

**Inquiry into certain  
aspects of  
Te Wānanga o Aotearoa**

**December 2005**

*This is the report of an inquiry we carried out under sections 16 and 18 of the Public Audit Act 2001.*

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# Foreword

My inquiry into Te Wānanga o Aotearoa (TWOA) found practices that are unacceptable for a public entity. I found poor record-keeping and a consistent lack of documentation. What documentation I did see was often incomplete.

Three themes were common to many of the activities I looked at:

- poor decision-making practices for significant expenditure;
- inadequate identification and management of conflicts of interest; and
- unacceptable practices in senior management expenses concerning international travel and credit card expenditure.

TWOA and the Aotearoa Institute Te Kuratini o Ngā Waka Trust Board (the AI Trust), a private organisation, have a close and ongoing business relationship, which dates back to TWOA's establishment. It covers many different transactions, some of which are informal and unclear. I am concerned that TWOA has an unhealthy dependency on the AI Trust. TWOA could be left in a vulnerable position should its relationship with the AI Trust deteriorate or end. This creates significant risks for TWOA and its stakeholders.

I consider that many of the individuals involved in TWOA have not appreciated the need to act with a public sector mindset. While tertiary education institutions have a wide functional and geographical spread and a high level of autonomy, they are still part of the public sector.

TWOA grew rapidly and significantly in recent years. During this time, it did not put in place appropriate systems and processes for such a large operation. Work is now being done on new policies and procedures, but it is taking too long to embed them into the culture and everyday practices of TWOA.

TWOA has enabled thousands of learners to have a second chance at education. I do not want my report to detract unnecessarily from TWOA's undoubted achievements. However, TWOA needs to bring the same level of commitment to using its public resources responsibly as it has to pursuing its educational vision.

Practices like those discussed in my report can be very damaging to the credibility of the public entity involved. It is not in anyone's best interests that they recur, whether at TWOA or anywhere else. I encourage central government agencies to consider carefully whether further guidance for, and monitoring of, tertiary education institutions is appropriate.



K B Brady  
Controller and Auditor-General

1 December 2005

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# Summary

We began an audit and inquiry into Te Wānanga o Aotearoa (TWOA) after receiving a request for assurance from the then Associate Minister of Education (Tertiary Education) in September 2004. There were concerns about possible conflicts of interest in transactions worth large sums of money. Other issues emerged as we began our inquiry.

In February 2005, then MP the Hon Ken Shirley and the media made certain allegations. The then Minister of Education asked us to look into more matters. We reconsidered the scope of our work, released wider terms of reference in March 2005, and continued with our inquiry.

We did not examine all aspects of TWOA's activities. Our inquiry did not examine:

- the appropriateness of the type of, and funding levels of, courses offered by TWOA;
- the quality of the courses delivered by TWOA; and
- TWOA's enrolment practices (including allegations about the use of inducements).

When we discuss TWOA's educational courses in this report, our focus is on the decision-making processes in acquiring and setting up courses, and on conflicts of interest. We have not attempted to form any view on the quality of any of TWOA's courses. We note that the TWOA personnel we encountered displayed a strong commitment to, and passion for, TWOA, its educational goals, and its activities.

Our inquiry looked at:

- the relationship and business arrangements between TWOA and the Aotearoa Institute Te Kuratini o Ngā Waka Trust Board (the AI Trust), and their controlled entities;
- how TWOA identified and managed conflicts of interest;
- how TWOA handled employing or contracting with close relatives of the chief executive;
- selected payments to members of the Council and employees of TWOA;
- TWOA's acquisition of certain land and buildings;
- TWOA's acquisition of goods and services, especially where TWOA Council members, employees, or their close relatives were involved;
- how TWOA acquired and set up courses; and
- TWOA's international travel policies and practices.

We selected specific practices and transactions, and looked mainly at the 2002, 2003, and 2004 financial years.

We found practices that are unacceptable for a public entity.

However, the many negative comments in this report are explained by the selective nature of our inquiry. We have not conducted a comprehensive review of all of TWOA's activities, but have reported only on issues of significant concern within the areas we examined. We do not want to detract unnecessarily from TWOA's undoubted achievements.

## **Te Wānanga o Aotearoa**

TWOA is a wānanga – a publicly funded tertiary education institution formed and governed under the Education Act 1989. It has the legal status of a Crown entity and a public entity. TWOA has one subsidiary, a company called MO1 Limited.

TWOA was established in July 1993. In the last 5 years, TWOA has grown rapidly. From just over 1000 students in 1999, by 2003 it had 63,387 students enrolled (equating to 34,280 equivalent full-time students) and 1232 equivalent full-time staff. Measured in enrolments, TWOA had become the largest tertiary education institution in New Zealand. In 2004, it received \$156 million in Crown funding.

## **TWOA personnel**

Our report focuses heavily on Rongo Wetere and members of his whānau. The fact that we name them does not mean that they are solely responsible for governing and managing TWOA. TWOA is a large organisation and many other individuals play important roles in its governance and management, but it has not been necessary to name them.

Rongo Wetere is the Tumuaki, or chief executive, of the organisation. We were told that he has been an inspirational and visionary leader, and that much of TWOA's success can be credited to him.

But leadership without prudent management is fraught with risk. As Tumuaki, Rongo Wetere was primarily responsible for managing TWOA, under the oversight of TWOA's Council. In some areas of management – for example, avoiding conflicts of interest and managing sensitive expenditure – he has failed to understand the need for robust policies and procedures. He has also failed to lead by example, and has often not complied with the few procedures that were in place.

