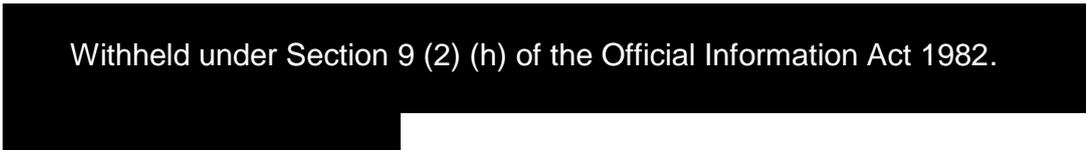
51. Disability issues will be specifically explored in discussions with Māori Wardens, particularly in relation to their current role(s) and functions.

Publicity

52. Potential changes for the Māori Wardens are likely to attract attention from a wide range of stakeholders, particularly given their longstanding contributions in communities throughout Aotearoa.
53. To ensure all stakeholders have clear information on my proposed approach, I intend to proactively publish this Cabinet paper, and other relevant papers to support discussions, on the website of Te Puni Kōkiri. Some information may be redacted, as it would have been withheld if the information had been requested under the Official Information Act 1982.

Recommendations

53. I recommend that the Committee:

- a. **note** that Māori Wardens play an important role in supporting Māori and wider community wellbeing;
- b. **note** that over time the functions and duties of the Māori Wardens have changed as the needs of Māori communities and New Zealand society has changed;
- c. **note** that the social environment in which Māori Wardens operate is markedly different today than it was when the functions and powers of the Māori Wardens were set out under the Māori Community Development Act 1962;
- d. **note** that in recent years the modernisation of the Māori Wardens, to reflect changing circumstances and aspirations of Māori Wardens, has been the source of deliberations by the Māori Affairs Select Committee, the Waitangi Tribunal, the New Zealand Māori Council, and Māori Wardens themselves;
- e. **note** that I have recently started re-engaging with the Māori Wardens and the New Zealand Māori Council on the modernisation of the Māori Wardens;
- f. 

Withheld under Section 9 (2) (h) of the Official Information Act 1982.
- g. **note** that I intend to report back to the Māori-Crown Relationships Cabinet Committee in July 2019 on:
 - i. the outcomes of exploratory and detailed discussions with the New Zealand Māori Council, Māori Wardens and other key stakeholders, on modernising the Māori Wardens;
 - ii. a change proposal for modernising the Māori Wardens; and
 - iii. next steps to actioning the change proposal.

Authorised for lodgement

Hon Nanaia Mahuta
Te Minita Whanaketanga Māori
5/12/2018

Key Māori Wardens⁴ Milestones

- 1945** **Māori Social and Economic Advancement Act 1945**
 *Established Māori Wardens, including a definition of a 'Māori Warden', appointment requirements, and specific roles/functions ('prevention of drunkenness' and 'Māori may be ordered to leave hotel').*
- 1962** **Māori Welfare Act 1962** (to consolidate and amend the Māori Social and Economic Advancement Act 1945 and give the Act a new name).
 *Included additional/refined appointment requirements and specific roles/functions for Māori Wardens ('disorderly behaviour at Māori gatherings' and 'retention of car keys').*
- 1979** **Māori Community Development Act 1962** (a change in title of the Māori Welfare Act 1962).
 *No changes to the scope (of the Māori Welfare Act 1962) were made, and no definition of 'Māori community development' was included.*
- 2007** **Māori Wardens Project established**
 *As a joint venture between Te Puni Kōkiri and the New Zealand Police.*
- 2010** **Māori Affairs Select Committee *Inquiry* into the operation of the Māori Community Development Act 1962 and related issues Report.**
 *Included a number of recommendations about Māori Wardens.*
- 2013** **Consultation on proposed changes to the Māori Community Development Act 1962**
 *Responded to the Māori Affairs Select Committee recommendation that any legislative changes to the Act be preceded by comprehensive consultation.*
- 2014** **Waitangi Tribunal *Whaia Te Mana Motuhake* Report** on the claim filed on behalf of the New Zealand Māori Council (Wai 2417).
 *The Tribunal largely upheld the claim. The Report detailed findings and a range of recommendations, including four Māori Wardens Project-specific recommendations.*
- 2015-2016** **A Joint Advisory Group (JAG) established**
Comprised representatives of the New Zealand Māori Council and Māori Wardens, in an attempt to resolve issues between the two groups, and assist and advise the Minister for Māori Development.

