

# Māori Governance

June 2012

## Introduction

Recently I was invited to speak at the opening of the Rotorua launch of the Waikato Law School Māori and Indigenous Governance Centre. Judge Clark spoke at the Hamilton launch and Chief Judge Isaac spoke at the Wellington launch.

The Māori and Indigenous Governance Centre has been established to fill a gap by providing research-led solutions that are practical, effective and culturally relevant for improving governance and leadership among Māori organisations. The Centre will research and identify robust indigenous governance and leadership models, facilitate a network of commercial partner organisations that can explore opportunities of mutual benefit, assist organisations to optimize their governance arrangements, and provide practical assistance for Māori organisations through workshops, symposia, training and advisory functions.

I commented on the obvious importance of good governance to our Māori and New Zealand futures. While my comments were focussed on Māori land, they are equally applicable to other Māori assets.

## The Ministry of Agriculture and Forestry report

A recent Ministry of Agriculture and Forestry ('MAF') report assessed the current state and future potential of Māori freehold land.<sup>1</sup> Significantly, the majority of the recommendations made in the report concern the skills and knowledge capability of governance and management. The report acknowledges that a multi-faceted approach is required to deliver the productive potential of Māori land.

Not surprisingly, the MAF report identifies governance as the key determinant of success of enterprise on Māori land. The MAF report's key conclusion was that the delivery, or not, of the undoubted economic growth opportunity associated with enterprises centred on Māori freehold land is strongly linked to two key and dominant factors:

- the ability to make decisions;
- access to, and availability of, appropriate skills and capabilities.

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<sup>1</sup> Ministry of Agriculture and Forestry, Māori Agribusiness in New Zealand: A study of the Māori Freehold Land Resource, March 2011; and Te Puni Kokiri, Ko ngā Tūmanako o ngā Tāngata Whai Whenua Māori – Owner Aspirations Regarding the Utilisation of Māori Land, April 2011.

It is not surprising to me that the skills and capabilities of those in governance are the key to successful enterprise on Māori land. Increasing the skills and capabilities of those in governance, or improving their access to others who do have the requisite skills and capabilities, is the key challenge to improving the utilisation of Māori land.

### **Good governance is the key**

From the experiences of Māori Land Court Judges, good governance is the key to effective utilisation of Māori land held in multiple ownership. Approximately 58 per cent of Māori land is currently held by governance entities provided for under Te Ture Whenua Māori Act 1993.

The Māori Land Court receives on average 1,600 applications per year in relation to the establishment and management of trusts and incorporations. The most common governance entity is the ahu whenua trust, of which there are now over 5,500 in existence.

This tells us that we have many Māori in various governance roles, in various governance structures, performing at various levels.

Approximately 42 per cent of Māori land is not under any governance entity. In some instances this is because the land has only one or just a few owners, or because the land is unsuitable for any form of development and owners have decided to leave it in its natural state. However, a number of blocks of Māori land held in multiple ownership that are suitable for development are also without any governance entity. This may be because the owners have consciously chosen to not put one in place, or have attempted to do so and have been unsuccessful, or have not turned their minds to the options. The failure to put in place a governance entity is often because the owners are disengaged, or they are implacably opposed, or there is no one suitably qualified and willing to put themselves forward as trustees.

### **Governance entities**

In the context in which I work, we have a range of governance entities, from trusts to incorporations, but no matter what the governance structure is - whether it is an ahu whenua trust, a whānau trust, a whenua tōpū trust, a pūtea trust, a kaitiaki trust, or an incorporation - key governance skills and capabilities are required.

Further, the functions of these different governance entities can be very complex in themselves. Many Māori trusts and incorporations, both big and small, are involved in a whole range of activities and ventures, commercial and conservational.

We have trusts and incorporations worth in excess of \$100 million. For example: Tuaropaki - \$667million, Lake Taupo Forest - \$165million, PKW Incorporation - \$162million, The Proprietors of Atihau-Whanganui - \$178million, to name but a few.

### **Skills and capability**

Good governance is heavily dependent on the skills and capabilities of those in the governance positions. We have many of our people who are shareholders in multiply-owned land wanting to hold governance positions. And rightly so; it is their whenua. However, many have little or no governance experience and many lack the capability to take on the roles.

### **Training for trustees**

Training for trustees is a significant issue for the Court. In many instances the Court must choose between appointing inexperienced trustees to manage land or making no appointments at all. Where appointments are made, there is a great need for trustee training programmes to be available to ensure that new trustees understand their roles and responsibilities.

Training programmes are currently run out of some Court district offices, although there is no overall consistency in the training offered, and the programmes vary in each region, which means that training is not available to all trustees, and where it is available, it may not be comprehensive.

### **Conclusion**

If we start with the correct presumption that good Māori governance is essential for Māori and New Zealand economic, political and social development, then there is an obvious need for centres like the one that Waikato Law School has established.

I anticipate that the Centre will explore many areas of Māori and Indigenous research, models, training, governance styles and more. Research is needed in a whole range of areas: What is Māori governance? What is good Māori governance? Currently the non-Māori models and principles of governance dominate Māori governance entities.

There is an obvious need for practical training. Māori training programmes are required to improve trustees' understanding of land use and development issues and the governance role they are taking on. We at the Māori Land Court continually encourage people wanting to be trustees to seek training and development to make

themselves better governors, in the knowledge that good Māori governance is essential for New Zealand's economic, political and social development.

**Kia Ora**