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Digest No. 1700

Waka Umanga (Māori Corporations) Bill 2007 (2008 No 175-2)

Date of Introduction:	02 November 2007
Portfolio:	Māori Affairs
Select Committee:	Māori Affairs
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Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status.

Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of this Bill, which was introduced by the previous Government, is to provide for the establishment of new legal entities by tribal groups or Māori associations which could " ... be structured to meet the organisational needs of tribal groups and other Māori associations that manage communal assets"[1].

The Bill as introduced is described in Bills Digest No 1580.

Main Provisions

Waka Umanga not to represent iwi (deletion of terms "waka pū" and "waka tumaha")

The Bill as introduced provides for the establishment of two types of waka umanga, waka pū (a tribal group) and waka tumaha (a Māori association).

[1] Waka Umanga (Māori Corporations) Bill, 2007 No 175-1, Explanatory note, General policy statement, p. 1.

The Select Committee has recommended the removal of the " ... need to establish [tribal] representative institutions, which requires the formation and registration of a waka pū" and " ... the bill should not exclude any Māori collective, whether whakapapa- or non-whakapapa-based, from being eligible to become a waka umanga. " ... [T]he key requirements should be that the Māori collective be characterised by descent from one or more tūpuna; or people who are predominantly Māori, and support Māori culture and tikanga; and the waka umanga have as one of its purposes the provision of benefits or services to the members"[2].

The Select Committee has therefore recommended removing the concepts of waka pū and waka tumaha from the Bill and that there be only one type of organisation posited, the waka umanga. As a consequence, it is recommended the provisions relating to the form and registration of waka pū and waka tumaha be removed from the Bill and replaced with a new provision relating to the formation and registration of waka umanga.

This new provision provides that a "Maori collective" (a term not defined) may be formed and registered as a waka umanga if:

- the members of the Māori collective descend from a tipuna or tupuna; or
- the members of the Māori collective do not descend from a tipuna or tupuna; but
  - the members are predominantly Māori; and
  - the members support Māori culture and tikanga; and
  - the purpose (wholly or in part) of the Maori collective is to provide services or benefits to its members *(Part 2, Subpart 1, deleting Clauses 7-14 and inserting New Clause 14 (headed "Formation and registration of waka umanga")); many clauses of the Bill are deleted or amended to reflect this recommendation)*.

Waka umanga which are waka pū not to be the "legitimate representative" of an iwi

The Bill as introduced provided that a waka pū may be the "legitimate representative" of a tribal group and any constituent groups if:

- it comprised one or more iwi or several hapu; and
- it held communal assets on behalf of the tribal group or any constituent groups, or was likely to do so following a Treaty of Waitangi settlement; and
- the matters on which it was to be the legitimate representative of the tribal group were defined in its charter; and
- it had a mandate from the tribal group and any constituent groups to be their legitimate representative in relation to the matters defined in the charter *(Part 2, Subpart 1, Clauses 9 - 12; Schedule 1 ("Tribal groups with mandate recognised before commencement of this Act"))*.

The Select Committee has recommended that all provisions of the Bill relating to or waka pū (and hence to their "legitimate representative function") be deleted from the Bill (*many clauses of the Bill are deleted or amended to reflect this recommendation)*.
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Comment
The effect of the Select Committees recommendations is that waka umanga will have little status distinct from incorporated societies (for example) except that they must have a Maori membership in the manner set out in New Clause 14 described above.

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[2] Waka Umanga (Māori Corporations) Bill, 2008 No 175-2, As reported from the Māori Affairs Committee, Commentary, p. 3.

Views of the National Party and the Maori Party

This Bill was reported back in the previous Parliament. At that time the positions of the National Party and the Māori Party on the Bill were as follows:

National Party view

"The National Party believes that this bill should not proceed"[3].

Māori Party view

"At the first reading of this bill, the Māori Party raised a number of substantive questions about the value of this bill to hapū and iwi and the effects it may have.

"Questions were raised about the inadequate legal structures imposed on hapū and iwi during settlements and we asked if the model proposed by the bill would be sufficient to address those inadequacies. In particular, we made the point that the proposed waka umanga legal entity derails the possibility of hapū and iwi developing models of governance consistent with and expressive of tikanga Māori and tino rangatiratanga, and having those models duly recognised. We suggested that a more productive solution to current inadequacies could be found in Crown recognition of Māori governance entities, as formulated by hapū and iwi.

"The Māori Party was very interested to hear the views of submitters, and voted for the bill at its first reading to ensure that the views of hapū and iwi could be heard by the Māori Affairs Committee of Parliament. We note that our concerns about rangatiratanga and due recognition were also very much top of mind for hapū and iwi.

"Given the substantive concerns and opposition voiced by hapū and iwi on the Waka Umanga (Māori Corporations) Bill, the Māori Party cannot support it.

"More work is needed to resolve the inadequacies of current legal structures. For any such programme to be fruitful, it will need to proceed from a kaupapa-Māori basis, and also address wider concerns with Treaty settlements policy"[4].

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[3] Waka Umanga (Māori Corporations) Bill, 2008 No 175-2, As reported from the Māori Affairs Committee, Commentary, p. 20.

[4] Waka Umanga (Māori Corporations) Bill, 2008 No 175-2, As reported from the Māori Affairs Committee, Commentary, p. 21.