However, TWOA's Council and senior management have also been involved in, and aware of, many of the problems that we discuss. Rongo Wetere has not had adequate help and advice from those around him.

We note that TOWA has been making changes from 2003. In particular, there has been much work on new policies and procedures. It is taking too long to embed these policies and procedures into the culture and everyday practices of TOWA.

## **Relationship with the AI Trust**

A private organisation, the AI Trust, was instrumental in promoting the establishment of TOWA in the early 1990s. The AI Trust was composed of a small group of volunteers who were committed to providing learning and employment opportunities for Māori who had few or no job skills or qualifications.

Many of the people discussed in this report have been involved with TOWA from when it was established, and have had significant roles in both TOWA (a public entity) and the AI Trust (a private organisation). People we spoke to consider that TOWA and the AI Trust are pursuing the same goals, in a mutually supportive manner. We have not inquired into the AI Trust or its activities.

TOWA and the AI Trust have a close business relationship, which covers many different transactions. In 2001 TOWA lent the AI Trust \$3.1 million, to help with the purchase of the Porirua campus, without any written advice or assessment. The loan and its terms were not recorded in writing until more than 2 years later. TOWA leases many significant properties from the AI Trust. Most of these leases expired at the end of 2004 and have not yet been renewed, so are running on informally. TOWA has constructed some large buildings on land it leases from the AI Trust. The AI Trust operates the hotel business at TOWA's Glenview hotel complex without any formal lease or other contract in place. A significant potential intellectual property claim against TOWA by the AI Trust has also been considered.

We are concerned about the close relationship between TOWA and the AI Trust. Many business transactions between them showed poor decision-making practices and pervasive conflicts of interest.

For much of TOWA's history, most of its Council members were also trustees of the AI Trust (and the other way around). Many transactions have involved individuals "wearing more than one hat". In our view, these transactions could not have been negotiated on a commercial or transparent basis. We think that the relationship also causes an unhealthy dependency on the AI Trust, and could leave TOWA in a vulnerable position should the relationship between the entities deteriorate or end. This creates significant risks for TOWA and its stakeholders.

## **Our expectations**

We expect public funds and assets to be used responsibly, and public officials to perform their duties conscientiously and competently.

The AI Trust, which provided the body of people established as TOWA, was a small private organisation. Many of TOWA's senior personnel trace their involvement back to



the AI Trust. However, TWA was established as a wānanga in 1993. From that time, TWA needed to meet the governance and management expectations that apply to all public entities. Instead, the people governing and managing TWA continued to act as if TWA were a small private organisation.

TWA has undergone significant and rapid growth in the last 5 years. It has had to swiftly change from a small organisation to a large and complex one managing significant public funds. That rate of change has contributed to many of the problems that we have identified. TWA has lacked the organisational infrastructure, skill, and readiness to manage itself as a large public sector entity. There were some changes to TWA's management processes and systems, but they did not keep pace with the extent and speed of TWA's growth.

TWA's Council had primary responsibility for properly governing TWA. The Council ought to have been aware of the expectations that apply to public entities. There may have been a lack of useful guidance in this area at the time TWA was established, but this has not been the case for some time now. The Council has not ensured that TWA's governance and organisational arrangements were fit to meet public sector expectations.

## **Recurring themes in our findings**

Three themes were common to many of the activities that we looked at:

- poor decision-making practices for significant expenditure;
- inadequate identification and management of conflicts of interest; and
- unacceptable practices in senior management expenses concerning international travel and credit card expenses.

### *Decision-making practices for significant expenditure*

TWA's approach to making significant decisions was often informal and oral. Major acquisitions were not part of a formal strategy, and major proposals were not always thoroughly analysed. We acknowledge that TWA was growing rapidly, and sometimes it had to make decisions quickly. But selection methods for contractors were often non-competitive. The documentation of analyses, decisions, and contracts was often poor, and records were not always well organised.

We were told that business cases always existed, but that they were usually oral. The policies and procedures that we expected to see to guide analysis and decision-making were not in place.

The lack of rigour in assessment and decision-making created an environment where projects were managed informally. There was little control over some projects' direction and costs, and little quality assurance or formal accountability. In our view, the problems and cost over-runs that occurred might have been avoided if thorough business cases had been prepared and carefully assessed before starting the projects.

For example, in 2003 TWOA bought the Glenview hotel complex in Hamilton, because TWOA needed a site for a library. In our view, the business case for the purchase and subsequent renovation project was not robust. The costs significantly over-ran estimates, and TWOA has spent at least \$14.4 million on a complex recently valued at \$10 million.

### *Conflicts of interest*

We found many examples of conflicts of interest, which were poorly managed. It was common to find TWOA contracting with, or employing, relatives of senior personnel (or those relatives' companies).

TWOA has relied heavily on personal connections, and works with people who are known to, and trusted by, the organisation. In our view, business relationships were not always managed in a transparent manner. This is not acceptable in the public sector.

Conflicts of interest increase the need for transparent and robust decision-making. This often did not occur at TWOA. In our view, many people in TWOA poorly understood conflicts of interest and their significance.

In this report, most of the conflicts of interest that we discuss involve Rongo Wetere or members of his whānau. For example, we identified 17 close relatives of Rongo Wetere who have – or have had – employment or contracting connections with TWOA. Frequent and extensive conflicts of interest also existed with educational courses and contracts for goods and services.

A conflicts of interest register existed from late 2003. It recorded some, but by no means all, of Rongo Wetere's whānau connections and related entities. However, declaring a conflict of interest, with nothing more, is not usually enough. Nor is asking someone else to sign a contract a sufficient mitigation measure when the conflicted person has been instrumental behind the scenes anyway.

