

RRSS Whenua Māori Project

Minutes of the hui ā hapū

Saturday 10 October 2020

10am

Te Kura Kaupapa Māori o Te Rotoiti

Present:

Te Kaiawhiti Tahana, Rangi Black, Wenarata Paul, Hurlina Kappely-Baker, Pini Tahana, Billy Kingi, Nelson Meha, Mark Taurapa, Shaun Ngatai, Raina Meha, Ben Teinakore-Curtis, Te Raimona Fox, Maria Fox, Darba Whata, Annette Sykes, Neville King, Mary Stanton, Annette Rose Nahu, Michelle Nahu, Martin Kinder, Ivor Jones, Arapeta Tahana, Peter Dine, Patricia Waugh, Ben Manley, Gina Rangi, Sarah Pauli, Waitiahoaho Emery, Wairangi Whata, Sean Vercoe, John Koning.

Due to a technical failing there is no recording of the hui and therefore no minutes. The following summary is sourced from the presentations made at each of the three hui. The attendee questions and answers are sourced from RLC notes made at the hui.

Te whakatuwhera i te hui – Opening of the hui:

Arapeta Tahana: Extended a greeting to those gathered and opened the hui with a karakia. He then gave an overview of how the hui would progress:

Ngā whakahaere – Agenda:

1. Presentations
 2. Questions from the floor during and after presentations.
 3. Summary and way forward.
 4. Refreshments.
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Questions from the attendees focussed on:

- **Where will the onsite system sit on properties?**
This will be negotiated between the property dweller and RLC in an arranged onsite meeting and will consider factors such as space, access, potential construction issues, where the wastewater pipes come out of the dwelling.
- **What can marae reservation trustees agree to?**
 - Reservation trustees do not have a general power of alienation;
 - Any Maori freehold land subject to *Gazette* notice inalienable by way of easement or LGA power to construct works;
 - Under TTWMA network lease or licence could only be for a maximum term of 14 years and approved by MLC;
 - From 7 February 2021 a network lease or licence for more than 14 years can be granted for health purposes and papakāinga housing.
- **Can additional representation be added to the Iwi Wastewater Liaison Group as representation is based on iwi settlement entities? Landowner representation is required.**
The comments from the hui attendees were acknowledged. It was advised that this matter had been discussed at recent meetings of the group and that a review of representation on the Iwi Wastewater Liaison Group would be reviewed in 2021.
- **While the WWTP will come under transitional provisions for the NOF (National Objectives Framework for Freshwater), will it actually comply with the higher standards required in the NOF?**
 - The water in the water bodies must reach the NQF standards.

- The RLC must comply with the discharge and water standards as per the Resource Consent otherwise will be in breach of that consent. The wastewater treatment plant has one of the strictest discharge limits in Aotearoa NZ. This is evidenced in the plant performance table in Peter Dine's presentation.
- **Cost is prohibitive for homeowners earning less than \$20k (especially because finance is difficult to secure for Māori land owners).**
This is acknowledged by RLC who is working towards keeping the cost at a maximum of \$15,000 per property.

Presentation 1

Waitiahoaho Emery

Ngāti Pikiao Cultural Impacts Team

Agreement for the Cultural Management of the Rotoiti Rotomā Sewerage Scheme between Ngāti Pikiao koeke and Ngāti Pikiao Environmental Society, and Rotorua Lakes Council.

- **Whakapapa of the of the RRSS 2011 – 2020**

2011 - 2013	Environment Court
2014	Steering Committee
2016	Cultural Impact Assessments Cultural Management Agreement Cultural Impacts Team
2017 (July)	Resource Consent Hearing Cultural Management Agreement signed of
2017	Earthworks - Haumingi 9B3B Main pipeline works commence Matahī Rd
2019 (Aug)	Opening WWTP Main pipeline to Emery Store completed Rotomā properties connected WWTP in operation
2020	Tender process Rotoiti onsite treatment systems

- **Key recommendations in the Agreement:**

1. Appointment of Iwi Representatives to be embedded into the Project Team.
2. The establishment of the Iwi Wastewater Liaison Group.
3. Iwi protocols – as determined by iwi – to be included in all aspects of the Scheme throughout its full lifetime.

