

RRSS Whenua Maori Project Legal Issues

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Te Puke

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 papakainga 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