

Departmental Disclosure Statement

New Zealand Māori Arts and Crafts Institute Vesting Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Te Puni Kōkiri.

Te Puni Kōkiri certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

Rahera Ohia
Deputy Chief Executive, Policy Partnerships
Te Puni Kōkiri

25 September 2018.

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Part One: General Policy Statement

The New Zealand Māori Arts and Crafts institute (the NZMACI) was established as a body corporate by section 4 of the New Zealand Māori Arts and Crafts Institute Act 1963. It operates under the brand name of Te Puia.

The NZMACI's functions include Māori culture and the practice and appreciation of Māori arts and crafts, training Māori in the practice of Māori arts and crafts, developing and maintaining areas in the Rotorua district and elsewhere as scenic or tourist attractions, and maintaining public interest in Māori culture and Māori arts and crafts.

The Crown granted leases to the NZMACI in respect of certain Crown land in the Rotorua district. The fee simple in that and other land has now been transferred under the Whakarewarewa and Roto-a-Tamaheke Vesting Act 2009 to the trustees of a joint trust established by Ngāti Whakaue and Tūhourangi Ngāti Wāhiao. That Act vested the fee simple estate in the Whakarewarewa Valley Land and the Roto-a-Tamaheke Reserve in the Whakarewarewa Joint Trust and requires the trustees of that Trust to grant registerable leases to the NZMACI in respect of the Whakarewarewa Valley Land.

The Crown entered into an agreement dated 7 August 2017 with the respective trustees of the Whakarewarewa Joint Trust, the Wāhiao Tūhourangi o Whakarewarewa Trust, the HTK Te Puia Trust, the Pukeroa Oruawhata Trust, the Te Puia NZMACI Limited Partnership (the Partnership), and the NZMACI. The agreement provides for the introduction of vesting legislation to transfer the NZMACI assets and liabilities to the Partnership. All ownership interests in the Partnership are held, directly or indirectly, by Wāhiao Tūhourangi o Whakarewarewa, the Pukeroa Oruawhata Trust and by the 3 Ngāti Whakaue hapū of Ngāti Hurungaterangi, Ngāti Taeotu, and Ngāti Kahu o Ngāti Whakaue.

The agreement provides that the purpose of the vesting is to recognise the long relationship of Wāhiao Tūhourangi and the Ngāti Whakaue parties with the NZMACI and the underlying land on which it is located, and to further enhance the Crown's relationship with Wāhiao Tūhourangi o Whakarewarewa and the Ngāti Whakaue parties. The transfer is not consideration for the settlement of any claim against the Crown and is without payment or consideration to the Crown.

The agreement also provides that the vesting legislation require the Partnership to continue to undertake a set of functions broadly in line with the NZMACI's current functions in regard to Maori arts and crafts, and to report annually on its performance of these functions. It stipulates that after the vesting of the assets and liabilities of the NZMACI in the Partnership, the specified NZMACI taonga are to be inalienable. A restraint is imposed on the Partnership against entering into major transactions (above a threshold of 30% of the value of the assets of the Partnership), unless the board of directors of the general partner of the Partnership, by unanimous resolution, approves the transaction before it is entered into. The Bill also makes provision for the Crown to appoint 1 member of the board of the general partner of the Partnership; that appointee must chair the board. That statutory provision is to apply for at least 6 years from the date of the vesting.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

No steps have been taken.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

This Bill gives effect to a proposal from representatives of Ngāti Whakaue and Tūhourangi Ngāti Wāhiao proposed to Ministers that the Whakarewarewa Thermal Valley Lands be removed from the Te Pūmautanga o Te Arawa Treaty Settlement legislation and, together with the other lands leased by the New Zealand Māori Arts and Crafts Institute (MACI), be vested in a joint trust of the iwi partners; and, that the MACI business (trading as Te Puia) be acquired from the Crown. The Bill was developed in consultation with and in agreement with the iwi.

The Bill is consistent with Treaty principles.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at:

<http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>Consultation has taken place with the Crown entered into an agreement with the trustees of the Whakarewarewa Joint Trust, the Wāhiao Tūhourangi o Whakarewarewa Trust, the HTK Te Puia Trust, the Pukeroa Oruawhata Trust, and the Te Puia NZMACI Limited Partnership (the Partnership) and the NZMACI and their professional advisors.</p> <p>The trustees and Board members support the introduction of the Bill to Parliament.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>This Bill gives effect to an agreement reached between the Crown and the Crown entered into an agreement with the trustees of the Whakarewarewa Joint Trust, the Wāhiao Tūhourangi o Whakarewarewa Trust, the HTK Te Puia Trust, the Pukeroa Oruawhata Trust, and the Te Puia NZMACI Limited Partnership (the Partnership) and the NZMACI.</p> <p>The proposal to vest the assets and liabilities of NZMACI in the Partnership was the subject of a postal ballot held in June/July 2017 with those people who affiliate to and are registered with Wāhiao Tūhourangi o Whakarewarewa, the three hapu of Ngati Hurungaterangi, Ngati Taeotu, Ngati Kahu, and the Pukeroa Oruawhata Trust being eligible to vote.</p> <p>The high levels of participation and support for the proposed vesting indicate an overwhelming majority of beneficiaries support for the vesting.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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