

Te Pire Te Rūnanga o Ngāti Awa

He Pire Tūmataiti

Te pūrongo e ai ki ngā whiriwhiringa a te Komiti
Whiriwhiri Take Māori

Te Whakapuakitanga

Te tūtohutanga

Kua āta tirohia e te Komiti Whiriwhiri Take Māori Te Pire Te Rūnanga o Ngāti Awa 2004, arā, Te Rūnanga o Ngāti Awa Bill 2004 me te tūtohu kia whakamanatīa i te taha o ngā whakatikatika e hora atu nei.

He pire tūmataiti tēnei. Ā, e ai ki a mātou, kei te pono ngā tauākī i roto i te kupu whakataki ki ō mātou hiahia.

Te kupu whakataki

He pire tūmataiti Te Pire Te Rūnanga o Ngāti Awa, arā, Te Runanga o Ngāti Awa Bill. Kei roto i te ingoa o Hōnore Parekura Horomia. Ko tā te pire e whai nei ki te whakature i ngā whakaritenga i waenganui i te Karauna me Ngāti Awa, arā: i raro i Te Ture Te Rūnanga o Ngāti Awa 1988, arā, Te Rūnanga O Ngāti Awa Act 1988 me Te Ture Poari Kaitiaki Māori 1955, arā, te Maori Trust Boards Act 1955 me whakamutua Te Rūnanga o Ngāti Awa (Te Rūnanga) hei Poari Kaitiaki Māori, arā, hei Maori Trust Board, ā, me whakatūria anō Te Rūnanga i raro i te ture kia taea ai te whiwhi me te whakahaere i te puretumu whakataunga a Ngāti Awa mō Ngāti Awa, ā, i te taha o Ngāti Awa.

I raro i te pire, ka tū kau anake mai Te Rūnanga hei ranga tōpū kia whakahaerea i raro i tēnei pire me te Tūtohinga a Te Rūnanga o Ngāti Awa, arā, Te Rūnanga O Ngāti Awa Charter. Mā ngā whakatau tika e takoto ana i roto i te Tūtohinga e whakakapi ngā whakatau tika ki te Karauna e āta whakahuatia ake i te wā nei i roto i

te Ture Poari Kaitiaki Māori 1955, arā, te Maori Trust Boards Act 1955.

Ngā whakatikatika

E tūtohu ana mātou i te huhua o ngā whakatikatika pakupaku nei ki te pire. Engari ko ngā tino whakatikatika, ko ērā mō whiti 3(1) e pā ana ki te whakahāngai i te whakamāramatanga o tikanga tuku iho (customary rights), ki tērā i roto i te Pire Whakataunga i ngā Kerēme a Ngāti Awa, arā, te Ngati Awa Claims Settlement Bill, ā, me te whakatikatika hoki i te whakamāramatanga mō “Ngāti Awa” mā te whakauru i ngā kupu “ngā uri o ngā hapu o Ngāti Awa”, arā, “nga uri o ngā hapu of Ngati Awa” kia eke ai ki ngā hiahia o te iwi. Ko tētahi atu anō, ko te whakatikatika paku i whiti 8(3)(c) e pā ana ki te pūnga kupu hē.

Ngā tāpaetanga

O ngā tāpaetanga e rima i whiwhi i a mātou mō te pire nei, e toru i tautoko - i runga anō i te āhua o te whakatikatika - ā, e rua i whakahē.

Ko ēnei e whai ake nei ngā whakatikatika i whakaarotia i roto i ngā tāpaetanga, arā:

- Me katia atu tētahi e hiahia ana ki te noho hei māngai mō Te Rūnanga mehemea he tangata a ia i hara, e noho hara ana rānei i raro i te ture, ā, ko te mauheretia mō tētahi wā te mutunga mai.
- Me āta whakahuatia i roto i te hanga ture te mana o Te Rūnanga ki te whakaingoa me te pana i ngā kaiwhakahaere matua o te kamupene tuarua. Me whakawhiwhia hoki e taua hanga ture he tikanga whakataunga tautohe wehekē.
- Me whakamāramatia ngā whakamāramatanga mō “Member of Ngāti Awa” me “Ngāti Awa”. Me whakawhiwhia he whakapapa e kī ana i te mokamoka tae atu ki tētahi whakamāramatanga e mea ana, ko wai nō te hapū o Hāmua, o Warahoe hoki.

Ngā take i ara ake

He huhua ngā take i ara ake i ngā tāpaetanga i whiwhi i a mātou mō te pire. I te wā o te whakaarohanga i tono mātou mō te tohutohu e pā ana ki ētahi atu take, otirā, mō:

- te whakamāramatanga mō te tūnga aroha me te tūnga tāke aroha o Te Rūnanga
- te hanga i tētahi māngai tiaki hua
- te whakamāramatanga mō ngā whakaratonga whakawhiti me te wā whakawaia
- ngā hātepe whakataunga tautohe
- ngā mana whakatakoto whakataunga i raro i te pire me te Tūtohinga
- te āheinga mō te tūranga me te paearu whakakorenga
- ngā whakaritenga whakataunga motuhake me ngā whakaaetanga nunui.

