

**Whāia te Mana Motuhake**  
**COUNCIL PROPOSAL ON MĀORI REPRESENTATION AND WARDENS**  
**A response to the Waitangi Tribunal Report**  
**on the Māori Community Development Act 1962**  
**December 2014**

The questions are

- how should Māori be represented nationally? and
- how should the Wardens be represented?

District Māori Councils were established to provide district representation for Māori under the Māori Councils Act 1900 following an agreement between the Kotahitanga Movement, the Young Māori Party and Māori politicians in the House. However, government would not provide for the national body sought by Te Kotahitanga for fear of “Māori nationalism”.

In 1962 the Māori Community Development Act (MCDA) established the New Zealand Māori Council (NZMC) to represent Māori interests nationally, following long-standing pressure from tribal leaders.

The Act continued the positions of the Karere (community officers) and Wātene (Wardens) originally set up by the Kīngitanga in the 1850s and later placed under the administration of the District Māori Councils. Later, the Community Officers were absorbed into the Department of Māori Affairs but were subsequently made redundant.<sup>1</sup>

NZMC became known for its policies on Treaty recognition, language retention, fishing interests, papakainga housing, recognition for Māori in Town Planning (now Resource Management), Māori land administration and taxation and youth crime (police diversion and restorative justice). It was later known for its several court cases over the quota management system in fisheries, the alienation of assets to state owned enterprises, the sale of Crown forests and broadcasting assets and electoral reform (Māori Electoral Option). These led to Māori Fisheries legislation, Maori land legislation, electoral act amendments, the claw-back of former state assets on Treaty settlements, the Crown Forestry Rental Trust, Te Māngai Pāho, Iwi Radio and Māori television.

The present questions arose when Te Puni Kōkiri (TPK) took over the administration of the Wardens after New Zealand First secured funding for what became the Māori Wardens Project in 2005. TPK sought to fund the Wardens without reference to NZMC, proposed to establish the Wardens as an independent body and began a review of the MCDA. NZMC referred the matter to the Waitangi Tribunal.

The Waitangi Tribunal reported in December 2014.

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<sup>1</sup> Whānau ora may now support the equivalent for the former Māori Community Officers.

The Tribunal found that the MCDA gives effect to an international principle about indigenous peoples' right to self-government. In terms of that right TPK was bound to work with NZMC in administering the Māori Wardens' Project (and also in warranting Wardens), the Wardens could not be an independent body and NZMC, not TPK, should lead the review of the MCDA.

However the Tribunal considered that the representational environment has changed since the MCDA of 1962. The Tribunal noted the rise of autonomous urban and iwi authorities and asked that in leading the review, NZMC should consider the roles of each in national Māori governance and in particular, whether, in today's environment, the Wardens should be accountable to an iwi or urban authority.<sup>2</sup>

So back to the questions.

### **How should Māori be represented nationally?**

NZMC agrees with the Tribunal that since 1962, the representational landscape has changed and there are now numerous, self-governing bodies that speak for Māori, or sections of Māori. In addition to the urban authorities who speak for urban Māori, or the iwi authorities who speak for iwi entities, at both district and national levels, there are also several national organisations speaking for Māori communities of interest defined by profession, occupation, sport, social interest, or commitment like the Kohanga Reo, Kura Kaupapa Māori, Kura ā Iwi and Wānanga. Council considers that Māori self-government today is dispersed throughout a thriving Māori ecosystem. It is an interdependent ecosystem however, that needs protecting for the survival of each part.

**The Council policy at a national level** is to maintain a broad advocacy role within the representational landscape on behalf of Māori generally. This includes urban and iwi groups who have been the major beneficiaries of the Council's work so far. The Council works alone or in association with like-minded parties.

### **The Council policies at a district level** are

- (a) to fulfill a broad advocacy role on behalf of the local communities as required<sup>3</sup>
- (b) to promote projects connected to community development; and
- (c) in keeping with the traditional focus on community development through Wardens and Community Officers, to certify and promote community officers with special training in community dispute resolution, restorative justice methodology and service on community justice panels.

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<sup>2</sup> This is not to be confused with the Tribunal's finding that the Wardens are entitled to "operational autonomy". That means that while Wardens are accountable to a body which may give reasonable policy directions, how the Wardens give effect to those directions is for the Wardens to decide.

<sup>3</sup> For example, in 2014 Mataatua District Māori Council represented Mōtiti Islanders over the sinking of the Rena.

### **The Council policies on national representation are**

- (a) to work with the other national organisations to define boundaries but more especially, to promote collaboration; and
- (b) to provide an all Māori backing to organisations by joining with them on proceedings where necessary.<sup>4</sup>

The Council intends to lead a review as proposed by the Tribunal with a view to enhancing the capacity of the several organisations that now make up the Māori representational landscape.

### **How should the Wardens be represented?**

**The Council's policy** is to ask first, what do the Wardens want. A message to the Wardens on this issue is on the website. The practical question appears to be whether the Wardens prefer to be administered by the District Councils, an Urban Authority or an Iwi Authority, or if there is to be one uniform system, then whether they wish to be administered through the New Zealand Māori Council, the National Urban Māori Authority or the Iwi Leader's Forum.

Consultation with the Wardens on this matter is included in the Council's work plan for Wardens for 2015.

Thereafter, **the Council's present policy** is to consider

- (a) Which option will best maintain the Wardens' kaupapa that:
  - the Wardens are appointed by their community, work for their community and may be removed by their community
  - They have no police powers but with the backing of their community they have the power to persuade
  - They may work with the Police but not for the Police and are independent of them
  - They are the trusted 'aunts' and 'uncles' in whom young people and those in trouble may confide
- (b) Which option is the most inclusive taking account of the varieties of Māori communities today including the communities of Māori living outside their tribal districts or who do not participate at their ancestral marae.

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<sup>4</sup> For example, when Ngā Kaiwhakapumau I te Reo Inc sought to protest the sale of broadcasting assets without provision for Maori, they could speak only for their own members, but the case was run for all Māori when they were joined by the Council, as the Council has a statutory authority to represent all Māori. On the present water claim the Council is joined by numerous tribal interests.