

Komiti Māori

Ngā Meneti Open Minutes

Commencing: Tuesday 3 December 2024, 9:30 AM

Venue: Council Chambers, Regional House, 1 Elizabeth Street,
Tauranga and via Zoom (Audio Visual Meeting)

**Heamana
Chairperson:** Cr Matemoana McDonald

**Ngā Kopounga
Members:** Cr Malcolm Campbell (Via Zoom)
Cr Kat Macmillan
Cr Jane Nees
Cr Ron Scott
Cr Ken Shirley
Cr Paula Thompson (Via Zoom)
Cr Lyall Thurston (Via Zoom)
Cr Andrew von Dadelszen (Via Zoom)
Cr Kevin Winters (Via Zoom)

In Attendance: Kataraina O'Brien - General Manager Strategic Engagement,
Namouta Poutasi - General Manager Strategy & Science,
Reuben Fraser - General Manager Regulatory Services,
Herewini Simpson, Anaru Vercoe, Merehine Waiari, Reuben
Gardiner, Hana Ngatoro - Summer Assistance (Te Amorangi),
Laura Boucher - Communications Team Leader, Shari
Kameta - Committee Advisor

Presenters: as listed in the minutes

**Ngā Hōnea
Apologies:** Cr Stuart Crosby
Cr Toi Kai Rākau Iti
Chairman Doug Leeder
Cr Te Taru White

1. Opening Prayer Karakia Whakatuwhera

A karakia was provided by Te Pio Kawe.

Chairperson's Opening Statement

The Chair advised those present that the meeting was being livestreamed and recorded and that the recording would be made available on the BOPRC YouTube channel following the meeting. Refer following link: [Komiti Maori - 3 December 2024](#)

2. Apologies Ngā Hōnea

Resolved

That the Komiti Māori:

- 1 Accepts the apologies from: Cr Stuart Crosby, Cr Toi Kai Rākau Iti, Chairman Doug Leeder and Cr Te Taru White tendered at the meeting.**

**Macmillan/Scott
CARRIED**

3. Order of Business Raupapa o Ngā Take

The Chair sought the following change to the order of business to accommodate the early departure and arrival of reporting officers and presenters:

- Item 9.1, Chairperson's report
- Items 8.1 and 8.2 - Presentations
- Item 7.1 - Komiti Māori minutes 27 August

The meeting was advised that Item 10.1 was withdrawn due to the absence of the Deputy Chair.

4. Declaration of Conflicts of Interest Whakapuakanga o Ngā Take Whai Taha-Rua

None declared.

5. Reports Ngā Pūrongo

5.1 Chairperson's Report

The report was taken as read. A verbal update was provided by Council's Legal Counsel Rachel Boyte to the Supreme Court (SC) judgement (relating to section 5.2 of the report) that had been released on 2 December 2024.

Key Points:

- The SC had granted the appeal of the Attorney General (AG) in relation to the tests for Customary Marine Title (CMT) under s58 of the Marine and Coastal Area (Takutai Moana) Act 2011
- Seven appeals on different matters were still before the SC. A further decision would be issued in due course relating to navigable rivers; specific findings for who should hold CMT around Whakaari (White Island) and Te

Paepae o Aotea (Volkner Rocks); and Te Upokorehe's appeals regarding shared CMT, etc