Te whakamāramatanga mō te tūnga aroha me te tūnga tāke aroha

Kāore te pire e hoatu i te tūnga aroha, i te tūngā tāke aroha rānei.

Ko te tohutohu ki a mātou, kāore e taea e te Tūtohinga, e te pire rānei te ārai te hiahia o Te Rūnanga ki te tono atu ki te Kaikōmihana o Te Tari Tāke, arā, te Commissioner of Inland Revenue, kia whakatūturutia tōna tūnga tāke aroha (mehemea kei a ia tētahi), ā, ki te pātai atu mehemea he māngai aroha Te Rūnanga, ā, mehemea nā tērā, ka āhei mō te tāke whakawāteatanga e hāngai ana.

He Poari Kaitiaki Māori, arā, he Maori Trust Board Te Rūnanga i te wā tonu nei, ā, i raro i tekione 24B o Te Ture Poari Kaitiaki Māori 1955, arā, te Maori Trust Boards Act 1955, ka taea e Te Rūnanga te whakamana he whakapuakanga tiaki mōna mā te whakapuaki kei te tiakina āna taonga mō ngā take e pā ki te aroha i raro tētahi whakapuakanga tiaki. Nā, ki te whakaaetia e te Kōmihana o Te Tari Tāke, kua whakawāteatia te tāke mō tētahi whiwhinga e puta ake ana i taua momo whakapuakanga tiaki. I te wā e whakatūria anō ai Te Rūnanga i raro i te pire, kua whakamutua Te Rūnanga hei Poari Kaitiaki Māori, arā, hei Maori Trust Board. Kua tū kē mai hei ranga tōpū tū kau ake, ā, mā ngā whakaritenga o te pire me te Tūtohinga e whakahaere. Heoi anō, kua kite mātou e mea pēnei mai ana te whiti 11, arā, mō ngā take e pā ana ki te tāketanga, ka mana tonu te whakapuakanga tiaki i whakamanatia rā e Te Rūnanga, ā, i whakaaetia hoki e te Kaikōmihana i mua i te orokohanga o te Ture.

Te hanga i te māngai tiaki hua

I mea mai tētahi kaitāpae kia whakatūria he māngai tiaki hua wehekē ki te tiaki i ngā hua katoa kei Te Rūnanga e tiaki ana.

Kua kite mātou i tīmata te mahi whakapumau ki te whakatū anō i tētahi māngai tumu whakahaere i te tau 1955, ā, nō te marama o Hui-tanguru 2004 i oti ai. Ko te tohutohu ki a mātou, i whakaaroarotia te taura tumu whakahaere a te kaitāpae i te wā o ngā hui whakawhi-tiwhiti whakaaro me te hātepe whakatakoto kaupapa. Engari, ko te hanga kē i roto i te Tūtohunga te hanga i hiahiatia e te hunga i whakautu mai i te pōtitanga pōhi, kāore i tērā a te kaitāpae.

Tua atu i tērā, kua kite mātou i whakaurua atu ngā ture ki roto i te Tūtohunga e mea ana, me pēhea e taea ai e Te Rūnanga te whai tāke ana hua ¹.

Te whakamāramatanga mō ngā whakaratonga whakawhiti me te wā whakawaia

Ko te tohutohu ki a mātou nā te mea e hara te mahi a te pire i te mahi wetewete i Te Rūnanga, kāore ngā whakaratonga whakawhiti e hiahiatia, kāore hoki te whānuitanga o ngā whakaratonga wā whakawaia e hiahiatia. Kua kite hoki mātou mā ngā whakaratonga whakawhiti i roto i ngā whiti atu i te 10 ki te 12 ngā mahi a Te Rūnanga hei Poari Tiaki Māori e whakaoti, ā, mā te whiti 13 e whakatakoto ngā whakatikatika e tika ana a muri atu mō Ngā Whakaturetanga Poari Tiaki Māori 1985, arā, mō te Maori Trust Boards Regulations 1985 ².

Te hātepe whakataunga tautohe

I kite mātou kua kōwhiri a Ngāti Awa ki te whai i te huarahi e aronui ana i te whakataunga tautohe o roto, otirā, ngā hātepe e takoto ana i roto i te Tūtohunga. Ā, nā te pōtitanga pōhi o ngā mema pākeke o te iwi i whakaaetia.

¹ Kāore ngā hua e whakawhitia noa nei i waenganui i Te Rūnanga e tū nei me Te Rūnanga kei te whakatūria anō. Mō te wā rā anō e whakatūria ake anō Te Rūnanga i raro i te ture, kātahi anō a ia ka āhei ki te whakawhiti i ngā hua ki te hanga hōu, ki te whai tāke rānei i aua hua i raro anō i ngā whakaritenga a te pire me te Tūtohunga.

