



# Whakarewarewa and Roto-a-Tamaheke Vesting Bill

290—1

Report of the Māori Affairs Committee

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## Contents

Recommendation	2
Introduction	2
Tūhourangi Ngāti Wāhiao	2
Voting Rights	3
Appendix	5

# Whakarewarewa and Roto-a-Tamaheke Vesting Bill

## Recommendation

The Māori Affairs Committee has examined the Whakarewarewa and Roto-a-Tamaheke Vesting Bill, and recommends that it be passed.

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## Introduction

The bill gives effect to the Deed to introduce vesting legislation in relation to Whakarewarewa Valley Land and Roto-a-Tamaheke Reserve, signed between the Crown and Ngāti Whakaue, Tūhourangi Ngāti Wāhiao, and Te Pūmautanga o Te Arawa on 5 August 2008.

The bill will vest ownership of the fee simple estate in the Southern Arikikapakapa Reserve, the Whakarewarewa Thermal Springs Reserve, and the Roto-a-Tamaheke Reserve in the trustees of the Whakarewarewa Joint Trust, representing Ngāti Whakaue and Tūhourangi Ngāti Wāhiao.

## Tūhourangi Ngāti Wāhiao

Some submitters requested that Tūhourangi and Ngāti Wāhiao not be coupled together and be represented separately. They felt that their mana whenua and rangatiratanga status over the Whakarewarewa Valley Land were quite separate.

The reference to the Tūhourangi Ngāti Wāhiao affiliate of Te Pūmautanga is well established, and has been accepted by the Crown throughout the various mandating processes managed by the Kaihautu Executive Council and Te Pūmautanga since 2003.

In addition, the bill provides for on-vesting of the Whakarewarewa Thermal Springs Reserve and Roto-a-Tamaheke Reserve from Te Pūmautanga o Te Arawa Trust, established under the Affiliate Te Arawa Iwi and Hapū Claims Settlement Act 2008, to the joint trust. The trust deed establishing the joint trust sets out the Beneficial Entitlement Determination Procedure, and provides for the possible transfer of some or all of those lands following the determination. This mana whenua determination procedure allows the reserve land to be vested separately in the three hapū of Ngāti Wāhiao and the iwi of Tūhourangi in the future.

While the bill could be amended to reflect a decoupling of Tūhourangi Ngāti Wāhiao, this would not properly address the concerns of submitters, and would affect the underlying relationships between the Crown and Te Pūmautanga, and between Te Pūmautanga and its affiliates.

An amendment to the trust deed to allow decoupling would require a unanimous resolution of the trustees, a general meeting of the beneficiaries to approve the trustees' resolution, and an approval resolution passed by a majority of each of Ngāti Whakaue and Tūhourangi Ngāti Wāhiao present at that meeting.

We do not consider it appropriate to use legislation to provide for separate representation in relation to the bill, because the decision of Tūhourangi Ngāti Wāhiao to form a single affiliate of the joint trust, Te Pūmautanga, was made by iwi members through a mandating process.

### **Voting rights**

Some submitters raised the issue of eligibility to vote. Criteria recorded in the vesting deed define an eligible member of Ngāti Whakaue and an eligible member of Tūhourangi Ngāti Wāhiao. The criteria specify that eligible members of Tūhourangi Ngāti Wāhiao must be registered on the Te Pūmautanga trustees' beneficiaries register. Some submitters felt that this disadvantaged members of Ngāti Wāhiao.

We understand that these criteria were set by both iwi when developing the vesting deed, and were deemed suitable by all parties when the deed was signed on 5 August 2008. We do not consider that the beneficiary classes used by the two groups exclude any iwi members.

Some Ngāti Wāhiao members claimed that they did not consent to the endorsement process for the vesting deed and the joint trust. The vesting deed was submitted to Tūhourangi Ngāti Wāhiao for endorsement by means of a postal ballot of registered members of the Tūhourangi Ngāti Wāhiao Te Pūmautanga affiliate and voting by ballot at a hui at Te Pākira Marae on 27 July 2008, which was open to all members of the iwi, whether registered with Te Pūmautanga or not.