Several members of Rongo Wetere's whānau have held senior positions in TWOA (and its subsidiary). This is unwise. There is potential for a lack of independence and rigour in decision-making when several members of one family hold senior positions in an organisation.

### *Senior management expenses – international travel by TWOA personnel*

Overall, international travel was poorly documented and poorly accounted for. The completeness and quality of the cost information and documentation that TWOA supplied to us was deficient in several respects.

In our view, there were legitimate business purposes for Rongo Wetere's trips (with one exception). However, documented business cases, trip budgets, and written pre-approvals did not usually exist for his travel.

On separate trips to Cuba, Rongo Wetere made, on behalf of TWOA, cash donations to officials representing 2 Cuban agencies. In our view, a public entity should not give donations in cash to foreign officials. This practice is unacceptable.

TWOA established a credit card policy in October 2003. Rongo Wetere did not comply with TWOA's credit card policy after it came into effect.

There were transactions charged to Rongo Wetere's business credit card that appeared private in nature. We note that some money has been repaid to TWOA.

In the 3 years we examined, Rongo Wetere withdrew about \$42,000 in cash using his business credit card. Almost all of these transactions occurred during 4 trips to Cuba. Rongo Wetere told us that, because of restrictions the United States of America has imposed on many banks, trying to do business with TWOA's credit card while he was in Cuba was difficult. We could infer a business use for most of the cash, but the documentation was poor. Also, we could not reconcile all explanations with the amounts of cash that had been withdrawn.

In our view, some amounts should be refunded by (and perhaps to) Rongo Wetere. However, because of the lack of documentation, we doubt whether it will be possible to determine with any certainty the amounts that may be owed by or to TWOA. This is an unacceptable situation.

# Part 1 – Introduction

- 1.1 In this Part we explain:
- how our inquiry came about;
  - the scope of our inquiry; and
  - what we did.

## How our inquiry came about

- 1.2 We began an audit and inquiry into Te Wānanga o Aotearoa<sup>1</sup> (TWOA) after receiving a request for assurance from the then Associate Minister of Education (Tertiary Education), the Hon Steve Maharey, in September 2004. The inquiry initially related to concerns about conflicts of interest involving TWOA, Ora Limited, and the Kiwi Ora course, and was at that stage limited to queries made through our appointed auditor of TWOA.
- 1.3 Through the preliminary work by our appointed auditor, some other issues emerged. We made a request in December 2004 for TWOA to supply us with further information. TWOA provided its response to that request in early February 2005. We also sought information from Rongo Wetere.
- 1.4 The then MP the Hon Ken Shirley and the media raised certain allegations in the public domain in mid-February 2005. The then Minister of Education, the Hon Trevor Mallard, also asked us to look into other matters at TWOA.
- 1.5 As a result, we reconsidered the nature and scope of our existing inquiry. We met with the Minister of Education and Mr Shirley to understand the range and nature of issues that they had raised. We considered their views, and comments from TWOA, before we settled the terms and scope of our expanded inquiry.
- 1.6 In March 2005, we publicly released the terms of reference for our expanded inquiry.

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<sup>1</sup> The full name is Te Wānanga o Aotearoa Te Kuratini o Ngā Waka, but it is commonly known as Te Wānanga o Aotearoa.

## Scope of our inquiry

- 1.7 Our inquiry examined:
- the relationship and business arrangements between TWOA and the Aotearoa Institute Te Kuratini o Ngā Waka Trust Board (the AI Trust), and their controlled entities;
  - how TWOA identified and managed conflicts of interest;
  - how TWOA handled employing or contracting with close relatives of the chief executive;
  - selected payments to members of the Council and employees of TWOA;
  - TWOA's acquisition of certain land and buildings;
  - TWOA's acquisition of goods and services, especially where TWOA Council members, employees, or their close relatives were involved;
  - how TWOA acquired and set up courses; and
  - TWOA's international travel policies and practices.
- 1.8 We focused mainly on transactions and activities during the 2002, 2003, and 2004 financial years.
- 1.9 We did not examine:
- the appropriateness of the type of, and funding levels of, courses offered by TWOA;
  - the quality of the courses delivered by TWOA; and
  - TWOA's enrolment practices (including allegations about the use of inducements).
- 1.10 These issues are more properly dealt with by the relevant government agencies.
- 1.11 Our 2004 annual audit of TWOA, under section 15 of the Public Audit Act 2001 and section 220 of the Education Act 1989, was conducted at the same time as this inquiry. The annual audit was undertaken by the appointed auditor of TWOA, and is separate to this inquiry.<sup>2</sup>
- 1.12 The full terms of reference for our inquiry are set out in Appendix 1.

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<sup>2</sup> At the time of writing this report, the 2004 annual audit of TWOA was not complete.

## **What we did**

- 1.13 We obtained a significant amount of documentation. Some requests for information from TWOA had already been made before the terms of reference for the expanded inquiry were finalised.
- 1.14 Our inquiry team spent time in Hamilton and Te Awamutu, visiting TWOA sites, meeting with staff, and obtaining and reviewing files and other documents.
- 1.15 We interviewed individuals from TWOA and from organisations that have done business with TWOA.

## Part 2 – Background

2.1 In this Part we:

- explain what a wānanga is;
- describe how TWOA was formed, and how it operates;
- introduce the AI Trust and its controlled entities;
- identify the members of Rongo Wetere’s whānau, and their business connections, discussed in this report; and
- provide an overview of transactions between TWOA and Rongo Wetere’s whānau entities.