² Ko te whakaaro, me whakakorea atu ngā whakaturetanga e pā ana ki te pōtitanga mema mō Te Rūnanga i raro i te Ture Poari Kaitiaki Māori 1955, arā, te Maori Trust Boards Act 1955. Mā ngā whakaratonga pōtitanga i roto i whiti 3 me te Kupu Āpiti Tuarua o te Tūtohunga ēnei e whakakapi. Ka tangohia atu hoki ngā whakapānga ki te kupu “Ngāti Awa”.

I ara ake anō he awangāwanga mehemea ka tiakina e te hātepe whakataunga tautohe kei te whakaarotia, te tika o tētahi takitahi ki te whai putanga atu ki ngā kōti i te wā e tika ana.

Kua tonu whakamāramatanga mātou mō te take nei, ā, ko te tohutohu ki a mātou i penei mai, arā, ahakoa ka tangohia e whiti 15 o te Pire Whakataunga Kerēme a Ngāti Awa, arā te Ngāti Awa Claims Settlement Bill, te mana whakahaere o ngā kōti, ngā taraipiunara me ētahi atu rōpū whakahaere ā-ture ki ngā take e pā ana ki te whakataunga o ngā kerēme tuku iho a Ngāti Awa, kāore te tika o tētahi mema o Ngāti Awa ki te whai putanga atu ki ngā kōti e tangohia mō ngā tautohe ki Te Rūnanga e pā ana ki te whakataunga hua me ētahi atu take.

Ngā mana whakatakoto whakataunga i raro i te pire me te Tūtohunga

I tonu mātou mō ētahi atu whakamāramatanga e pā ana ki ngā momo whakataunga ka taea te whakatakoto i raro i te pire me te Tūtohunga tae atu ki ngā mana whakatakoto whakataunga e hāngai ana.

Kua kite mātou i te whakatau a te Poari o Te Rūnanga o Ngāti Awa, arā, te Board of Te Rūnanga o Ngāti Awa ki te whai i te Tūtohunga mehemea ka mana i te orokohanga o Te Ture Rūnanga o Ngāti Awa 2004, arā, Te Rūnanga o Ngāti Awa Act 2004. I raro i whiti 6(3) o te pire me tiaki, me whakahaere Te Rūnanga i ana ake hua i runga anō i ngā whakaritenga o te Tūtohunga.

Kei te ngata mātou nā ngā tohutohu i whiwhi. Ko tōna whakarapotonga e pēnei ana. E whakature ana te pire i te Tūtohunga - kei roto katoa ngā mokamoka e pā ana ki te hanga me ngā ture a Te Rūnanga - ā, kāore ētahi ake mana hāngi pū i whakawhiwhia ki Te Rūnanga, atu anō i aua mana e hāngai ana ki te tūranga rangā tōpū i tukua i raro i whiti 7 o te pire.

Ngā momo whakatakotoranga whakataunga

I uiuitia e mātou ngā momo whakatakotoranga whakataunga i whakawhiwhia i roto i te Tūtohunga, otirā, ērā mō ngā ture hāngai, ngā aukatinga, me ngā hātepe whakatakoto whakataunga. Kei te whakaae mātou e rahi ana ēnei, ā, e whakaata ana i ngā hiahia o te iwi.

Te āheinga mō te turanga me te paearu whakakorenga

I tono mātou mō ētahi atu tohutohu i roto i te Tūtohinga e pā ana ki te āheinga me te paearu whakamutunga mō ngā māngai i runga i Te Rūnanga. E ngata ana mātou he rahi ngā whakarātonga mō te ata titiro, ahakoa ko wai ka whakaingoatia, ka whiwhi i a ia te tautoko o te nuinga o ngā mema pākeke o te iwi.

I whakaaro tonu Te Rūnanga mō tētahi whakatikatika ki te pire e whakakore ana i te tu o tētahi i te pōtitanga, i tōna noho tonu rānei hei māngai mehemea he tangata a ia i hara, kua hara rānei i raro i te ture, ā, ko tōna mauhere mō neke atu i te 1 tau te mutunga mai. Nō muri mai, ā, i te wā e kōrero ana Te Rūnanga ki tā rātou tāpaetanga i mua i te komiti i Whakatane, ka puta te tono, kia tangohia atu te kīanga, “mo neke atu i te kotahi tau”, arā, “of more than one year”.