- The key issue raised by the AG was that the Court of Appeal's (CA) approach had been too narrow, i.e. that use and occupation were met at 1840, but that it didn't need to establish continuation after this or to the present day, given the Crown's exercise of kāwanatanga had essentially deprived them of the ability to assert any control
- The SC's judgement stated the requirement to:
 - demonstrate continuity, while taking into account the effect of colonisation and historical and current realities
 - make extensive use of the space (in light of its nature and resources), along with an intention and some capacity to exercise control over it, to the extent permitted by law, on a continued basis
 - referred to factors, i.e. ownership of adjacent land; exercise of customary non-commercial fishing rights; observance of tikanga associated with wāhi tapu, such as the imposition of rāhui; maintenance of deep cultural and spiritual connection with the area; and involvement in resource management concerning the takutai moana
- SC judgment seemed clearer and more aligned with statutory language and with what had been considered in cases prior to the CA decision
- In relation to 'substantial interruption', the SC:
 - maintained that it was for those seeking to establish the interruption to prove it (e.g. councils, fishing industry)
 - referred to a concept of crowding out exclusive use and occupation as interruption, e.g.: *"intensive use of the area by commercial shipping or occupation of an area by major port infrastructure, involving not just reclamation and structures at scale but also associated intensification of activity in the immediate vicinity, may well amount to substantial interruption if it is of sufficient duration"*
- Implications of the SC judgment:
 - Guidance of the judgement would be considered in Re Edwards and other applications that were subject to appeal, e.g. Ngāti Pahauwera (Hawke's Bay)
 - Would not apply to Re Reeder Stage 1 - Rangataua Bay, which was still awaiting final orders
- Implications for the Marine and Coastal Area (Takutai Moana) (CMT) Amendment Bill currently before Parliament:
 - Was seeking to amend the tests for CMT and would make it harder to obtain than that provided for under the SC's interpretation
 - If the Bill progressed and succeeded in its current form, the Bill would apply to all applications that had already been heard, but not yet decided on, including Re Reeder Stage 2 - Tauranga Moana.

In Response to Questions:

- Whichever decision succeeded (i.e. SC judgement or Amendment Bill) would have full weight on all applications that were not yet decided
- This included Mōtiti Island protection areas that had been classified as wāhi tapu, which would need to be reheard under the new tests
- Submissions to the Amendment Bill had closed. The Select Committee hearing would proceed, followed by the issuing of its report. The House would then make a decision on whether the Bill would proceed
- Was unaware of any previous times where a Government had put forward a Bill to legislate over a court process.

Resolved

That the Komiti Māori:**1 Receives the report, Chairperson's Report.****Macmillan/Nees
CARRIED****6. Presentations
Whakaaturanga****6.1 SmartGrowth Delivery Approach of Māori Housing across the
Western Bay of Plenty sub-region**

Presentation - Tangata Whenua Māori Engagement in SmartGrowth Strategy 2024-2074 for Māori Housing in WBOP subregion: Objective ID A4833809 [⇒](#)

Presented by: Te Pio Kawe - Tū Pakari - Pou Ārahi (Strategic Advisor) and Elisha Rolleston - Tū Pakari - Pou Ārahi (Technical Advisor), SmartGrowth Tangata Whenua Collective Forum (TWCF)

Key Points:

- Tangata whenua engagement had been incorporated into the SmartGrowth Strategy 2024-2074 (SGS) over 18 months since its launch in 2022
- Three iwi forums and a series of workshops had been held across the Western Bay of Plenty (WBOP) endorsing the SGS
- Discussed the SGS vision, transformational shifts, spatial plan, future development and delivery approach
- Implementation and Funding Plan (IFP) would involve three yearly reviews
- Marae centres and Māori land development to contribute towards housing
- Outlined IFP key action summary to empower transformational shifts while delivering on cultural responsibilities and inter-generational housing
- A Joint Agency Group (JAG) would oversee delivery and look to work with Waiariki and Waikato-Maniapoto Maori Land Court districts
- The return of whenua from Te Tumu Paeroa Trustee was another potential opportunity
- Māori housing delivery would require an accumulated approach for multi-year funding from crown agencies to support ongoing work and engagement with respective council partners and forums
- Key priorities/feedback from the Collective Tangata Whenua Forum (CTWF) meeting held at Ngāti Moko Marae in September highlighted the need to resource capability building and to establish the JAG
- The next CTWF hui would be hosted by Ngāti Pūkenga at Te Whiti o Te Rangi Marae on 11 December 2024
- Acknowledged Vaughan Payne, in attendance at the meeting, who was the first SGS Kai Arataki in 2002 prior to the launch.