### What is a wānanga?

2.2 A wānanga is a publicly funded tertiary education institution, alongside universities, colleges of education, and polytechnics. A wānanga is characterised by –

*. . . teaching and research that maintains, advances, and disseminates knowledge and develops intellectual independence, and assists the application of knowledge regarding ahuatanga Maori (Maori tradition) according to tikanga Maori (Maori custom).<sup>3</sup>*

2.3 A wānanga is formed and governed under Parts 14 and 15 of the Education Act 1989. It has the legal status of a Crown entity<sup>4</sup> and a public entity,<sup>5</sup> and is part of the state sector.

### Te Wānanga o Aotearoa

2.4 On 1 July 1993 the Governor-General, by Order in Council, established TWOA as a wānanga under the Education Act 1989. The wānanga was first called Aotearoa Institute, but later changed to its present name. As with other tertiary education institutions, most of TWOA’s funding comes from the Crown, and is based on the number of equivalent full-time students enrolled.

2.5 In the last 5 years, TWOA has grown rapidly. From just over 1000 students in 1999, by 2003 it had 63,387 students enrolled (equating to 34,280 equivalent full-time students) and 1232 equivalent full-time staff. Measured in

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<sup>3</sup> Section 162(4)(b)(iv), Education Act 1989.

<sup>4</sup> Under the Crown Entities Act 2004 and, before that, the Public Finance Act 1989.

<sup>5</sup> Under the Public Audit Act 2001. The Auditor-General is the auditor of all public entities.

enrolments, TWOA had become the largest tertiary education institution in New Zealand. In 2004, it received \$156 million in Crown funding.

- 2.6 TWOA has 13 campuses around New Zealand, and several other satellite sites. The head office of TWOA is in Te Awamutu.
- 2.7 TWOA offers about 100 courses in many different subjects, with some provided through distance learning. Compared with other tertiary education institutions, TWOA attracts a high proportion of mature students, Māori students, and students with no previous qualifications.<sup>6</sup>
- 2.8 TWOA's charter<sup>7</sup> places a strong emphasis on its Māori character. The charter also states that TWOA targets students:
- who have not benefited from mainstream education;
  - who want a second chance in accessing formal education;
  - who have been unemployed for a long time;
  - who represent lower socio-economic groups; and
  - who wish to achieve excellence in a Māori learning environment.
- 2.9 Like all other tertiary education institutions, TWOA's governing body is its Council. We note that there have been changes in the composition of the Council since some of the events and transactions discussed in this report.
- 2.10 Its Tumuaki, or chief executive, is Rongo Wetere. Rongo Wetere has led TWOA since it was established in 1993.

### *MO1 Limited*

- 2.11 TWOA has one subsidiary, a wholly-owned company called MO1 Limited.
- 2.12 MO1 Limited was incorporated in late 2001. It manages the Mahi Ora course, and several other courses.

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<sup>6</sup> See TWOA's draft profile, 2005-07 (November 2004).

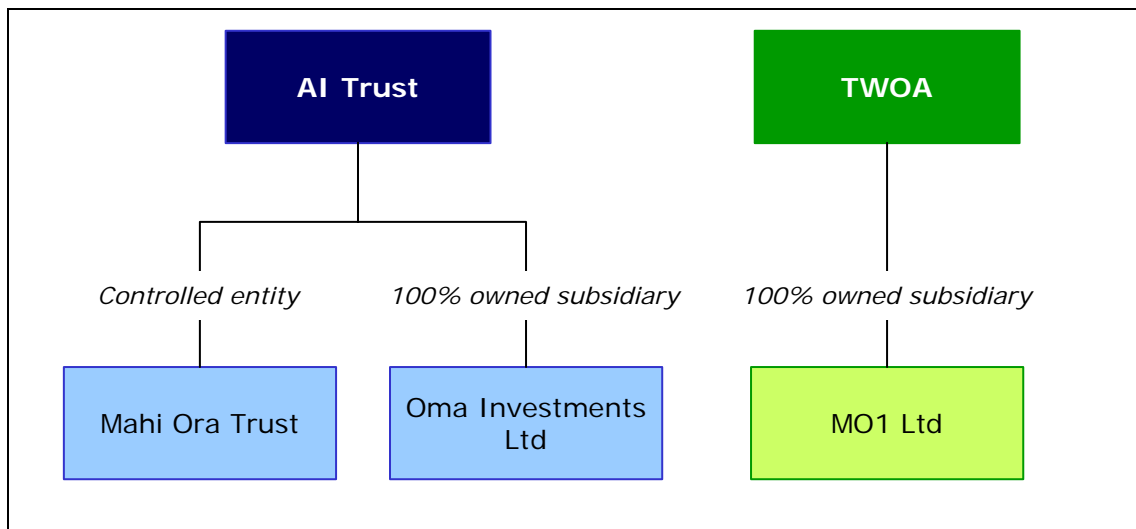
<sup>7</sup> Every tertiary education institution is required to have a charter, which sets out the institution's mission and role in the tertiary education system: see sections 159L-159V, Education Act 1989.



