

Departmental Disclosure Statement

Māori Purposes Bill

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.

20 October 2021

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Part One: General Policy Statement

A Māori Purposes Bill is an omnibus Bill that enables minor, technical, and non-controversial amendments to be made to Māori Development legislation. A Māori Purposes Bill may also deal with authorisations, transfers, and validations in respect of Māori land and property.

The proposed amendments in this Māori Purposes Bill, individually and collectively, are intended to contribute to Māori well-being and development by providing Māori entities with greater autonomy and decision making, addressing previous technical issues within legislation, and reducing administrative compliance.

First, the Bill proposes amendments to Te Ture Whenua Maori Act 1993 to ensure the Ruapuha Uekaha Hapū Trust can continue to exist and exercise powers, rights, and duties in a manner consistent with the 1990 settlement of the Wai 51 claim in relation to the Waitomo Caves. It also addresses technical and non-controversial matters in Te Ture Whenua Maori Act 1993 that were identified for revision, but not included in Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020. These matters include the extension of notification periods, provision for the use of electronic communications, and a linguistic amendment to the preamble.

Second, it proposes amendments to the Maori Purposes Act 1959 to give the Lake Rotoaira Trust more autonomy and flexibility in managing Lake Rotoaira and its trout fishery. These amendments:

- remove a requirement to hold a trout licence to fish for fish other than trout:
- clarify that a right of entry to the Lake without an entry permit does not authorise fishing:
- include the Trustees of Motuopuhi Māori Reservation and their invitees in the list of people allowed access to the Lake without an entry permit:
- increase outdated low penalties for offences from \$100 to \$5,000:
- include a warranted officer under the Conservation Act 1987 in the definition of a stipendiary ranger:
- enable the Lake Rotoaira Trustees to recommend all fishing conditions for an Anglers Notice to the Minister of Conservation, not just open and closed seasons:
- add a specified area to the definition of adjoining waters forming part of the Lake to enable the Trustees to manage trout spawning areas:
- revoke provisions that tie the daily bag and size limits for Lake Rotoaira to those set for the Lake Taupō fishery:
- correct misspelling of the name Wairehu Canal in the Maori Purposes Act 1959.

Third, the Bill proposes technical and non-contentious amendments to the Maori Trust Boards Act 1955 to:

- provide for electronic voting; and
- remove the Māori Trust Boards from the Cabinet Fees Framework; and
- provide for resignations of members of Boards to be made in writing to the Board, and for the Board to then notify the Minister for Māori Development (rather than the member resign in writing to the Minister); and

- remove the Taranaki Māori Trust Board annuity payment provision from the Act, consequent upon the Crown buyout of the annuity.

Finally, an amendment is proposed to the Maori Community Development Act 1962 to require District Māori Councils to provide a copy of their audited financial statements directly to the New Zealand Māori Council rather than to the chief executive of the Ministry of Māori Development.

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?

As a Māori Purposes Bill, the Bill makes technical, minor, or non-controversial amendments to Māori Development legislation. The primary legislation being amended is Te Ture Whenua Maori Act 1993, the Maori Community Development Act 1962, the Maori Purposes Act 1959 and the Maori Trust Boards Act 1955.

We have checked that none of the legislation being amended implements a treaty or requires Ministers or officials "to have regard to," "take into account," or act in a way "consistent with" international obligations. We have considered Appendix 3 of the Legislation Advisory Committee Guidelines on Process and Content and Process of Legislation (2001 edition) and are satisfied that none of the legislation being amended gives effect to international obligations.

The policy to be given effect to is consistent with New Zealand's international obligations, including the United Nations Declaration on the Rights of Indigenous People (UNDRIP). Consistent with UNDRIP, Māori have participated in decisions that affect them and there has been good faith consultation. Te Puni Kōkiri has consulted with the Māori entities affected by the policy. This has included discussions with Māori Trust Boards and consultation with the Ruapuha Uekaha Hapū Trust and the Lake Rotoaira Trust.

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?

As a Māori Purposes Bill, the Bill makes technical, minor or non-controversial amendments to Māori Development legislation.

The proposed amendments are intended to contribute to Māori wellbeing and development by providing Māori entities with greater autonomy and decision making, by addressing technical issues within legislation, and reducing administrative compliance. These policy aims are consistent with the principles of the Treaty of Waitangi.

The policy has been developed consistent with Treaty principles of partnership, participation, protection and rangatiratanga. Te Puni Kōkiri has consulted the Māori entities affected by the policy given effect to in the Bill (the details of this consultation are outlined in the answer to question 3.6).