⁴ Note that 'Wardens' first appeared in the elaborate system of local and regional rūnanga established through the Native District Regulation Act 1858, in conjunction with the Native Circuit Courts Act 1858. Wardens were to be assisted by Māori Constables as part of a policing system. Disrupted by the outbreak of war in 1863, the rūnanga scheme was officially abandoned at the direction of the Native Affairs Minister in 1865. See G. Butterworth and H. Young (1990) *Māori Affairs: A Department and the People Who Made It*. Wellington: Department of Māori Affairs.

Summary of Inquiries, Reports and Proposals related to Māori Wardens (since 2010)

2010 Māori Affairs Select Committee Inquiry

In December 2010, the Māori Affairs Select Committee reported on its Inquiry into the operation of the Māori Community Development Act 1962 and related issues. The Committee's recommendations relating to the Māori Wardens included:

- Any changes to the Māori Community Development Act 1962 must focus urgently on improvements for Māori Wardens, an invaluable body of volunteers who deserve comprehensive support.
- A legislative framework dedicated solely to Māori Wardens be established.
- An independent organisation be established to take sole charge for the leadership, administration, coordination, and support of Māori Wardens.
- Funding for Māori Wardens be increased, and consistently distributed across New Zealand, to ensure all Māori Wardens have, at the very least, access to basic resources.
- The Act be amended to remove the role of District Māori Councils from the warranting process.
- The sections of the Act that outline specific, limited functions for Māori Wardens be repealed, as Wardens' roles are increasingly diverse, and should be adaptable to specific community needs.
- Further consideration be given to the future relationship between the Police and Wardens, particularly in relation to training for Wardens.
- Basic training – for example, in first aid – be mandatory for all Māori Wardens.
- More advanced training be provided for Māori Wardens on a voluntary basis. The promotion and provision of advanced training should fall to a new, independent Māori Wardens organisation.

2013 Consultation on Proposed Changes to the Māori Community Development Act 1962

The Government's response to the Māori Affairs Select Committee's recommendations led to consultation in 2013 on changes to the Māori Community Development Act 1962. The Committee had specifically recommended that before any legislative changes were made to the Act, a comprehensive consultation process be undertaken seeking input from all stakeholders including Māori Wardens, Māori communities, the New Zealand Māori Council, iwi, and other Māori authorities.

A discussion paper sought feedback on:

- Options for the future of the New Zealand Māori Council, including its role and structure, as well as associated Māori Associations at the local and regional level (District Māori Councils, Māori Executive Committees, and Māori Committees);
- Options for clarifying roles and improving governance and administration of Māori Wardens; and
- The proposed repeal of the provisions relating to Community Officers.

Feedback on proposed changes to the Act relating to Māori Wardens included:

- a. Strong support for the past and ongoing work of Māori Wardens, and acknowledgement of their proud history.
- b. Whilst some submitters felt that Māori Wardens were not law enforcers/were different to police officers, others felt that Māori Wardens should have a greater role in administering community justice and more scope to coordinate with other agencies.
- c. Submitters (particularly in Auckland and the Far North – including Māori Warden groups in those areas, people actively involved in the New Zealand Māori Council, and some iwi) felt that Māori Wardens should remain with the Council and its District Māori Councils.
- d. On the other hand, other submitters (particularly Māori Wardens, Māori Warden groups across the central North Island, and some iwi) argued that Māori Wardens should be governed by a new independent body and/or a Māori Warden's organisation.
- e. There were some submitters (primarily Māori Wardens) that referred to the 2010 MASC Inquiry Report, and supported a range of recommendations including a legislative framework dedicated solely to Māori Wardens.

2014 Waitangi Tribunal *Whaia te Mana Motuhake* Report

In 2013 the New Zealand Māori Council lodged a claim with the Waitangi Tribunal (Wai 2417) while the Crown's consultation on proposed changes to the Māori Community Development Act 1962 was still in progress. The claim asserted that the consultation process was inconsistent with the Treaty of Waitangi principles, and that Te Puni Kōkiri's administration of the Act (including the Māori Warden's Project) was in breach of Treaty principles.

In 2014, the Waitangi Tribunal released its *Whaia Te Mana Motuhake* Report on the claim filed on behalf of the New Zealand Māori Council (Wai 2417).

The crux of the claim, both in the statement of the claim and in subsequent evidence, was the principle of rangatiratanga. In the claimant's view, the Crown was exercising a level of control that it did not have the right to do.

Conversely, the Crown, in terms of the (2013) review of the Act, was concerned to balance the multiple rangatiratanga interests at stake, including the rangatiratanga of the Council, of Wardens (from some quarters of which there had been a call for

autonomy over a sustained period of time), of other representatives that potentially had overlapping interests and roles with the Council, and more importantly of the Māori communities who the Council and Māori Wardens are designed to serve.

In terms of the Māori Wardens Project, the Crown's view was that it did not at any time seek to exercise control over Wardens; rather, the Project was designed to provide additional resources and support to Wardens.