## The AI Trust and the entities it controls

- 2.13 The AI Trust<sup>8</sup> was created and incorporated as a charitable trust board in 1986 by a group of people who had been involved in building the Otawhao Marae and Waipa Kōkiri Centre in Te Awamutu. The AI Trust provided learning and employment opportunities for Māori who had few or no job skills or qualifications. It became a registered private training establishment, offering educational courses in, for example, Māori carving and weaving, catering, and secretarial skills. It ran campuses in Te Awamutu, Te Kuiti, Hamilton, and Manukau.
- 2.14 In the early 1990s, the AI Trust was instrumental in promoting the establishment of a wānanga.
- 2.15 After TWOA was established in 1993, the AI Trust remained active. It leased land and buildings to TWOA to provide TWOA's first campuses, and provided TWOA with its first courses and members of staff.
- 2.16 The AI Trust controls 2 entities relevant to this report – the Mahi Ora Trust and Oma Investments Limited (see Figure 1).

*Figure 1.*  
*Entities controlled by the AI Trust and TWOA*



<sup>8</sup> This entity was first known as the Waipa Kōkiri and Arts Centre Trust Board, but by 1990 had changed its name to the Aotearoa Institute Te Kuratini o Ngā Waka Trust Board. In this report, we refer to it as the AI Trust.

- 2.17 People we spoke to consider that TWOA and the AI Trust are pursuing the same goals, in a mutually supportive manner. In our interviews, the AI Trust was often described as the “parent” of TWOA. Many people involved in TWOA consider that its roots lie with the AI Trust. We were told that, in its early days, TWOA had little government funding and would not have survived without financial support from the AI Trust and the voluntary efforts of the AI Trust’s founders. Rongo Wetere told us that the AI Trust exists solely to help TWOA achieve its goals. We have not inquired into the AI Trust or its activities.
- 2.18 Although TWOA and the AI Trust are separate entities – one a public entity and one a private organisation – they have worked closely together for a long time. For example, TWOA first set up one entity – the Mahi Ora Trust – but later transferred its control to the AI Trust. Another entity – Oma Investments Limited – has always been a subsidiary of the AI Trust, but only after those involved discussed whether to set it up under TWOA or the AI Trust. At least one major property purchase was the subject of discussion over which of the entities should purchase it.<sup>9</sup> Most of the AI Trust’s revenue comes from its business with TWOA.
- 2.19 For much of TWOA’s history, most of its Council members were also trustees of the AI Trust (and the other way around). As recently as late 2003, their respective governing bodies still had 8 members in common. The extent of common membership has reduced in the last year or so, when TWOA began to recognise that a greater degree of separation and independence was needed between the 2 entities. By June 2005, only one member of TWOA’s Council was also a trustee of the AI Trust. However, 5 more trustees of the AI Trust still had other senior roles at TWOA. There was also much overlap in board membership between the subsidiaries of TWOA and the AI Trust. TWOA’s Council acknowledges that the relationship between the AI Trust and TWOA needs to be more transparent and conducted at arm’s length. We understand that TWOA’s Council and the AI Trust now have no members in common.
- 2.20 Rongo Wetere was a trustee and the managing director of the AI Trust for most of its existence, as well as being Tumuaki of TWOA. He resigned his positions in the AI Trust from 31 March 2005.
- 2.21 TWOA (and MO1 Limited) and the AI Trust (and its controlled entities) have a close business relationship, which covers many different transactions. Figure 2 shows continuing arrangements in place during 2004 (the most recent completed financial year). Figure 3 shows once-only past and proposed transactions.

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<sup>9</sup> The Porirua campus – see Part 5.

*Figure 2.  
Continuing arrangements between TWOA and the AI Trust, and the entities they control, in 2004*

<b>Nature of transaction</b>	<b>\$ from</b>	<b>\$ to</b>	<b>Value</b>
Resource distribution services	TWOA	Oma Investments Limited	\$8.4m
Lease of laptop computers*	TWOA	AI Trust	\$2.1m
Leases of land and buildings	TWOA	AI Trust	\$1.7m
Resource distribution services	MO1 Limited	Oma Investments Limited	\$416,000
Lease of land and buildings	MO1 Limited	AI Trust	\$58,000
Management and administration services	AI Trust	TWOA	\$40,000
Koha	MO1 Limited	Mahi Ora Trust	Unknown
Informal lease of part of the Glenview hotel complex	Unclear	Unclear	Unknown

\* The computers were for students' use. If a student completed the course, the AI Trust then gave the computer to the student.

*Figure 3.  
Other selected transactions and proposed transactions between TWOA and the AI Trust, and the entities they control*

<b>Nature of transaction</b>	<b>\$ from</b>	<b>\$ to</b>	<b>Year</b>	<b>Value</b>
Trade rebate	Oma Investments Limited	TWOA	2004	\$3.2m
Loan	TWOA	AI Trust	2001	\$3.1m
Sale of inventory	Oma Investments Limited	TWOA	2002	\$2.0m
Sale of inventory	TWOA	Oma Investments Limited	2003	\$1.7m
Funding of major leasehold improvements by TWOA	TWOA	AI Trust	Various	Unknown
Intellectual property contingent liability	TWOA	AI Trust	Proposed	About \$12m
Proposed sale or swap of the Glenview hotel complex, possibly in exchange for TWOA buying the land it currently leases from the AI Trust			Proposed	About \$25m
Proposed swap between the AI Trust and a third party* of 2 properties, both of which TWOA (or MO1 Limited) is the lessee of			Proposed	Unknown

\* Wairau Property Developments Limited.

2.22 We looked at some of these transactions in detail. The leases of land and buildings, leasehold improvements, the loan, and matters relating to the Glenview hotel complex are discussed in Part 5. The intellectual property contingent liability is discussed in Part 7.

## **Rongo Wetere’s whānau and their connections with TWOA**

2.23 Our report focuses heavily on Rongo Wetere and members of his whānau. The fact that we name them does not mean that they are solely responsible for governing and managing TWOA. TWOA is a large organisation and many other individuals play important roles in its governance and management, but it has not been necessary to name them.