The Lake Rotoaira Trust, Ruapuha Uekaha Hapū Trust and seven of the eight continuing Māori Trust Boards have confirmed their support of the policy that affects them. A response from the remaining Māori Trust Board is awaited.

The proposed amendments to the Maori Purposes Act 1959 would give the Lake Rotoaira Trust more autonomy and flexibility. The Trustees were consulted on the proposed amendments before policy approvals were sought for the Bill.

The policy decision to remove Māori Trust Boards from the Cabinet Fees Framework is supported by seven of the eight continuing Māori Trust Boards. A response from the remaining Māori Trust Board is awaited.

The amendments to the Maori Trust Boards Act and Regulations to allow for electronic voting are supported by Māori Trust Boards. The policy to allow for electronic voting was developed in response to a request from the Tūwharetoa Māori Trust Board for the Minister for Māori Development to consider enabling electronic voting.

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
<p>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's 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/</p>	

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)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	YES
<p>(a) Clause 17 amends section 11 of the Maori Purposes Act 1959 to increase the maximum fine for an offence against Part 1 of the Principal Act from \$100 to \$5,000.</p> <p>Clause 19(2) amends section 15(2)(h) of the Maori Purposes Act 1959 to increase the maximum fine for an offence against regulations made under the Principal Act from \$100 to \$5,000.</p> <p>Clause 20 amends regulations made under the Maori Purposes Act 1959 to increase the maximum fine for offences against the regulations from \$100 to \$5,000.</p> <p>(b) Clause 8 amends section 231 of Te Ture Whenua Maori Act 1993 to provide that the power in subsection (3)(c) to terminate a trust does not apply in respect of the Ruapuha Uekaha Hapū Trust.</p> <p>Clause 9 amends section 241 of Te Ture Whenua Maori Act 1993 to provide that the power in this section to terminate a trust does not apply in respect of the Ruapuha Uekaha Hapū Trust.</p> <p>Clause 11 amends section 351 of Te Ture Whenua Maori Act 1993 to provide that the power in subsection (2) to terminate a trust does not apply in respect of the Ruapuha Uekaha Hapū Trust.</p>	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
<p>A copy of the draft Bill and the Cabinet policy paper were sent to the Ministry of Justice on 24 August 2021, with a brief description of the amendments set out in section 3.4 above. The Ministry responded on 2 September 2021, advising that they are happy with the amendments to Te Ture Whenua Maori Act 1993 and on 14 September that they are happy with the amendments to the Maori Purposes Act 1959.</p>	

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?	YES
<p>Clause 31 amends the Maori Trust Boards Regulations 1985 as set out in Schedule 4 of the Bill.</p> <p>Appendix One of this disclosure statement lists the amendments that create, amend, or remove provisions relating to collection, access to, use and storage of personal information.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
<p>Comments on the draft Bill were sought from the Office of the Privacy Commissioner, particularly on clauses 26 to 30 which amend the Māori Trust Boards Act 1955 to provide for electronic voting by Māori Trust Board beneficiaries, and clause 31 which amends the Māori Trust Boards Regulations 1985 for consistency with the amendments made by clauses 26 to 30.</p> <p>The Office of the Privacy Commissioner had no concerns about the proposed amendments but did suggest that proposed new regulations 8B and 12 might specify what voting information and documents should be secured from. These proposed regulations were subsequently amended to specify that voting documents are to be kept secure “to prevent loss or unauthorised access.”</p>	