Ki te tohutohu a Te Rūnanga, i whakaarotia te whakatikatika hei mea āwhina i a ia ki te whiwhi i te tāke whakawāteatanga e pā āna ki te tūranga aroha, ā, ko tāna e whai ana, ki te whakahāngai i ana ture ki ngā whiti o te Pire Aroha, arā, o te Charities Bill. Ko te tohutohu ki a mātou e pēnei ana, arā, mā te taka kē o te whakahaere ki roto i tā te ture tuku iho tikangā mō “aroha”, arā, mō “charity”, e mōhiotia ai mehemea he whakahaere aroha te rōpū whakahaere, he whakahaere rānei e āhei ana ki te whiwhi i te tāke whakawāteatanga. Kāore he whakatau mā te whakarātonga nei, ko tēhea o ēnei Te Rūnanga.

Ki a mātou nei, nā te mea kei te whakaaroarotia tonutia i te wā nei te Pire Aroha, arā, te Charities Bill e te Komiti Whiriwhiri Take Tauwhiro Hapori, arā, e te Social Services Committee - he pai kē ake te waiho i tēnei momo whakatikatika mā te Tūtohinga e whai take.

Kua whakakaarotia anō hoki e mātou ngā pangā kei te mōe o Te Ture Pūkete Taihara (Tuhinga Mā) 2004, arā, te Criminal Records (Clean Slate) Act 2004 e pā ana ki te whakatikatika i tonoa. Ki tā mātou tiro atu, he whakawhāiti i te tikanga o te whakatikatika e whakaarotia ana e Te Rūnanga te pātanga o tēnei Ture. Arā, he whakakore i ētahi ki te tū hei māngai i runga i Te Rūnanga.

Ngā whakaritenga whakataunga motuhake me ngā whakaaetanga nunui

I tono tohutohu mātou mō ngā whakaritenga whakataunga motuhake e pā ana ki wehewehenga o te whenua, ā, me ngā whakarātonga whakaaetanga nunui o te Tūtohinga. I tino āwangawanga mātou mō te kore rahi rawa o ngā whakaritenga paepae e pā ana ki te whai wāhitanga o te kaupōti, engari i ngata mātou ki te pārongo i whiwhi -

otirā, e whakaata ana taua pārongo i ngā wawata o te nuinga o ngā mema pakeke o te iwi i tuku pōti.

Te tāpiritanga

Te hātepe a te komiti

I tonoa Te Pire Te Rūnanga o Ngāti Awa 2004, arā, Te Rūnanga o Ngāti Bill 2004 ki te komiti i te 25 o Here-turi-kōkā, 2004. Ko te 24 o Mahuru, 2004 te rā i kati ai ngā tāpaetanga. E rima ngā tāpaetanga i whiwhi i a mātou mai i ngā rōpū me ngā takitahi i hiahia, ā, i whakaaroarohia. I whakatakotoria te rima o ngā tāpaetanga ki mua i ō mātou aroaro i te hui whakawā i Whakatāne i te 14 o Whiringa-ā-nuku, 2004. I haere te whakaarohanga mō te 3 hāora me te 1 meneti.

Ko ngā mema o te komiti, ko

Nanaia Mahuta (te Heamana)

te Hōnore Georgina te Heuheu (te Heamana Tuarua)

Mahara Okeroa

Mita Ririnui

Gerry Brownlee

Pita Paraone

Mētīria Tūrei

Te Runanga o Ngati Awa Bill

Private Bill

As reported from the Māori Affairs Committee

Commentary

Recommendation

The Māori Affairs Committee has examined the Te Runanga o Ngati Awa Bill 2004 and recommends that it be passed with the amendments shown.

This is a private bill. We report that the statements in the preamble have been proved to our satisfaction.

Introduction

Te Runanga o Ngati Awa Bill is a private bill in the name of the Hon Parekura Horomia. The aim of this bill is to give effect to the agreements between the Crown and Ngati Awa that Te Runanga o Ngati Awa (Te Runanga) should cease to be a Maori Trust Board under the Te Runanga o Ngati Awa Act 1988 and the Maori Trust Boards Act 1955; and that Te Runanga should be reconstituted so as to be able to receive and administer the Ngati Awa settlement redress for and on behalf of Ngati Awa.

Under the bill Te Runanga will become a stand-alone body corporate to be administered under this bill and Te Rūnanga o Ngati Awa Charter. The accountabilities set out in the Charter will replace the accountabilities to the Crown that are currently specified in the Maori Trust Boards Act 1955.

Amendments

We recommend several minor amendments to the bill. Specifically, we recommend amendments to clause 3(1) to align the definition of customary rights with that in the Ngati Awa Claims Settlement Bill, and to the definition of Ngati Awa to try to accommodate the wish of the iwi to include the words nga uri o nga hapu o Ngati Awa. We recommend one further minor amendment to clause 8(3)(c) to correct a misspelling.

Submissions

Of the five submissions we received on this bill, three support the bill, subject to amendment, and two are opposed.

