

Office of the Minister for Māori Development

Cabinet Legislation Committee

## **Māori Purposes Bill: Approval for Introduction**

### **Proposal**

- 1 This Cabinet Paper seeks approval for the introduction of the Māori Purposes Bill (the Bill). The Bill has a Category 4 priority on the 2021 Legislation Programme (to be referred to a select committee in 2021).
- 2 A Māori Purposes Bill is an omnibus bill that enables minor, technical, and non-controversial amendments to be made to Māori Development legislation. All amendments in the Bill are minor, technical or non-controversial.

### **Executive Summary**

- 3 On 11 May 2021, the Cabinet Māori Crown Relations: Te Arawhiti Committee invited the Minister for Māori Development to issue drafting instructions to the Parliamentary Counsel Office [MCR-21-MIN-009 refers].
- 4 The Bill has three distinct purposes. Firstly, it amends Te Ture Whenua Maori Act 1993 to:
  - 4.1 ensure the Ruapuha Uekaha Hapū Trust can continue to exist and exercise powers, rights, and duties in a manner consistent with the 1990 settlement of the Wai 51 claim; and
  - 4.2 address technical and non-controversial matters identified with Te Ture Whenua Maori Act 1993 but not included in Te Ture Whenua Māori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020.
- 5 Secondly, the Bill amends the Maori Purposes Act 1959 to give the Lake Rotoaira Trust more autonomy and flexibility in managing Lake Rotoaira and its trout fishery.
- 6 Finally, the Bill makes technical and non-contentious amendments to the following legislation:
  - 6.1 Maori Trust Boards Act 1955;
  - 6.2 Maori Community Development Act 1962.

## Policy

### *Amendments to Ture Whenua Maori Act 1993*

- 7 The Māori Land Court has powers under three sections of Te Ture Whenua Maori Act 1993 to terminate an ahu whenua trust. The Bill amends these sections to provide that these powers do not apply to the Ruapuha Uekaha Hapū Trust (the Trust).
- 8 The Trust is an ahu whenua trust by virtue of section 354 of Te Ture Whenua Maori Act 1993. In accordance with the settlement of the Wai 51 claim in relation to Waitomo Caves, the Trust was established to administer the Māori freehold land block Hauturu East 8 for the benefit of the original 22 owners (all then deceased) and all of their descendants.
- 9 Since the settlement, Māori Land Court succession orders in favour of various “successors” mean the persons entitled in remainder if the Trust were to be terminated are not the same as those who are entitled in accordance with the Wai 51 settlement. Termination of the Trust would have the potential to compromise the settlement.
- 10 The proposed amendments were requested by and agreed with the Trust and included in the Te Ture Whenua Māori Amendment Bill 2016, approved for introduction by Cabinet on 11 April 2016 [CAB-16-MIN-0157 refers]. The current government withdrew the 2016 Bill at the Committee of the Whole House stage, having decided to proceed with targeted amendments to better support the governance, management and development of Māori land. These amendments relating to the Trust were not included in the subsequent Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020.
- 11 Further, the amendments to Te Ture Whenua Maori Act 1993 include changes to sections 147A (Notices for tenders for the exercise of rights of first refusal) and 246 (Notices for general meetings of shareholders of a Māori incorporation) to extend two notification periods from 15 to 20 working days to better ensure Māori owners are notified and can make informed decisions. The extended period is consistent with those found in other courts’ legislation.
- 12 The amendments also include provision for the use of electronic communications to provide the option for meetings of Māori assembled owners to be held electronically. This amendment has required amendments to the Maori Assembled Owners Regulations 1995, to allow those entitled to attend such meetings to attend by audiovisual link (by direction of the Māori Land Court).
- 13 A minor and technical linguistic amendment is made to the Preamble, changing “Te Kooti” to “Kooti”.

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*Amendments to the Maori Purposes Act 1959 – Lake Rotoaira*

- 14 The Bill includes minor and technical amendments to the Maori Purposes Act 1959 to give the Lake Rotoaira Trust more autonomy and flexibility in managing Lake Rotoaira and its trout fishery. The Bill:
- 14.1 amends section 3 (Interpretation) to:
    - 14.1.1 update the definition of “stipendiary ranger” to include a warranted officer under the Conservation Act 1987;
    - 14.1.2 include a further specific area in the definition of “adjoining waters forming part of the Lake” to enable the Trustees to manage the primary trout spawning area for Lake Rotoaira;
    - 14.1.3 replace “Wairehau Canal” with the correct name “Wairehu Canal”;
    - 14.1.4 include a definition of “Taupo district”, being the trout-fishing district encompassing Lake Rotoaira;
  - 14.2 replaces section 4 to:
    - 14.2.1 remove a requirement to hold a trout fishing licence to fish for species other than trout;
    - 14.2.2 clarify that a right of entry without an entry permit does not authorise the taking of fish;
    - 14.2.3 add “the Trustees of Motuopuhi Māori Reservation and their invitees” to the list of persons allowed to enter Lake Rotoaira without an entry permit;
  - 14.3 amends sections 11 and 15(2)(h) to increase the maximum fine for an offence against the principal Act and regulations made under the Act from \$100 to \$5,000;
  - 14.4 amends section 14(b) to enable the Lake Rotoaira Trustees to recommend all fishing conditions to the Minister of Conservation, not just open and closed seasons;
  - 14.5 replaces section 15(2)(e) of section 15 (Regulations) to revoke provisions that tie the daily bag and size limits for Lake Rotoaira to those set for the Lake Taupō fishery; and
  - 14.6 makes consequential amendments to the Rotoaira Trout Fishing Regulations 1979, made under the Maori Purposes Act 1959.