- **The need for an agreement due to:**

- Ngāti Pikiao iwi mana moana and mana whenua;
- Cultural sites of significance (over 100 sites);
- 7 marae and associated hapū and whenua.
- Location of the WWTP on Haumingi 9B3B behind Taurua Marae
- Ngā uarā – cultural principles: tapu and noa, taonga tuku iho, kaitiakitanga, wāhi tapu.

- **Ngāti Pikiao Cultural Impacts team – roles and responsibilities**

Cultural Impacts Assessments and authors x2 – Haumingi 9B3B and reticulation route
Cultural Impacts Manager
Technical Advisors (Engineers) x2
Cultural Facilitators x2
Archaeological & Site Cultural Monitor Haumingi 9B3B
Cultural Monitor reticulation network
PhD Project

- **Iwi Wastewater Liaison Group – role and responsibilities**

- **Purpose:**
Provide iwi with continued active & effective participation in the Scheme throughout its full life.

- **Members:**
Haumingi 9B3B Trust
Haumingi 9B3B Submitters
Ngāti Pikiao Iwi Trust
Ngāti Rongomai Iwi Trust
Ngāti Makino Iwi Authority
Ngāti Pikiao Environmental Society
Bay of Plenty Regional Council x2
Rotorua Lakes Council

Role of IWLG and RLC:

- Environmental and cultural monitoring associated with the Rotoiti Rotomā Sewerage Scheme
- Issues/developments in the operation and discharge of treated effluent to land & effects on waterways
- Monitoring & reporting on performance of Wastewater Treatment Plant and Land Disposal System

Role of BoPRC:

- Ensure effective engagement and consultation between RLC & the IWLG through regular reviews of Resource Consent conditions

- **RRSS Whenua Māori Project:**

Role of Ngāti Pikiao Cultural Impacts Team

- A voice for Ngāti Pikiao in the acknowledgement of & acting upon cultural expectations
- Initiation & set up of project
- Māori Land Court research & contact details
- Engagement phase
- Approval phase

Acknowledgements to the respective parties who contributed to the set-up of the project:

Annette Sykes & Co. Ltd – Annette Sykes, Jordan Bartlett, Kalei Ririnui
Rolleston Advisory Services – Shad Rolleston
MLC researchers – Anahera Teinakore-Curtis, Dixie Yates-Francis
RSM Consulting – Rawhiti Moses
MLC researchers – Terehia Wickliffe, Patricia Waugh

It is noted that the presenter erroneously omitted Annette Sykes & Co. Ltd Annette Sykes – Jordan Bartlett and Kalei Ririnui, also Rolleston Advisory services in the acknowledgements at the meeting.

- **He kupu tuku iho – Te Ariki Morehu (Environment Court, May 2012)**

“We cannot maintain our kaitiakitanga obligations and practices if others cannot respect and uphold our values. Our efforts to protect our taonga, and restore our taonga will be in vain.

...for tangata whenua to safeguard the integrity of our tūpuna, we are obligated to protect and preserve the areas our tūpuna have died protecting in the past”.

Presentation 2

Peter Dine

RLC Infrastructure Capital Programme Manager

Rotoiti Rotomā Sewerage Scheme – progress, technical aspects and the Whenua Māori project.

- **Scheme Outcomes:**

1. To protect and maintain Lake Water quality

2. To protect public health

- **Scheme Funding Partners**

- Bay of Plenty Regional Council
- Ministry for the Environment
- Ministry Of Health

- **Scheme overview**

- Lake Rotomā – STEP system on each property, Lake Rotoiti – pre-treatment system to be determined in the tender evaluation in January 2021.
- 47kms of sewer main reticulation Matahī Spit Rd to Tapuaekura on Curtis Rd.
- Approx. 700 on-site treatment systems
- 3 pumping stations
- 2 flushing systems
- 5 flow monitoring sites

- **Status of project:**

- Wastewater Treatment Plant was commissioned August 2019 and has operated successfully
- Reticulation of Rotomā area is complete and wastewater fully treated
- Reticulation of Rotoiti area is complete in Public Road
- On-site systems at Rotoiti currently out to tender
- Reticulation where it affects private land yet to be undertaken

- **Pipeline in private land:**

Approval is required from Māori landowners for piping to be laid to connect approximately 100 properties.