The amendments proposed in the submissions are as follows:

- That any person who has or who incurs any criminal conviction punishable by a term of imprisonment is prohibited from serving as a representative of Te Runanga.
- That the legislation should specifically state that Te Runanga has the power to appoint and remove directors of the subsidiary company, and should provide for an independent dispute resolution mechanism.
- That the definitions of Member of Ngati Awa and Ngati Awa be clarified, and more detailed whakapapa be provided, including an explanation of who belongs to Hamua and Warahoe hapū.

Issues raised

A number of issues were raised in submissions received on the bill, and we have also requested advice on further issues during consideration, namely:

- clarification of charitable status and charitable tax status of Te Runanga
- the creation of an asset holding entity
- clarification of the transfer and transitional provisions
- dispute resolution processes
- decision-making powers under the bill and Charter
- eligibility for appointment and disqualification criteria
- special resolution requirements and major transactions.

Clarification of charitable status and charitable tax status

The bill does not confer either charitable status or charitable tax status.

We have been advised that neither the Charter nor the bill prevents Te Runanga from having its charitable tax status (if any) confirmed by the Commissioner of Inland Revenue, and that Te Runanga may seek the view of the Commissioner on whether it is a charitable entity and therefore eligible for the associated tax exemption as a charity.

Te Runanga is currently a Maori Trust Board, and under section 24B of the Maori Trust Boards Act 1955 the Board may execute a

declaration of trust declaring that any of its property is being held upon trust for charitable purposes which, if approved by the Commissioner of Inland Revenue, will make any income derived from such trust exempt from income tax. Once reconstituted under the bill Te Runanga will cease to be a Maori Trust Board, and instead will become a stand-alone body corporate to be administered under the bill and the Charter. However we note that clause 11 provides that, for taxation purposes, a declaration of trust executed by Te Runanga and approved by the Commissioner before the commencement of the Act continues to apply in relation to that property.

Creation of an asset holding entity

One submitter proposed that an independent asset holding trust be established to protect assets held in trust by Te Runanga.

We note that work on the establishment of a reconstituted governance entity commenced in 1995 and concluded in February 2004. We have been advised that during the consultation and development process the submitter's governance model was considered, but the structure proposed in the Charter was preferred by respondents in a postal ballot, and therefore adopted.

We further note that rules relating to how Te Runanga will be able to deal with its assets are included in the Charter ³.

Clarification of the transfer and transition provisions

We are advised that, as the bill does not disestablish Te Runanga, transfer provisions are not required, nor are extensive transition provisions. We note that the transition provisions contained in clauses 10 to 12 will operate to conclude the operation of Te Runanga as a Maori Trust Board and clause 13 makes the necessary consequential amendments to the Maori Trust Boards Regulations 1985 ⁴.

³ There is no transfer of assets between the existing and the reconstituted Rūnanga. Once reconstituted, Te Rūnanga may transfer assets within its new structure, or otherwise deal with them, in accordance with the bill and the Charter.

⁴ It is proposed that the regulations relating to the conduct of elections for membership of Te Rūnanga under the Maori Trust Boards Act 1955 be revoked as they will be replaced by the election provisions contained in clause 3 and the Second Schedule of the Charter. References to Ngāti Awa are also removed.

Dispute resolution process

We note that Ngati Awa have chosen to adopt a procedure which favours internal dispute resolution, the processes for which are set out in the Charter. They were approved by a postal ballot of the adult members of the iwi.

A concern was raised as to whether the proposed disputes resolution process preserves the right of an individual to access courts when appropriate.

We have sought clarification of this matter, and have been advised that while clause 15 of the Ngati Awa Claims Settlement Bill will remove the jurisdiction of the courts, tribunals and other judicial bodies in respect of matters regarding the settlement of Ngati Awa's historical claims, it does not remove any right a member of Ngati Awa may have to access the courts in respect of disputes with Te Runanga concerning the settlement assets and other matters.

Decision-making powers under the bill and Charter

We requested further clarification of the kinds of decisions that can be made under the bill and the Charter and the associated decision-making powers.

We note the resolution of the Board of Te Runanga o Ngati Awa to adopt the Charter provides that the Charter is to take effect upon the commencement of the Te Runanga o Ngati Awa Act 2004, and that under clause 6(3), Te Runanga must hold and administer its assets in accordance with the Charter.

Upon the advice we received, we are satisfied, in summary, that the bill gives effect to the Charter, which contains all details relating to the structure and rules of Te Runanga, and that it provides no specific powers to Te Runanga apart from those associated with the body corporate status conferred under clause 7 of the bill.

Types of decision making

We have inquired in to the types of decision-making provided for in the Charter, in respect of the associated rules, restrictions, and decision-making processes. We accept that these are adequate and reflect the wishes of the iwi.

Eligibility for appointment and disqualification criteria

We requested further advice on the eligibility and termination criteria for representatives on Te Runanga contained in the Charter. We are satisfied that there are adequate provisions to ensure that any appointments will have the support of the majority of the adult members of the iwi.