*Amendments to the Maori Trust Boards Act 1995*

- 15 The Bill amends the Maori Trust Boards Act 1955 (the Maori Trust Boards Act) and the Maori Trust Boards Regulations 1985 to allow boards to conduct elections by electronic voting or a combination of electronic and postal voting, as an alternative to postal voting.
- 16 Other amendments to the Maori Trust Boards Act provide clarity and assist in the administration of the legislation.

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- 17 Currently, Māori Trust Board members may resign in writing addressed to the Minister for Māori Development. The Bill amends this section to require such resignations to be made in writing addressed to the relevant Māori Trust Board. If a Board receives a written resignation, it must notify the Minister.
- 18 The Bill removes Māori Trust Boards from the application of the Cabinet Fees Framework. Māori Trust Boards operate differently from other boards governed by the Cabinet Fees Framework. Members are elected by beneficiaries, rather than appointed by the Crown, and are responsible for the Trust Board's own assets. Boards have indicated that they consider the Cabinet Fees Framework does not properly recognise the autonomy of the Trust Boards or the depth and breadth of work Board members are required to undertake.
- 19 On 11 May 2021 Cabinet Māori Crown Relations: Te Arawhiti Committee approved [MCR-21-MIN-009 refers] the recommendation that the Maori Trust Boards Act be amended to “remove the need for an Order in Council that validates an election or irregularities in relation to same to be published in the New Zealand Gazette.”
- 20 However, the Parliamentary Counsel Office has recommended against making this amendment. The amendment was proposed as removing unnecessary administrative action when the Orders are published in full on the New Zealand Legislation website. The Parliamentary Counsel Office has advised that the Orders are a class of Order in Council that is not a legislative instrument under section 4 of the Legislation Act 2012. Orders validating elections will not be published on the Legislation website as secondary legislation, and therefore require publication in the Gazette. The Bill does not amend the Maori Trust Boards Act to remove the Gazette publication requirement.
- 21 The Bill repeals section 9(2) of the Maori Trust Boards Act, which requires an annuity payment of \$15,000 to be made to the Taranaki Māori Trust Board on 1 April each year. This payment is compensation for land confiscation in the Taranaki region.
- 22 On 4 September 2019, the Taranaki Māori Trust Board signed a Deed of Settlement with the Crown under which the Crown agreed to make an annuity buyout payment of \$20.8 million to settle all issues relating to the Board's annuity payment. The Board acknowledged and agreed that the payment is to be made with the intention that legislation would be introduced to amend or repeal section 9(2) of the Māori Trust Boards Act, and that the Board would support the repeal legislation. The buy-out payment has been made.
- 23 Te Puni Kōkiri has made two annuity payments since the signing of the Deed. Until section 9 is revoked, the Crown continues to have a statutory obligation to make an annuity payment of \$15,000.
- 24 The Taranaki Māori Trust Board has been advised that the Bill includes the repeal of section 9(2).

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*Amendment to the Maori Community Development Act 1962*

- 25 The Bill removes an unnecessary requirement on District Māori Councils. Currently the Maori Community Development Act 1962 requires each District Māori Council to submit a copy of its audited financial statements to the Chief Executive of the Ministry of Māori Development. The Bill amends section 28(1)(f) so that each District Māori Council is required to submit a copy of its audited financial statements to the New Zealand Māori Council, as the body that District Māori Councils are legally accountable to.
- 26 The Bill does not have aspects that are likely to be contentious.
- 27 There are no outstanding policy issues.

**Impact analysis**

- 28 A regulatory impact assessment is not required. The Regulatory Impact Analysis team at the Treasury has determined the amendments proposed in the Bill are exempt from the requirement to provide a Regulatory Impact Statement because they have no or minor impacts on businesses, individuals, and not-for-profit entities.

**Compliance**

- 29 The Bill complies with:
- 29.1 the principles of the Treaty of Waitangi;
  - 29.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 29.3 the disclosure statement requirements (a disclosure statement has been prepared and is attached to the paper);
  - 29.4 the principles and guidelines set out in the Privacy Act 2020;
  - 29.5 relevant international standards and obligations; and
  - 29.6 the Legislation Guidelines (2021 edition).

**Consultation**

- 30 The following agencies were consulted on this paper and the draft Bill: Ministry of Justice, Te Arawhiti, Department of Conservation, Te Kawa Mataaho (Public Service Commission) and The Treasury. The Department of the Prime Minister and Cabinet was informed.
- 31 The Parliamentary Counsel Office prepared the draft Bill and was consulted on this paper.
- 32 The Office of the Privacy Commissioner was consulted on this paper and the draft Bill.