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>The amendments to Te Ture Whenua Maori 1993 Act relating to the Ruapuha Uekaha Hapū Trust were negotiated with the Trust. The Trust was provided with a copy of Part 1 of the draft Bill on 17 August 2021 and responded on 26 August 2021 that they support clauses 5, 8, 9 and 11 which relate to their Trust.</p> <p>The Lake Rotoaira Trust was provided with a copy of the amendments to the Maori Purposes Act 1959 on 17 August 2021 and advised in writing of an additional amendment on 20 September 2021. The Trust responded on 20 September 2021 agreeing with the initial amendments, and on 28 September 2021 agreeing with the additional Amendment.</p> <p>The Taranaki Māori Trust Board was advised in writing on 9 August 2021 that the Bill includes the repeal of section 9(2) of the Maori Trust Boards Act 1955 to terminate the Crown's annuity payment to the Board. The Trust Board agreed to this termination in their Deed of Settlement (of 4 September 2019) with the Crown, under which the Crown bought out the annuity payment.</p> <p>All Māori Trust Boards were advised in writing on 9 August 2021 of the amendments to the Maori Trust Boards Act 1955 and related Regulations. The Taranaki and Maniapoto Maori Trust Boards are being dissolved as part of their settlements of historical Treaty of Waitangi claims and have not provided responses on the amendments. Aorangi, Hauraki, and Tūwharetoa Māori Trust Boards and Te Rūnanga o Ngāti Whātua responded between 2-8 September 2021 agreeing to the amendments. Whakatōhea, Tauranga Moana, and Wairoa-Waikaremoana have since agreed to the amendments. A reply from Taitokerau Māori Trust Board is awaited. Any issues raised by Taitokerau Māori Trust Board can be addressed through the select committee stage.</p> <p>The New Zealand Māori Council was advised in writing on 20 August 2021 of the amendments to the Maori Community Development Act 1962 and responded on 2 September 2021 supporting the amendments.</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?	NO
<p>The policy details have been consulted on with relevant agencies and third parties (as set out in answers above) to determine their workability. No further testing was considered necessary given the straightforward, minor, technical and non-controversial nature of the proposed amendments.</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?	YES
<p>Clause 19(1) amends section 15(2)(e) of the Maori Purposes Act 1959. This section gives the Trustees of Lake Rotoaira a power to make delegated legislation by setting daily limits and size, type, and number limits for fish caught in Lake Rotoaira. It is appropriate for the Trustees to have this power, having regard to the nature of the power. The lake is privately owned and the Trustees of Lake Rotoaira Trust, an ahu whenua trust under Te Ture Whenua Maori Act 1993, administer the lake on behalf of the beneficial owners.</p> <p>Currently the power in section 15(2)(e) is restricted; the Trustees may not set number and size limits at levels that exceed those set by regulations made for the Taupō Trout Fishing District. It is appropriate that this restriction is removed because Lake Rotoaira is privately owned and administered, and the Lake Rotoaira fishery is now physically separate from the wider Taupō fishery.</p> <p>Clause 20 of the Bill amends the provisions in the Rotoaira Trout Fishing Regulations under which the Trustees issue bag and size limit notices.</p> <p>As bag and size limit notices made under the Rotoaira Trout Fishing Regulations will be secondary legislation, the safeguard of publication by PCO will apply to the power.</p> <p>The Māori Land Court has powers under Te Ture Whenua Maori Act 1993 over ahu whenua trusts that can act as a safeguard against misuse of the power. Trustees and beneficiaries may apply under section 223 for the Court to review the operation of an ahu whenua trust. The Court also has a power under section 240 to remove a trustee if it is desirable for the proper execution of the trust and the trustee is no longer suitable to hold office because of the trustee's conduct.</p> <p>Clause 19(2) amends section 15(2)(h) of the Maori Purposes Act 1959 to increase the maximum fine for an offence against regulations made under the principal Act from \$100 to \$5,000.</p>	

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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Appendix One: Further Information Relating to Part Three

Privacy issues – question 3.5

Clauses 26 to 30 of the Māori Purposes Bill make amendments to the Maori Trust Boards Act 1955 to provide for electronic voting by Māori Trust Board beneficiaries in addition to postal ballots. Clause 31 amends the Maori Trust Boards Regulations 1985 as set in Schedule 4 for consistency with the amendments made by clauses 26 to 30.

The following provisions in Schedule 4 create, amend or revoke provisions relating to personal information:

New regulation 8B

This proposed new regulation creates a provision that relates to the personal information contained in ballot papers. Regulation 8B sets out the conditions for the use of electronic votes in a Māori Trust Board election. Information that is retained must be retained in a way that “is secure to prevent loss or unauthorised access.”

Regulation 10 Voter to make declaration

The current regulation 10 requires a beneficiary who casts a vote to sign a voter declaration form in the form set out in Schedule 9. This involves the collection of personal information from a beneficiary – name, age and residence.

The Māori Purposes Bill replaces regulation 10 and revokes schedule 9.

The new regulation 10 requires every beneficiary who casts a vote to inform the Returning Officer of their usual place of residence and their age.

Regulation 12 Custody of returned ballot papers

The current regulation 12 requires that the Returning Officer keep returned ballot papers in a locked box.

The proposed new regulation requires the Returning Officer to keep the ballot papers “in a secure manner to prevent loss or unauthorised access.”

The Office of the Privacy Commissioner was consulted on the above provisions. The Office had no concerns with the initial draft provisions but suggested that proposed regulations 8B and 12 might specify what voting information and documents should be secured from. These provisions were revised to specify that voting information and documents must be kept secure “to prevent loss or unauthorised access”.