Te Runanga had proposed an amendment to the bill to disqualify a person from standing for election, or continuing to serve as a representative, if that person has or incurs any criminal conviction punishable by a term of imprisonment of more than one year. Te Runanga later requested while speaking to their submission that the phrase of more than one year be removed.

Te Runanga has advised that the purpose of the proposed amendment is to assist in gaining tax exemption based on charitable status; it aims to align the rules of Te Runanga with clauses in the Charities Bill. We are advised that whether an organisation is charitable and whether it is eligible for tax exemption depend on whether it falls within the common law meaning of charity. The provision in question will not affect whether or not Te Runanga does so.

We consider that, although the Charities Bill is currently being considered by the Social Services Committee, such an amendment to the bill based on anticipated legislation may unnecessarily constrain Te Runanga. If the proposed amendment were included in the bill, any further modification of the eligibility provision would require that Te Runanga seek a legislative amendment. We consider therefore that such matters are more practicably dealt with in the Charter.

We have also considered the potential effects of the Criminal Records (Clean Slate) Act 2004 in relation to the requested amendment. We note that this Act could have the effect of limiting the intention of the amendment proposed by Te Runanga, which is to disqualify certain persons from appointment as a representative on Te Runanga.

Special resolution requirements and major transactions

We requested advice on the special resolution requirements in relation to the classification of land, and the major transaction provisions of the Charter. We were particularly concerned that the threshold requirements for voter participation were not adequate, but are

satisfied, upon the information we received, that they reflect the wishes of the majority of the adult members of the iwi who voted.

Appendix

Committee process

The Te Runanga o Ngati Awa Bill 2004 was referred to the committee on 25 August 2004. The closing date for submissions was 24 September 2004. We received and considered five submissions from interested groups and individuals, all of which were also presented orally at a hearing in Whakatane on 14 October 2004. Consideration took 3 hours and 1 minute.

Committee membership

Nanaia Mahuta (Chairperson)

Hon Georgina te Heuheu (Deputy Chairperson)

Mahara Okeroa

Mita Ririnui

Gerry Brownlee

Pita Paraone

Mētīria Tūrei

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act.)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Parekura Horomia

Te Runanga o Ngati Awa Bill

He Pire Tūmataiti

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Preamble

- (1) Te Runanga o Ngati Awa was constituted by Te Runanga o Ngati Awa Act 1988. That Act declared Te Runanga o Ngati Awa to be a Maori Trust Board within the meaning and for the purposes of the Maori Trust Boards Act 1955. Te Runanga o Ngati Awa acts for and on behalf of nga uri o nga hapu o Ngati Awa, being the members of the Ngati Awa tribe in the Eastern Bay of Plenty: 5
- (2) On 27 March 2003, Ngati Awa entered into a deed of settlement with the Crown to settle all of its historical claims against the Crown under the Treaty of Waitangi: 10
- (3) It is a condition of the deed of settlement that a governance entity be established to receive and administer the settlement for and on behalf of Ngati Awa:
- (4) Discussions have occurred both within Ngati Awa and between Ngati Awa and the Crown in order to identify and agree on the nature of the governance entity to be established to receive and administer the settlement redress for and on behalf of Ngati Awa. Te Runanga o Ngati Awa, in its present 15

role as a Maori Trust Board, is not regarded as suitable to undertake this function:

- (5) The Crown and Ngati Awa have agreed on the nature of the governance entity to be established to receive and administer the settlement. In establishing this entity, it is not thought desirable to abolish Te Runanga o Ngati Awa, but to make changes to its structure and the way it operates: 5
- (6) The members of Ngati Awa have, by postal ballot, agreed to the reconstitution of Te Runanga o Ngati Awa as proposed by this Act: 10
- (7) This Act is necessary to reconstitute Te Runanga o Ngati Awa and satisfy the condition in the deed of settlement for the establishment of a governance entity to receive and administer the settlement redress for and on behalf of Ngati Awa:

The Parliament of New Zealand therefore enacts as follows: 15

1 Title

This Act is Te Runanga o Ngati Awa Act **2004**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 20

**Part 1
Preliminary provisions**

3 Interpretation

- (1) In this Act, unless the context otherwise requires,— 25
- charter—**
- (a) means the charter of Te Runanga; and
- (b) includes any amendments made to the charter

Struck out (unanimous)

customary rights—

- (a) means rights according to tikanga Maori (Maori customary values and practices); and 30
- (b) without limiting **paragraph (a)**, includes—
- (i) rights to occupy land; and

Struck out (unanimous)

- (ii) rights in relation to the use of land and other natural and physical resources

New (unanimous)

customary rights means rights according to tikanga Maori (Maori customary values and practices); including the following:

- (a) rights to occupy land; and
 (b) rights in relation to the use of:
 (i) land;
 (ii) natural or physical resources