### *Rongo Wetere*

2.24 Rongo Wetere is the Tumuaki, or chief executive, of TWOA, and has led TWOA since it was established in 1993. He was also a director of MOI Limited until 30 August 2005.

2.25 Until 31 March 2005, he was a trustee and the managing director of the AI Trust. Until 15 April 2005, he was a director of Oma Investments Limited. He remains a director of other non-trading subsidiary companies of the AI Trust.<sup>10</sup>

2.26 Rongo Wetere has no private companies or businesses of his own.

### *Susan Cullen*

2.27 Susan Cullen is the daughter of Rongo Wetere. She is neither an employee of TWOA nor a paid consultant, but she has worked voluntarily for TWOA over many years. Her work has included drafting strategic documents, managing special projects, and rewriting educational course material. We were told that she has never charged for her time, even though some of this work has been extensive.

2.28 Ms Cullen has been granted the designation “adjunct professor” by TWOA. This is not a paid position, but an honorary title recognising her long-standing support for TWOA.

2.29 Ms Cullen is an owner<sup>11</sup> and director of many companies that have done business with TWOA in recent years (see Figure 4).

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<sup>10</sup> University of New Zealand Limited and The University of Aotearoa (NZ) Limited.

<sup>11</sup> Susan Cullen is a 25% shareholder in Global Origins Limited, and the sole shareholder of all of the other companies listed in Figure 4.

*Figure 4.  
Business transactions between Ms Cullen's companies and TWOA*

<b>Company</b>	<b>Nature of transaction</b>	<b>Year</b>	<b>Amount paid to company</b>
Ora Limited	Joint venture with TWOA over the Kiwi Ora course	2004	\$26.7m
Ora Limited	Joint venture with TWOA over the Kiwi Ora course	2003	\$12.0m
Mahi Ora Limited	Sale of Mahi Ora course to MO1 Limited in 2001	2001	\$7.0m
Awarua Limited	Payment by MO1 Limited for Lifeworks course	2003	\$1.7m
Awarua Limited	Reimbursement for direct costs incurred in undertaking various TWOA special projects	2004	\$376,000
Wairau Property Developments Limited	Lease of 2 properties to TWOA	2004	\$81,000
Global Origins Limited	Printing contract	2004	\$15,000
Life Works International Limited	Joint venture with TWOA over the Mahi Ora course	2000-01	Unknown

### *Kingi Wetere*

- 2.30 Kingi Wetere is a son of Rongo Wetere. He was employed as General Manager of MO1 Limited from its inception in 2001 until 2004 (although this includes a leave of absence, and a time when the role was part-time and shared). He was also a director of MO1 Limited from its inception in 2001 until 2005. Immediately before his employment with MO1 Limited, he was working for Ms Cullen's company Mahi Ora Limited.
- 2.31 Kingi Wetere was a director of Oma Investments Limited from 2003 to 2004. He became General Manager of Oma Investments Limited in 2005, and remains in that role.
- 2.32 He was employed as one of 2 Pouhere at TWOA from 2004 to 2005 (see paragraph 4.27 for a discussion of Pouhere).
- 2.33 Kingi Wetere has a significant ownership interest<sup>12</sup> in Power Chill NZ Limited – an air-conditioning business that has undertaken work for TWOA and MO1 Limited. Kingi Wetere is also a director of this company (and until late 2004 was the sole director).
- 2.34 Kingi Wetere is no longer employed by TWOA.

<sup>12</sup> Kingi Wetere and William Wetere have an indirect interest (through family trusts and another company) in a 60% shareholding.

### *William Wetere*

- 2.35 William Wetere is also a son of Rongo Wetere. He was employed as the Information Officer and Marketing Manager of TWOA from 1997 until 2000.
- 2.36 He was employed by MO1 Limited from its inception in 2001 until 2003. For some of this time he was General Manager (and sometimes part-time, sharing the job with his brother, Kingi Wetere). He was also a director of MO1 Limited from 2002 to 2003.
- 2.37 William Wetere was a trustee of the AI Trust until March 2005. He was General Manager, and a director, of Oma Investments Limited from 2003 to 2005.
- 2.38 William Wetere is a shareholder<sup>13</sup> and director of Masterfibre South Pacific (2004) Limited. The company sold a small quantity of rubber matting to TWOA in 2004.
- 2.39 William Wetere's family trust, the Te Whatu Family Trust, leased a residential property to TWOA from 2004 to 2005.
- 2.40 William Wetere, like his brother Kingi, has a significant ownership interest in Power Chill NZ Limited (see paragraph 2.33 above).
- 2.41 William Wetere is no longer employed by TWOA.

### *Marcia Krawll*

- 2.42 Marcia Krawll is Rongo Wetere's fiancée. She is an independent contractor to TWOA, as International Events Co-ordinator and Greenlight Programme Co-ordinator.

### *Ara Wetere*

- 2.43 Ara Wetere is a brother of Rongo Wetere. He owns<sup>14</sup> and directs Aranui (2003) Limited, a company that provides landscaping, grounds maintenance, drainage, tar-sealing, and fencing services to TWOA.

### *Transactions and arrangements discussed in this report*

- 2.44 We discuss:
- the appointments to TWOA and MO1 Limited in Part 4;
  - the lease arrangements with members of Rongo Wetere's whānau in Part 5;

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<sup>13</sup> William Wetere has an interest in a 33% shareholding.

<sup>14</sup> Ara Wetere is the sole shareholder.