Approximately 106 blocks of land for which approval is required from the landowners to lay the pipes

- **Treatment Plant:**

- Treatment Plant is designed for Nutrient Removal
- Effluent discharges to land
- Final effluent UV treated prior to discharge
- Will operate remotely
- Consent requires significant monitoring including lake

- **Plant performance:**

- One Years operation now completed
- Performance averaged over 12 months
- Plant is not operating at capacity as Rotomā properties only are connected
- Plant is over-performing

Parameter	Consent Limit	Actual performance
Suspended Solids	5mg/l	1.2mg/l
E-coli	50 CFU/100ml	1 CFU/100ml
Nitrogen	7mg/l	6mg/l
Phosphorus	3mg/l	0.19mg/l

The role of Te Kooti Whenua Māori in supporting landowners

- Assistance available from Sean Vercoe and Phyllis Savage – MLC for the project.
- Māori Land Court advice has been sought by the Ngāti Pikiao Cultural Impacts Team and RLC; working alongside the project team.
- This is a complex project, MLC advice is required on the court requirements and processes due to the complexities.
- Multiple applications are likely, it was therefore important for MLC being involved early in the project.
- It is useful that advance notification of the project was made to MLC; that applications will eventually be made to the court.
- MLC will be able to determine the approach required and ensure an easy transition process.
- Te Ture Whenua Māori Act is the legislation under which the applications will be processed.
- The preamble of the Act recognizes that:
 - Whenua is a taonga tuku iho;
 - Retention, the importance of retentions, occupation, development and utilisation of whenua;
 - Mechanisms to assist what is required;
 - What MLC can also do outside of the project in general to build awareness, particularly around successions;
 - There are a large number of deceased owners, so succession is important, and will play an important part in the processes to follow.
 - By the time these applications land with the Court, the new Act will probably be in place.
 - The legislation changes are designed to make things easier in terms of occupation and utilisation of whenua.
 - Technology changes for the Māori Land Court administrative side will make things flow more easily.
 - Information will be rolling out about the key changes that are happening with the Māori Land Court. MLC support mechanisms for landowners – client education programmes, particularly successions, and trustee training – understanding the principles and duties of a trustee.
 - Application filing advice will be provided through the Māori Land Court process, not legal advice.
 - Māori Land Court process advice - understanding the court process, understanding trusts and assistance, and support for the holding of meetings of owner – presence, provide applications, information.
 - Sean can be a contact person at the Māori Land Court, if he can't help he will link owner(s) with somebody who can.
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- **Te Ture Whenua Māori Act 1993**
(Māori Land Act 1993)
Preamble:
 - Taonga tuku iho
 - Retention
 - Occupation, development & utilisation
- **Support MLC can provide:**
 - Filing applications in the Māori Land Court
 - Understanding the Court Process
 - Understanding Trusts
 - Assistance and Support when holding your meetings of owners

John Koning

Commerce Lane Chambers – Independent lawyer

Overview of the types of Māori land titles involved in the RRSS Whenua Māori Project and the options for approval for RLC to lay RRSS pipes on the respective whenua

Introduction

- General overview of RRSS legal issues

- Based on review of approximately 100 block files compiled by RLC
- Each block to be dealt with separately under applicable statutory regime
- Landowners entitled to independent legal advice

RRSS Whenua Maori Project

- RLC proposes to connect blocks to RRSS reticulated network along SH30
- Project involves approximately 100 separate blocks
- Blocks range in status, size, ownership, management and occupation
- Connection to RRSS reticulated network will involve:
 - Pipeline from SH30 to block boundary
 - Installation of pre-treatment system within block boundary
- **Legal issues:**
 - Landowners must grant authority to RLC to install and maintain utility network
 - Terms and conditions of that authority