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deed of settlement—

- (a) means the deed signed by representatives of Ngati Awa and the Crown on 27 March 2003 recording the settlement of Ngati Awa's historical claims against the Crown in respect of the Crown's breaches of its obligations to Ngati Awa under the Treaty of Waitangi; and
 (b) includes any amendments made to the deed of settlement

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15

hapu has the same meaning as in the charter

member of Ngati Awa means every individual referred to in **paragraph (a)(ii) (b)(ii)** of the definition of **Ngati Awa**

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Struck out (unanimous)

Ngati Awa—

- (a) means—
 (i) the collective group composed of individuals referred to in **subparagraph (ii)**; and
 (ii) every individual who is—
 (A) descended from a Ngati Awa tipuna;
 (B) a member of a hapu, group, family, or whanau referred to in **paragraph (b)**; and
 (b) includes—
 (i) the hapu of Ngati Awa; and

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30

Struck out (unanimous)

- (ii) any hapu, group, family, or whanau composed of individuals referred to in **paragraph (a)(ii)**.

New (unanimous)**Ngati Awa—**

- (a) means nga uri o nga hapu o Ngati Awa (the descendants of the hapu of Ngati Awa); and 5
- (b) includes—
- (i) the collective group composed of individuals referred to in **subparagraph (ii)**; and
- (ii) every individual who is— 10
- (A) descended from a Ngati Awa tipuna:
- (B) a member of a hapu, group, family, or whanau referred to in **subparagraphs (iii) and (iv)**; and
- (iii) the hapu of Ngati Awa; and
- (iv) any hapu, group, family, or whanau composed of individuals referred to in **subparagraph (ii)** 15

Ngati Awa area of interest has the same meaning as in the charter

Ngati Awa tipuna means a person who exercised customary rights— 20

- (a) by virtue of being descended from—
- (i) Awanuirangi II; or
- (ii) a recognised ancestor of the hapu; and
- (b) at any time after 6 February 1840 predominantly in relation to the Ngati Awa area of interest 25

representatives of Te Runanga has the same meaning as in the charter

Te Kahui Kaumatua has the same meaning as in the charter

Te Runanga means Te Runanga o Ngati Awa established by **section 5** 30

Whakaruruhau has the same meaning as in the charter.

- (2) For the purposes of the definitions of **Ngati Awa** and **Ngati Awa tipuna**, a person is descended from another person if the person is descended from the other person by—

- (a) birth; or
- (b) legal adoption; or
- (c) Maori customary adoption in accordance with the custom of Ngati Awa.

- 4 Act binds the Crown** 5
This Act binds the Crown.

Part 2

Establishment of Te Runanga o Ngati Awa

- 5 Te Runanga o Ngati Awa established** 10
- (1) This section establishes Te Runanga o Ngati Awa.
 - (2) Te Runanga is the same body as established by Te Runanga o Ngati Awa Act 1988.
 - (3) However, Te Runanga ceases to be a Maori Trust Board within the meaning of the Maori Trust Boards Act 1955.
- 6 Functions of Te Runanga** 15
- (1) Te Runanga is a body that represents Ngati Awa.
 - (2) **Subsection (1)** does not limit the Crown's rights, functions, and obligations in relation to other representative entities.
 - (3) Te Runanga must hold and administer its assets in accordance with the charter. 20
- 7 Te Runanga to be body corporate with full rights and powers**
- (1) Te Runanga is a body corporate with perpetual succession and a common seal.
 - (2) For the purposes of carrying out its functions, Te Runanga has— 25
 - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
 - (b) for the purposes of **paragraph (a)**, full rights, powers, and privileges. 30
 - (3) **Subsection (2)** applies subject to—
 - (a) the provisions of this Act and any other enactment; and
 - (b) the general law.

8 Charter

- (1) The charter of Te Runanga is the charter adopted—
- (a) by postal ballot of the adult members of Ngati Awa held between 26 January 2004 and 1 March 2004;
 - (b) by resolution of Te Runanga on 25 June 2004. 5
- (2) The charter must—
- (a) require Te Runanga to hold its assets on trust for the benefit of—
 - (i) the members of Ngati Awa as at the commencement of this Act; and 10
 - (ii) future members of Ngati Awa; and
 - (b) specify the duties and obligations of Te Runanga in administering its assets; and
 - (c) specify the manner in which the representatives of Te Runanga are to be elected; and 15
 - (d) require Te Runanga to maintain a register of members of Ngati Awa.
- (3) The charter may—
- (a) provide specific objects that are consistent with **subsection (2)(a)** for which Te Runanga is to administer its assets; and 20
 - (b) without limiting **subsection (2)(a) or paragraph (a)**, provide for Te Runanga,—
 - (i) in administering its assets, to make provision for the benefit of any member or any class or classes of member of Ngati Awa; and 25
 - (ii) to accept, hold, or otherwise deal with any assets on trust for a specific purpose; and
 - (iii) to arrange for any of its assets to be held by—
 - (A) a community trust if Te Runanga has, at all times, the power to appoint and remove all of the trustees of the community trust; 30
 - (B) a company if, at all times, the company is wholly owned by Te Runanga; and
 - (c) specify the manner in which Te Kahui (*Kaumata*) Kaumatua and Whakaruruhau are to be appointed; and 35
 - (d) contain any other provisions that are not inconsistent with this Act, any other enactment, or the general law.
- (4) The Trustee Act 1956 does not apply in relation to the assets held on trust under **subsections (2)(a) and (3)(b)**. 40