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- 33 The amendments to Te Ture Whenua 1993 Act relating to the Ruapuha Uekaha Hapū Trust were requested by and agreed with the Trust.
- 34 The Lake Rotoaira Trust was consulted and agrees with the amendments to the Maori Purposes Act 1959 and the Rotoaira Trout Fishing Regulations 1979.
- 35 The Taranaki Māori Trust Board was advised that the Bill includes the repeal of section 9(2) of the Maori Trust Boards Act 1955 to terminate the Crown's annuity payment to the Trust Board. The Trust Board has agreed to the repeal of this section.
- 36 All Māori Trust Boards were advised of the amendments to the Māori Trust Boards Act 1955 and related Regulations. The Taranaki and Maniapoto Māori Trust Boards are being dissolved as part of their settlements of historical Treaty of Waitangi claims and have not responded. Aorangi, Hauraki, Tauranga-Moana, Tūwharetoa, Wairoa-Waikaremoana and Whakatōhea Māori Trust Boards and Te Rūnanga o Ngāti Whātua have advised of their agreement with the amendments. A reply from Taitokerau Māori Trust Board is awaited. Seven of the ten Māori Trust Boards have agreed with the proposed amendments, and responses from the two that are dissolving are now irrelevant. Any issues raised by Taitokerau Māori Trust Board can be addressed through the select committee stage.
- 37 The New Zealand Māori Council was consulted and agrees with the amendments to the Maori Community Development Act 1962.
- 38 It was not considered necessary to consult the Legislation Design and Advisory Committee because of the straightforward structure and nature of the Bill.

**Binding on the Crown**

- 39 The Bill will not change the position as to whether any of the legislation to be amended is, or is not, binding on the Crown.

**Creating new agencies or amending law relating to existing agencies.**

- 40 The Bill will not create a new agency.
- 41 The Bill amends the Maori Community Development Act 1962 to require District Māori Councils to provide a copy of their audited financial statements to the New Zealand Māori Council rather than to the chief executive of the Ministry of Māori Development.

**Allocation of decision-making powers**

- 42 Not applicable.

**Associated regulations**

- 43 The Bill amends the Maori Trust Board Regulations 1985, the Maori Assembled Owners Regulations 1995 and the Rotoaira Trout Fishing Regulations 1979. No regulations are needed to bring the Bill into operation.

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- 44 Clause 19(1) of the Bill amends the power to make delegated legislation in section 15(2)(e) of the Maori Purposes Bill 1959. It revokes the provisos that tie the fish bag and size limits for Lake Rotoaira to those set for the Lake Taupō fishery. Schedule 3 of the Bill revokes the provisos in the corresponding powers of the Trustees of Lake Rotoaira under the Rotoaira Trout Fishing Regulations 1979.

#### Other instruments

- 45 Not applicable.

#### Definition of Minister/department

- 46 Clause 22(2) of the Bill amends section 2 of the Maori Trusts Board Act 1955 to change the definition of Minister to a Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of the Act.

#### Commencement of legislation

- 47 The Bill will come into force on the day after the date on which it receives the Royal assent.

#### Parliamentary stages

- 48 The Bill has a Category 4 priority on the 2021 Legislation Programme (to be referred to a select committee in 2021).

- 49 I recommend the Bill be:

49.1 introduced on the first available date after approval by Cabinet; and

49.2 referred to the Māori Affairs Select Committee.

#### Proactive Release

- 50 Once the Bill has been introduced, Te Puni Kōkiri will proactively release this Cabinet Paper. Redactions will be made as appropriate in line with the Official Information Act 1982.

#### Recommendations

The Minister for Māori Development recommends that the Committee:

- 1 **note** the Māori Purposes Bill holds a Category 4 priority on the 2021 Legislation Programme (to be introduced within 2021);
- 2 **note** the Māori Purposes Bill amends Ture Whenua Maori Act 1993 to:
  - 2.1. ensure the Ruapuha Uekaha Hapū Trust can continue to exist and exercise powers, rights, and duties in a manner consistent with the 1990 settlement of Wai 51;

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- 2.2. address technical and non-controversial matters identified with Te Ture Whenua Maori Act 1993 but not included in Te Ture Whenua Māori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020;
- 3 **note** the Māori Purposes Bill amends the Maori Purposes Act 1959 to give the Lake Rotoaira Trust more autonomy and flexibility in managing Lake Rotoaira and its trout fishery;
- 4 **note** the Māori Purposes Bill makes technical and non-contentious amendments to the following legislation:
  - 4.1 Maori Trust Boards Act 1955;
  - 4.2 Maori Community Development Act 1962;
- 5 **approve** the Māori Purposes Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 6 **agree** the Māori Purposes Bill be introduced on the first available date after Cabinet has approved the Māori Purposes Bill for introduction; and
- 7 **agree** the government propose that the Māori Purposes Bill be:
  - 7.1 referred to the Māori Affairs Select Committee for consideration; and
  - 7.2 enacted, if possible, by 30 June 2022.

Authorised for lodgement

Hon Willie Jackson  
Minister for Māori Development

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