- Power Chill NZ Limited, Aranui (2003) Limited, and Oma Investments Limited in Part 6; and
- the Mahi Ora, Lifeworks and Kiwi Ora courses, and the Greenlight programme, in Part 7.

### **Diagrammatic overview of the transactions**

2.45 Figure 5 shows the gross value of the business transactions described in this Part between TOWA and Rongo Wetere's whānau entities. The dollar amounts do not represent any profit that might have been made by the other entities involved. Figure 6 shows the involvement of members of Rongo Wetere's whānau in those entities.

Figure 5.  
TWOA's business transactions with Rongo Wetere's whānau entities

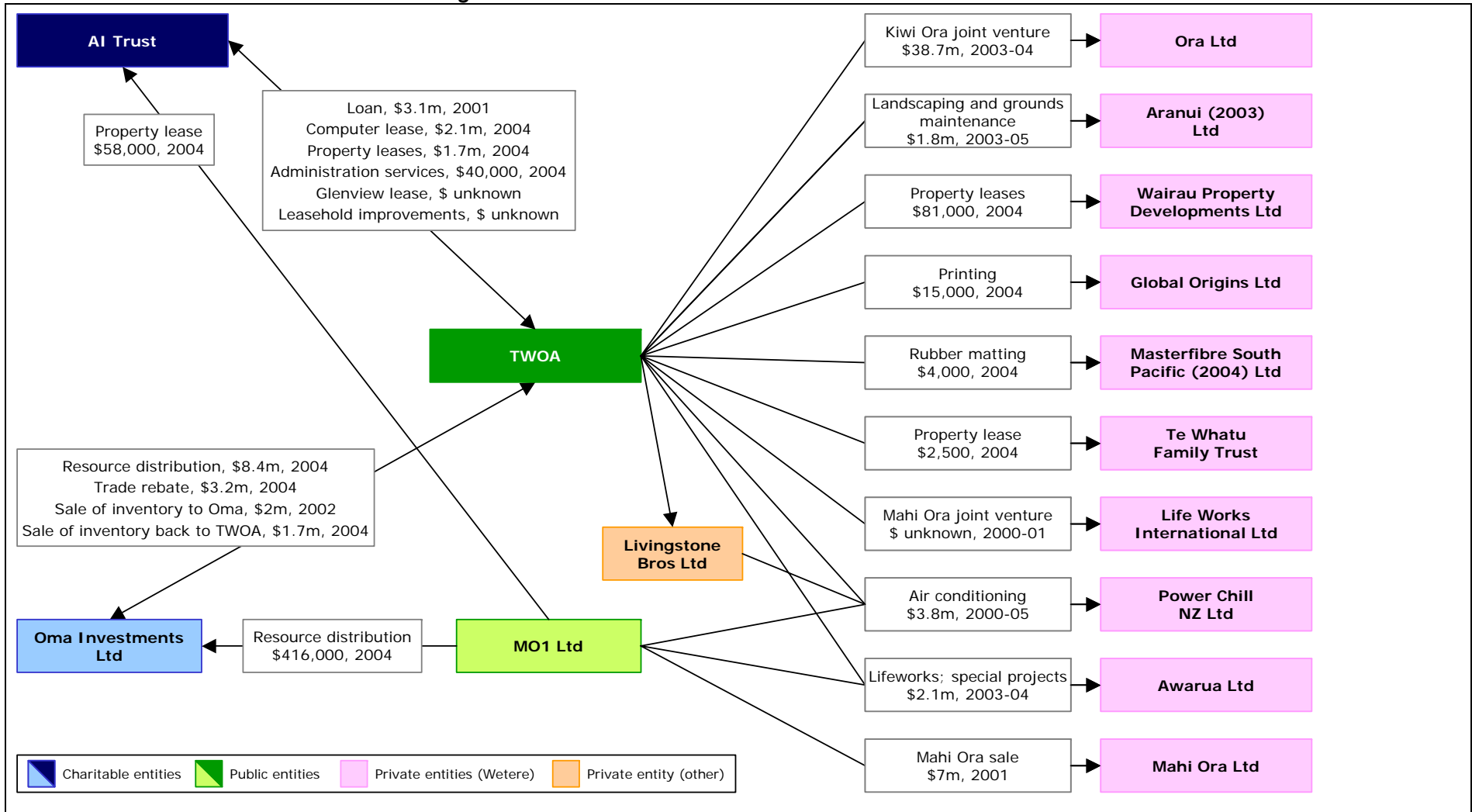
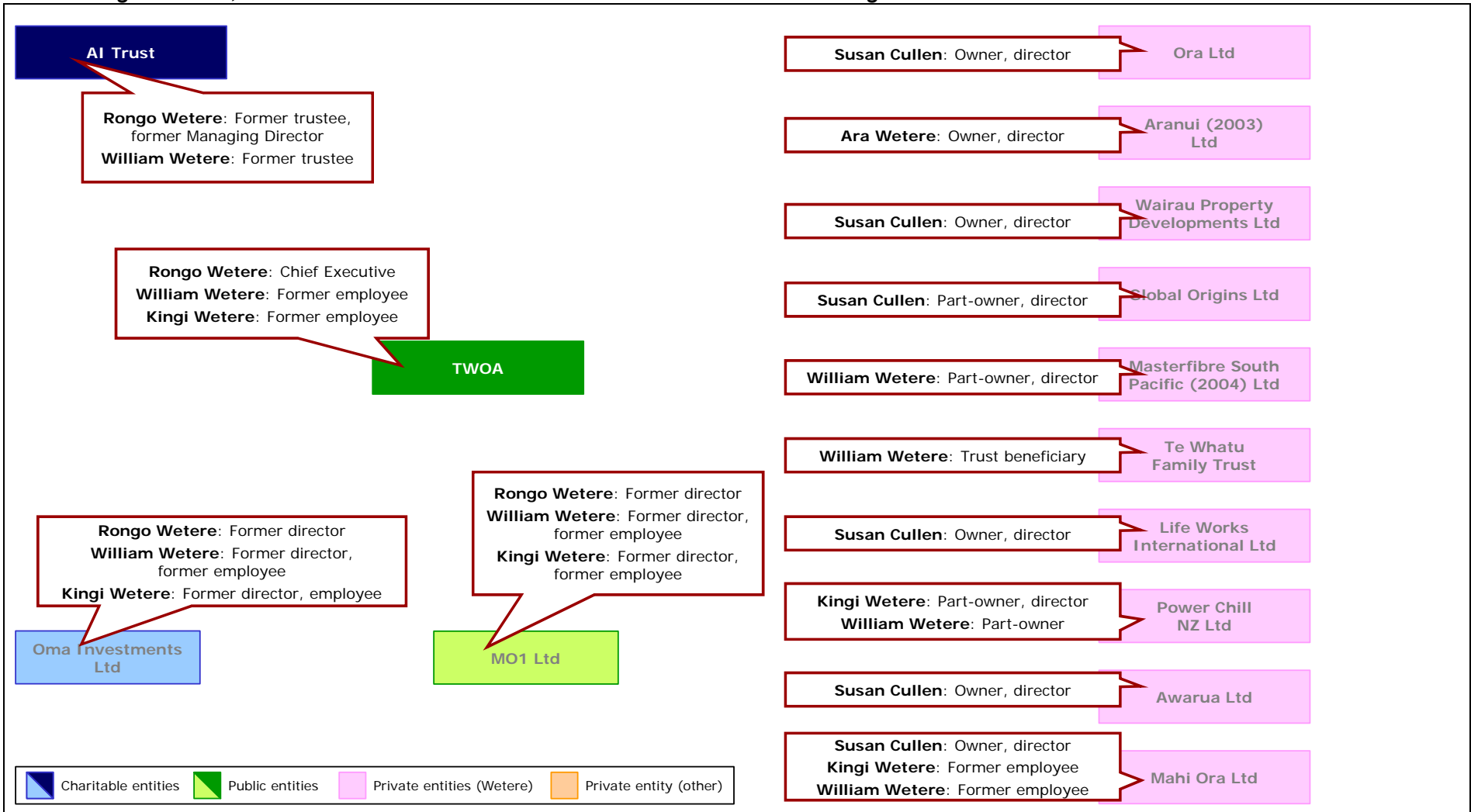