-
- (5) The charter may be amended by Te Runanga in accordance with any terms and conditions specified in the charter for its amendment.
- (6) Te Runanga must ensure that copies of the charter may be purchased at a reasonable price at the head office of Te Runanga. 5
- 9 Head office**
- (1) The head office of Te Runanga is at Louvain House, 10 Louvain Street, Whakatane.
- (2) Te Runanga may change the location of its head office. 10
- (3) A change in the location of Te Runanga’s head office does not take effect until the address of the new location is notified in the *Gazette*.
- Part 3**
- Transitional provisions and repeals** 15
- 10 Membership of Te Runanga**
- The persons holding office, immediately before the commencement of this Act, as members of the Board of Te Runanga under the Maori Trust Boards Act 1955 continue to hold office as members of Te Runanga until the election of representatives of Te Runanga is completed under the charter. 20
- 11 Taxes and duties**
- (1) This section applies for the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994) and any other enactment that imposes or provides for the collection of any tax, duty, levy, rate or other charge. 25
- (2) Any declaration of trust executed by Te Runanga under section 24B of the Maori Trust Boards Act 1955 and approved by the Commissioner under that section before the commencement of this Act— 30
- (a) applies only in relation to property that before the commencement of this Act was acquired by or vested in Te Runanga and (before that date) has been subjected to that declaration of trust; but
- (b) does not apply to— 35
- (i) the redress provided under the deed of settlement or any other property acquired by or vested in Te

- Runanga pursuant to or consequent upon the settlement of Ngati Awa's historical claims against the Crown in respect of the Crown's breaches of its obligations to Ngati Awa under the Treaty of Waitangi; or 5
- (ii) any property acquired or vested in Te Runanga on or after the commencement of this Act.
- 12 Final accounts of Te Runanga as Maori Trust Board**
- (1) As soon as reasonably practicable after the commencement of this Act, Te Runanga must cause to be prepared final accounts of Te Runanga o Ngati Awa as a Maori Trust Board as at the close of the day before the commencement of this Act. 10
- (2) A copy of the final accounts, together with a copy of the report of the Auditor-General on those accounts, must be sent by Te Runanga to the Minister of Maori Affairs. 15
- (3) A copy of the final accounts together with a copy of the report of the Auditor-General on those accounts, must be presented to the House of Representatives by the Minister of Maori Affairs as soon as practicable after their receipt by the Minister. 20
- 13 Consequential amendments to Maori Trust Boards Regulations 1985**
- (1) Regulations 5C to 5K of the Maori Trust Boards Regulations 1985 are consequentially revoked.
- (2) The First and Second Schedules of the Maori Trust Boards Regulations 1985 are consequentially amended by omitting the items relating to Te Runanga o Ngati Awa. 25
- 14 Repeal**
- (1) Te Runanga o Ngati Awa Act 1988 is repealed.
- (2) **Subsection (1)** does not affect the restoration of the character, mana, and reputations and the pardon granted by section 11 of Te Runanga o Ngati Awa Act 1988. 30
- (3) Section 11 of Te Runanga o Ngati Awa Act 1988 is set out in the **Schedule** for ease of reference.
-

Schedule

s 14(3)

Section 11 of Te Runanga o Ngati Awa Act 1988**11 Character, mana, and reputation restored**

He panui tenei ki te motu katoa, ka tutuki ana tenei Ture, koinei te wa e whakahokia ai ki a ratou te ihi, te mana, te tapu o nga tangata o Ngati Awa i mauhereheretia, i whakawakia i te tau 1865, ki o ratou whanau hoki, ki o ratou iwi, tae atu ki a Ngati Awa whanui. Ka wetekina katoatia nga whiu o te ture i pa ki a ratou i roto i nga pakanga whenua o Te Tau 1865. 5 10

It is hereby declared that after the passing of this Part of this Act the character, mana, and reputation of the persons of Ngati Awa descent who were arrested, tried, and labelled as rebels in or about 1865 is restored to them and their whanau and to the iwi of Ngati Awa as a whole, and a full pardon is hereby granted to them in respect of all matters arising out of the land wars in 1865. 15

Legislative history

11 August 2004

Introduction (Bill 176-1)

25 August 2004

First reading and referral to Maori Affairs Committee