Several submitters told us that as non-registered members of the Tūhourangi Ngāti Wāhiao Te Pūmautanga affiliate, they were not entitled to participate in the postal ballot; and they were also unable to attend the hui vote. Some argued that the deed was not properly endorsed because a positive result was not obtained in both the postal and the hui vote. Consequently, many members of Ngāti Wāhiao lacked confidence in the mana whenua determination process as set out in the deed.

We acknowledge the Crown's preference for dealing with "large natural groupings," but we are aware that this preference for dealing with claimants at iwi level may mean that hapū and other smaller claimant groups do not feel that their claims have been properly considered.

We are aware that a facilitation process has been used during 2009 to seek assurance that Ngāti Wāhiao may participate in the structure set up to receive the Whakarewarewa Valley lands (the Whakarewarewa Joint Trust), and that Ngāti Wāhiao are appropriately represented in the Beneficial Entitlement Determination Procedure that will follow from the enactment of the bill.

We understand that the Tūhourangi Ngāti Wāhiao trustees on the joint trust and the members of Ngāti Wāhiao who have engaged in the facilitation process have discussed the details of a process to elect four representatives, one for each of the three Ngāti Wāhiao hapū and the iwi of Tūhourangi, who will discuss mana whenua entitlements under the Beneficial Entitlement Determination Procedure with Ngāti Whakaue. We understand that the details of the voting process will be decided at a hui-a-iwi by the people of Tūhourangi and Ngāti Wāhiao.

We recognise that this process is a matter that is internal to the three hapū of Ngāti Wāhiao and the iwi of Tūhourangi, and does not require any change to the bill, the vesting deed or the trust deed. We consider that the process will give all parties confidence in the Beneficial Entitlement Determination Procedure.

## **Appendix**

### **Committee procedure**

The Whakarewarewa and Roto-a-Tamaheke Vesting Bill was referred to the Māori Affairs Committee of the 48th Parliament on 23 September 2008. The closing date for submissions was 5 February 2009. The bill was reinstated in the 49th Parliament on 9 December 2008. We received and considered 16 submissions from interested groups and individuals. We heard 14 submissions, which involved holding a hearing in Rotorua.

We received advice from the Ministry of Māori Development (Te Puni Kōkiri).

### **Committee members**

Hon Tau Henare (Chairperson)

Kelvin Davis

Hone Harawira

Hon Parekura Horomia

Hekia Parata

Paul Quinn

Hon Mita Rinui



# Te Pire Tuku i a Whakarewarewa me Roto-a-Tamaheke

290—1

Te pūrongo a te Komiti mō ngā Take  
Māori

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## Ihirangi

Tūtohutanga	7
Kupu whakataki	7
Ko Tūhourangi Ngāti Wāhiao	7
Ngā tika a pā ana ki te pōti	7
Tāpiritanga	10

# Te Pire Tuku i a Whakarewarewa me Roto-a-Tamaheke

## Tūtohutanga

Kua oti te tātari a te Komiti Whiriwhiri Take Māori i te Pire Tuku i a Whakarewarewa me Roto-a-Tamaheke, ā, ka tūtohu kia whakamanatia.

## Kupu whakataki

Ka whakamana te pire i te Whakaetanga whakauru hanganga ture tuku e pā ana ki te Whenua i te Riu o Whakarewarewa me te Whenua Rāhui o Roto-a-Tamaheke i hainatia rā i te 5 o Here-turi-kōkā 2008, i waenganui i te Karauna me Ngāti Whakauē, i a Tūhourangi Ngāti Wāhiao me Te Pūmautanga o Te Arawa hoki.

Mā te pire te rangatiratanga o te pānga angiangi mō te Whenua Rāhui o Arikikapakapa ki te Tonga, mō te Whenua Rāhui o ngā Waiariki o Whakarewarewa, mō te Whenua Rāhui o Roto-a-Tamaheke hoki e tuku ki ngā kaitiaki o te Kaitiaki-Ngātahi o Whakarewarewa, te māngai mō Ngāti Whakauē me Tūhourangi Ngāti Wāhiao.