Review of the Act

The specific recommendations in relation to the review of the Act were [abridged]⁵:

The primary recommendation is that the Crown accepts that the recognition of Māori self-government and self-determination must remain in the Act and underpin all future administration, policy and law reform in this area. This is a core feature of the 1962 Act and it should not be detracted from or omitted in any subsequent reforms, only enhanced;

- a. that any reform of the Act should be Council-led and negotiated with the Crown;
- b. that the Crown should fund the development of a strategic direction and consultation process to underpin the Council's review of the Act, including the role of the New Zealand Māori Council and District Māori Councils in light of current understandings of the Māori representational landscape, and provide technical assistance if sought;
- c. that following receipt of the Council's report and draft Bill, the Crown should assure itself of the robustness of the consultation process and suffices for it to fulfil its obligations to Māori groups that may be affected by the proposals, seeking any additional information or assurances through the Council;
- d. that the Council and the Crown act in good faith and cooperation in negotiating the draft Bill that the Council proposes, leading to a collaborative agreement between them;
- e. that the Crown agree that implementation of the consultation process should commence following the triennial elections in 2015 to give the Council time to organise all the District Māori Councils; and,
- f. that Crown should commit to legislative amendment and funding, as far as is reasonable, to give effect to the strategic direction and to constitute and maintain the structure of whatever national body by consensus is arrived at following the consultation round.

Māori Wardens Project

The Tribunal found that the Māori Wardens Project breached the Treaty principles of partnership, Māori autonomy and the duty to actively protect tino rangatiratanga. While the Tribunal recognised the value of the project in terms of the provision of resources, and that it was appropriate for the Crown to establish and initially administer the project due to dysfunction within the Council structure at the time, its views were that the lack of Māori community oversight of the project led to the Treaty breaches.

⁵ Waitangi Tribunal (2014) *Whaia Te Mana Motuhake*, p. 520-521

The specific recommendations in relation to the Māori Wardens Project were:⁶

- a. Until the Council reports on its strategic direction and the results of its consultation process, and any new legislation is enacted, an interim advisory group/governance board should be established to oversee the operations of the Māori Wardens Project. It would be for this group to decide how best to provide for Māori community oversight of funding, centrally delivered training, and all other aspects of the Māori Wardens Project.
- b. This advisory group be comprised of representatives from the Council, the New Zealand Māori Wardens Association, and the Te Puni Kōkiri Māori Wardens Project team.
- c. The Māori Wardens Project continue but in collaboration with the Council and the New Zealand Māori Wardens Association through the newly constituted advisory group.
- d. The Crown urgently negotiate a collaborative agreement with the Council and the New Zealand Māori Wardens Association to put in place a temporary warranting regime. This may require the parties to agree on methods of validating invalid warrants, and on the process for appointments and renewal of warrants, until permanent solutions can be found as part of the Council's national consultation and review of the Act. An interim legislative amendment may be required to put this temporary regime in place until the scheme for revising the Act as a whole has been negotiated between the Crown and the Council. Resourcing will likely be required to ensure an efficient and speedy warranting process.

2017 Joint Advisory Group

Following discussions between 2015 and 2017, the former Minister for Māori Development established a Joint Advisory Group (JAG), comprising representatives of the Council and Māori Wardens, in an attempt to resolve issues between the two organisations. Co-chaired by the Minister and Council Chair (Sir Eddie Durie), the JAG agreed to two priority areas (endorsed at a national Māori Wardens hui held in Rotorua on 1 June 2017):

- an interim warranting process (to address a significant backlog of applications); and
- development of a governance and administration entity for Māori Wardens that could also advocate on their behalf at a national level.

The JAG's approach was underpinned by an agreement that until (or unless) changes to the Act could be made, options to address the priorities would only be progressed within current Act provisions.

The interim warranting process went live on 1 April 2018, as it was an operational matter that could be accommodated within the Act.

⁶ Waitangi Tribunal (2014). pp.522-523

Although progress had been made on thinking about the general structure, roles and responsibilities within a Māori Warden Entity, key risks to its progression were identified, including:

- the need for amendments to the Act, in particular sections 7 and 16 (which place the power to control and supervise Māori Wardens with District Māori Councils);
- a perception that a Māori Warden entity/structure of the kind being proposed (without the District Māori Council control) could be viewed as having no 'link' back into the local community; and
- the potential for Māori Wardens to be viewed as being or resembling a stand-alone Māori Police Force.

Throughout discussions it remained apparent that whilst greater autonomy remained the goal for many Māori Wardens, the Council was of the view that changes to the way in which the Māori Wardens operate could be supported, but they should remain under the framework of the Act.