Block structure

- **Categories of ownership:**
 - Sole owner
 - Joint tenants
 - Assembled owners
 - Responsible trustees
 - Committee of management
- **Use and occupation:**
 - Single dwellings
 - Multiple dwellings
 - Maori roadways
 - Maori reservations
 - Ahu whenua trusts and incorporations

Block status

- **Maori freehold land**
 - Status order under SS 131 and/or 135 TTWMA
 - Any vesting order subject to s 2(2)(e) MAA
- **General land**
 - Registration of declaration under MAAA
 - Determination under s 30(1)(h) MAA
 - Any transfer subject to s 2(2)(f) MAA
- **General land owned by Maori**
 - Under MAA owned by more than 4 persons with Maori majority
 - Under TTWMA owned by a Maori or group of persons with Maori majority
- **Block has status as at 1 July 1993 pursuant to s 129(3) TTWMA**

Network authority

- **Types of authority:**
 - Easement in gross:
 - Landowners grant RLC right to drain sewage
 - Includes right of entry for installation and repairs and maintenance
 - Power to construct works:
 - RLC can construct public works on private land under LGA
 - Also includes right of entry for repairs and maintenance
 - Statutory easement in gross
 - Network lease:
 - Private agreement with RLC
 - Terms and conditions agreed with landowner

Legal framework

- **Easement**

- MLC order under s 315 TTWMA
 - MLC has discretion to grant easement
 - Principle purpose to facilitate use and occupation of land owned by Maori by rationalising landholdings or providing additional or improved access
 - MLC must consider payment of compensation and any other conditions
- Registration of instrument under LTA
 - Registered proprietors execute instrument
 - E-dealing on LandOnline with A&I for registered proprietors

- **Power to construct works under s 181 LGA**

- By agreement with owners or procedure in Schedule 12
- Noting on memorial schedule

- **Network lease**

- By agreement with owners
- Noting on memorial schedule

Legal issues

- **Assembled owners**

- Applies to Maori freehold land and General land owned by Maori
- Meeting of assembled owners under Part 9:
 - Application to MLC
 - Notice to assembled owners
 - Meeting and resolution under regulations
 - MLC order confirming resolution
- Appointment of agent/s under Part 10
 - Meeting of assembled owners to appoint agent/s
 - MLC order confirming appointment and terms of negotiation

Legal issues

- **Ahu whenua trusts**

- Maori freehold land
- General power of responsible trustees under trust order and s 226 TTWMA
 - Discretion to grant authority to RLC by:
 - Execution and registration of easement instrument, LGA power to construct works or network lease; or
 - Execution of agreement to create easement in support of application under s 315 TTWMA; or
 - Execution of LGA power to construct works or network lease and noting on memorial schedule
- Subject to any procedural restrictions in trust order and TTWMA
- Responsible trustees
 - Decision by majority; but
 - Any document to be registered under LTA must be executed by all trustees in office; and
 - MLC vesting itself requires prior registration

Legal issues

- **Maori reservations**

- Maori freehold land
- Separate severance of land under TTWMA and RMA
- Trust created by *Gazette* notice
- Purpose of reservation and trust beneficiaries defined by *Gazette* notice

- Underlying beneficial owners only have a reversionary interest

Legal issues

- **Maori freehold land subject to Maori reservation:**
 - Reservation trustees do not have a general power of alienation
 - Any Maori freehold land subject to *Gazette* notice inalienable by way of easement or LGA power to construct works
 - Under TTWMA network lease or licence could only be for a maximum term of 14 years and approved by MLC
 - From 7 February 2021 a network lease or licence for more than 14 years can be granted for health purposes and papakāinga housing

Conclusion

- Each block must be treated separately
- Any authority to RLC must be dealt with by the landowners of each block in accordance with applicable statutory regime

The meeting was closed with a karakia by Arapeta Tahana.