## Ko Tūhourangi Ngāti Wāhiao

Ka whakamana te pire i te Whakaetanga whakauru hanganga ture tuku e pā ana ki te Whenua i te Riu o Whakarewarewa me te Whenua Rāhui o Roto-a-Tamaheke i hainatia rā i te 5 o Here-turi-kōkā 2008, i waenganui i te Karauna me Ngāti Whakauē, i a Tūhourangi Ngāti Wāhiao me Te Pūmautanga o Te Arawa hoki.

Mā te pire te rangatiratanga o te pānga angiangi mō te Whenua Rāhui o Arikikapakapa ki te Tonga, mō te Whenua Rāhui o ngā Waiariki o Whakarewarewa, mō te Whenua Rāhui o Roto-a-Tamaheke hoki e tuku ki ngā kaitiaki o te Kaitiaki-Ngātahi o Whakarewarewa, te māngai mō Ngāti Whakauē me Tūhourangi Ngāti Wāhiao.

Kore rawa he whakatikatika ki te Whakaetanga Kaitiaki mō te wewete i te takiruatanga e taea, kia whiwhi rā anō i te whakataunga a ngā kaitiaki e kotahi ana te whakaaro, kia tū rā anō he hui whānui o ngā uri whai pānga ki te whakaae i te whakataunga a ngā kaitiaki, ā, kia oti rā anō te whakamana a te nuinga o Ngāti Whakauē me Tūhourangi Ngāti Wāhiao hoki, i tētahi whakataunga whakaae i taua hui.

Ki a mātou nei, e hara te whakamahi hanganga ture i te mea tika mō te hoatu wāhi kia noho wehe ai he māngai e pā ana ki te pire nā te mea, ko te whakataunga o Tūhourangi Ngāti Wāhiao kia whakatūria he rangatōpū tōtahi o te Kaitiaki-Ngātahi, arā, Te Pūmautanga, nā ngā tāngata o te iwi tonu tērā i whakatakoto i roto i te hātepe rapu mana kōkiri.

## Ngā tika a pā ana ki te pōti

I whakaaratia ake e ētahi kaiwhakatakoto tāpaetanga te take e pā ana ki te āhei ki te pōti. Kei ngā paearu i te Whakaetanga Tuku ngā whakamārama mō ngā tāngata āhei o Ngāti

Whakauē, o Tūhourangi Ngāti Wāhiao hoki. E ai ki aua paearu, me matua rēhita ngā tāngata āhei o Tūhourangi Ngāti Wāhiao ki runga i te rēhita mō ngā uri whai pānga o te Kaitiaki o Te Pūmautanga. Ki te whakaaro o ētahi kaiwhakatakoto tāpaetanga, he pēhi tēnei i ngā tāngata o Ngāti Wāhiao.

Ki tō mātou mōhio, nā ngā iwi e rua ngā paearu nei i whakatakoto i te wā whakahiato i te Whakaaetanga Tuku, ā, i pai ki ngā rōpū katoa i te hainatanga o te Whakaaetanga i te 5 o Here-turi-kōkā 2008. Ki a mātou anō, kīhai ngā tāngata o te iwi i te aukatia e te momo uri whai pānga e whakamahia ana e ngā kohinga e rua.

Ko te kerēme a ētahi o Ngāti Wāhiao, kāore rātou i whakaae ki te hātepe whakaūnga mō te Whakaaetanga Tuku me te Kaitiaki-Ngātahi hoki. I tāpaea te Whakaaetanga Tuku ki a Tūhourangi Ngāti Wāhiao mā tētahi tikanga pōhi pōtītanga puka o ngā tāngata kua rēhita ki te rangatōpū o Te Pūmautanga o Tūhourangi Ngāti Wāhiao, ā, mā te pōti ā-puka hoki i tētahi hui i te marae o Te Pākira i te 27 o Hōngongoi 2008. I te tuwhera hoki te hui nei ki ngā tāngata katoa o te iwi mehemea kua rēhita ki Te Pūmautanga, kore rawa rānei.

He huhua ngā kaiwhakatakoto tāpaetanga i kōrero mai ki a mātou me te kī, nā te mea he tāngata kore rēhita rātou ki te rangatōpū o Te Pūmautanga o Tūhourangi Ngāti Wāhiao, kīhai rātou i kaha ki te uru atu ki te pōhi pōtītanga puka, ā, kīhai hoki i kaha ki te haere ki te hui pōti. Ka tohe ētahi, kīhai te whakaaetanga i whakaūngia tikangia nā te kore whiwhi hua tōtika i te pōhitanga pōti me te hui pōti. Nā tērā, heke tonu atu te whakapono o te tokomaha o Ngāti Wāhiao ki te hātepe whakatau mana whenua kua oti rā te whakatakoto i roto i te whakaaetanga.