In Response to Questions:

- Tauranga City Council's (TCC) Plan (Plan Change 96) had fit for purpose provisions, alongside a consent training programme to address infrastructure and planning regulation limitations and streamline the approach

- Key issues nationally were: the need to review Te Puni Kōkiri's papakainga provisions to address infrastructure design and build barriers/issues, and gaining access to appropriate funding levels
- Cultural impact assessments (CIA) were implicit in consent applications
- Regarding regional deals opportunities, CTWF had worked with Priority One (i.e. economic analysis), were supported by the Council partners, but were awaiting response from Department of Internal Affairs (DIA)
- Any support to assist with those ready to seek funding would be appreciated
- 'Te Keteparaha Mō Ngā Papakāinga' Māori Housing Toolkit still included the five stages for all papakainga development. It had been reviewed twice and was still current in terms of its provisions
- The spatial plan was set at a corridor/catchment level, to be of more benefit, and was still evolving
- Regarding climate resilience planning and considerations to marae relocation/retreat, marae were working cautiously on options
- In view of a local unitary approach, this was a wider conversation beyond the current brief however, considered that streamlining administrative and development processes would greatly assist with housing development issues.

Key Points - Members:

- Congratulated the Tū Pakari team for their exceptional work
- Expressed frustration at the time it had taken for the SGS to make progress
- Highlighted the importance of supporting tangata whenua on issues, having more fluid consent processes between partner councils and better effort
- Queried whether the Tū Pakari team needed Regional Council support in resilience planning and supported the continuation of conversations regarding papakainga development.

6.2 Local Water Done Well Update

Presentation - Local Water Done Well: Objective ID A4833824 [↗](#)

Presented by: Vaughan Payne - Advisor, Waikato Water Services Entity

Key Points:

- The Government's expectation of the Local Water Done Well reform was to support local ownership of water challenges, encourage councils to work together to find solutions and ensure bottom lines were met at a national level
- Minister Brown's statement in November 2024 sought councils to advance greater regional collaboration/models to secure regional deals
- Territorial authorities were required to submit their water services delivery plans to the Department of Internal Affairs (DIA) by 3 September 2025
- Bay of Plenty assets were in relatively good condition, but councils were coming under increasing pressure due to affordability of further investment and uncertainty of long term revenue to deliver capital works
- Likely future - Water Council Controlled Organisations (CCOs) had greater borrowing capacity over in-house borrowing and investment capacity
- Bay of Plenty (BOP) councils via the Mayoral Forum had agreed on what was trying to be achieved
- Outlined the benefits of change and having a shared strategic intent

- Considered the best outcomes would be via a catchment approach and that initial focus should be on gaining social agreement from communities
- Common challenges for BOP councils were affordability, resource (people) constraints and delivering capital works. However, they all had a common vision and were working together to understand how it could be achieved
- Improving water outcomes was a leadership challenge and opportunity.

In Response to Questions:

- While cross-subsidisation was a concern for local authorities and communities, not everything had to be done overnight. It was more about starting the journey and taking the community with them
- Regional deals/collaboration/CCOs would be a consideration for lenders
- Considered that the Bay of Plenty Regional Council had a leadership role to assist with strategic thinking in relation to a regulatory framework and return on investment outcomes
- The private sector could be a part of the strategic solution in terms of investment in relation to point source discharges
- The complexity and scale of issues that local communities were facing were increasingly becoming global issues that needed a strategic unified approach at both the central and local government levels.

Key Points - Members:

- Acknowledged Vaughan for his presentation and insights.

11:25 am - The meeting **adjourned**.

11:48 am - the meeting **reconvened**.

7. Minutes Ngā Meneti

Minutes to be Confirmed Kia Whakaūngia Ngā Meneti

7.1 Komiti Māori Minutes - 27 August 2024

Resolved

That the Komiti Māori:

- 1 Confirms the Komiti Māori Minutes - 27 August 2024 as a true and correct record.**

**Scott/Macmillan
CARRIED**

8. Verbal Updates Whakahoutanga Kōrero

8.1 Deputy Chairperson Verbal Update - Indigenous Connection

The item was withdrawn.

9. Closing Prayer Karakia Kati

A karakia was provided by Herewini Simpson.

11:52 am - the meeting closed.

CONFIRMED

Cr Matemoana McDonald
Chairperson, Komiti Māori