

THE MĀORI COMMUNITY DEVELOPMENT ACT REPORT

Whāia te Mana Motuhake

CONDENSED SYNOPSIS

Woodward Law – December 2014

Acronyms:

DMC	District Māori Councils
ICF	Iwi Chairs' Forum
MCDA	Māori Community Development Act 1962
MWA	Māori Wardens' Association
MWP	Māori Wardens' Project
NZMWA	New Zealand Māori Wardens' Association
NZMC	New Zealand Māori Council
TKRNT	Te Kohanga Reo National Trust
TPK	Te Puni Kokiri
TPKMWP	Te Puni Kokiri Māori Wardens Project team
UMA	Urban Māori Authorities
Minister	means the Minister of Māori Development
[518]	means page 518 of the Report.

The name of the Report is *Whaia te Mana Motuhake In Pursuit of Mana Motuhake Report on the Māori Community Development Act Claim*

SYNOPSIS

The Report upholds the Council's primary concerns and especially supports the Council's position that Māori should manage Māori business not the government. This synopsis summarises the Tribunal's several findings and proposals for future action.

The Report recommends: (1) a review of the Act (2) pending the review, TPK to manage the MWP along with NZMC and NZMWA and negotiate with them a collaborative agreement on warranting and (3) payment of NZMC costs.

In addition the Tribunal reserved leave for parties to apply for guidance on the implementation of the Tribunal's recommendations [523].

The Review of the Act

The Tribunal:

- Noted the representational landscape has changed. Clear demarcation is needed between NZMC, ICF and UMA [518]
- Considered NZMC might focus on national issues affecting all Māori, cutting away those matters now in the hands of iwi or UMA [518]
- Considered that funding is needed for NZMC [520]

The Tribunal suggested to NZMC and Māori:

- The TKRNT review provides a model. That is, NZMC should call a national hui to settle a working group of experts to undertake the review, consulting with NZMC, DMCs, MWAs, ICF, NUMA, MWWL, Kingitanga and iwi. NZMC to draft a bill. [520]
- Iwi and UMA should be considered for a larger role in managing wardens. [521]

The Tribunal suggested to NZMWA

- that NZMWA should seek to nominate an expert on the working group and submit proposals for reform [523].

The Tribunal formally recommended to Crown:

- The recognition of Māori self-government reflected in the MCDA should remain in legislation [520]
- NZMC will lead the review of the MCDA and draft a Bill to effectuate its proposals. The enactment of the proposals should be negotiated with the Crown [521].
- The Crown should fund the strategic direction and consultation process and provide technical assistance (should NZMC determine to seek review within the next 12 months from 8 December) [521]

Strategic direction (as suggested by its use at pp18, 518 and 522), means the direction the Council considers should be taken.

- Following the Council's review and a draft Bill the Crown should satisfy itself that the consultation process was robust [521]. It should act reasonably and in good faith in negotiating the draft Bill. [521]
- The consultation should follow after the triennial elections (June 2015) [521]

Wardens

The Tribunal:

- Noted that that the Committees and Districts have authority over the wardens [521].
- Found that the wardens cannot be disconnected from the communities they serve [424] [432]
- Found that the future of the wardens should be determined by the review as proposed. Effectively the question becomes whether the wardens should be accountable to their communities through Iwi, Urban authorities or the District Māori Councils [521].
- Found that the Crown was in breach of its duties for failing to review and reform the warranting system in concert with NZMC [498]
- Found that, as in Wellington, TPK could not decide who was validly in office but had to follow the Council's election returns [494] [500].
- Found that as in Te Taihū, the Crown was in breach of the Treaty in appointing wardens on the nomination of persons not validly in office [499]
- Considered that wardens have "earned the right to some operational autonomy" [522].
- Considered NZMC or its replacement following reform should continue to have a political link to MWAs [522].
- Considered policy decisions (on, for example, MWP, training, work prioritization) should be set by NZMC (or its replacement) [522].

The Tribunal recommended:

- Pending legislative change, an Advisory Group/Governance Board should oversee MWP comprised of NZMC, NZMWA, TPKMWP [522].
- Pending legislative change, Crown to urgently negotiate a collaborative agreement on temporary warranting with NZMC and NZMWA [522].

Costs

- Crown to reimburse NZMC for costs incurred in advancing its claims and not covered by legal aid [523].