Ka arongia e mātou te hiahia o te Karauna ki te kōkiri i te taha “kohinga tāngata rahi” engari, me tō mātou mārama anō hoki pēnā ka whāia tēnei hiahia kōkiri i te taha kaikerēme ki te taumata o te iwi, ka toko pea te whakaaro ki ngā hapū me ngā kohinga kaikerēme ririki, mēnā i whakataungia paingia ā rātou kerēme. submitters raised the issue of eligibility to vote. Criteria recorded in the Vesting Deed define an eligible member of Ngāti Whakauē and an eligible member of Tūhourangi Ngāti Wāhiao. The criteria specify that eligible members of Tūhourangi Ngāti Wāhiao must be registered on the Te Pūmautanga trustees’ beneficiaries register. Some submitters felt that this disadvantaged members of Ngāti Wāhiao.

Kei te mārama mātou i whakamahia he hātepe whakangāwari i te tau 2009 ki te rapu āhurutanga mō te kaha o Ngāti Wāhiao ki te uru atu ki te whakaritenga kua whakatūria hei whiwhi mai i ngā whenua o te Riu o Whakarewarewa (arā, te Kaitiaki-Ngātahi o Whakarewarewa), ā, ka whiwhi māngai tika hoki a Ngāti Wāhiao i roto i te Huarahi Whakatau Āheinga Whai Pānga, whai muri i te whakamanatanga o te Pire.

Ki tō mātou mōhio, kua matapakia ngā taipitopito o tētahi hātepe e ngā kaitiaki o Tūhourangi Ngāti Wāhiao o runga i te kaitiaki-ngātahi me ngā tāngata hoki o Ngāti Wāhiao, i roto i te hātepe whakangāwari e mahi ana, ki te pōti kia tokowhā ngā māngai, e kotahi mō ia hapū e toru o Ngāti Wāhiao me te iwi hoki o Tūhourangi, ā, mā rātou hoki ngā āheinga mana whenua e matapaki i raro i te Huarahi Whakatau Āheinga Whai Pānga ki te taha o Ngāti Whakauē. Ki tō mātou mōhio anō hoki, mā te iwi o Tūhourangi me Ngāti Wāhiao ngā taipitopito o te hātepe pōti e whakatau ki tētahi hui-a-iwi.

Ka aro mātou, he take tēnei hātepe mō waenganui i ngā hapū e toru o Ngāti Wāhiao me te iwi o Tūhourangi hoki, ā, kāore he whakahoutanga ki te pire, ki te Whakaaetanga Tuku, ki te Whakaaetanga Kaitiaki rānei e hiahiatia. Ki a mātou nei, mā te hātepe ngā kohinga katoa e whakapono ai ki te Huarahi Whakatau Āheinga Whai Pānga.

## **Tāpiritanga**

### **Huarahi komiti**

I tonoa te Pire Tuku i a Whakarewarewa me Roto-a-Tamaheke ki te Komiti Whiriwhiri Take Māori o te Pāremata e 48 i te 23 o Mahuru 2008. Ko te 5 o Hui-tanguru 2009 te rā i kati ai ngā tāpaetanga. I whakaaratia anōtia te pire i te Pāremata e 49 i te 9 o Hakihea 2008. I whiwhi, i whakaarohia hoki e mātou ngā tāpaetanga e 16 mai i ngā kohinga me te hunga takitahi whai pānga. I whakarongo hoki mātou ki ngā tāpaetanga e 14 i tētahi whakawātanga i tū ki Rotorua.

Nā Te Puni Kōkiri te whakamaherehere ki a mātou.

### **Ko ngā mema o te komiti, ko**

Hōnore Tau Henare (Heamana)  
Kelvin Davis  
Hone Harawira  
Hōnore Parekura Horomia  
Hēkia Parata  
Paul Quinn  
Hōnore Mita Ririnui