Figure 6.  
How Rongo Weterere, his children and his brother are linked to the entities in Figure 5



## Part 3 – Our expectations

3.1 In this Part, we discuss our expectations of, and the guidance that has been available to, Crown entities. We then summarise our specific expectations relating to:

- decision-making practices;
- identifying and managing conflicts of interest; and
- dealing with senior managers' expenses.

3.2 These 3 issues were recurring themes in our inquiry.

### Crown entities

3.3 The Education Act 1989 guarantees tertiary education institutions academic freedom and autonomy.<sup>15</sup> Nevertheless, they must also meet high ethical standards, be accountable, and properly use the resources given to them.<sup>16</sup>

3.4 We have reviewed TOWA against what we consider are accepted expectations of good practice in the public sector.

3.5 When TOWA was established, there may have been a lack of useful guidance for Crown entities about public sector expectations. This is not the case now, and has not been for some time.

3.6 Many sources of guidance are now available. Appendix 2 contains a list of sources of guidance that are relevant to the issues discussed in this report. These provide more detail on the expectations that we summarise in this Part.

### Decision-making practices for significant expenditure

3.7 Public entities spend public funds, so they should take care to spend them wisely. They should use their resources lawfully, effectively and efficiently. They should avoid waste, and act with probity and financial prudence. In other words, they should seek to ensure that they get value for money, and that they do so in a fair and justifiable manner.

3.8 Decisions to enter into significant transactions and new ventures should not be taken impulsively, but only after careful planning and assessment. They should

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<sup>15</sup> Sections 160 and 161(1), Education Act 1989.

<sup>16</sup> Section 161(3), Education Act 1989.

be based on thorough analysis or advice and involve competent personnel. The assessment at the start is often called the “business case” for a decision.

- 3.9 For example, in procurement<sup>17</sup> a business case should ideally:
- identify the objectives of the proposed procurement;
  - assess the costs, benefits, and risks involved;
  - examine the feasibility of the initiative;
  - identify a preferred strategy and method;
  - identify and assess options; and
  - show that the preferred option will meet the procurement objective.
- 3.10 We expect public entities to consider what method is most suitable, given the nature and size of the procurement. For significant transactions, the best way to ensure value for money is usually a competitive approach. This may mean closed or open tendering, or seeking several quotes. Sometimes it may mean entering into a sole-source or preferred supplier relationship. Public entities should also bear in mind the need to act in a fair, open, and unbiased manner, because other potential suppliers may reasonably expect to be given opportunities to bid for work.
- 3.11 Sometimes the decision-making itself will need to be the subject of a plan, although public entities will often have established standard policies and procedures to guide them when making particular types of decisions. Several stages of evaluation may occur during the selection, and there may be negotiations between the parties.
- 3.12 Good planning in the early stages of a project should ensure that:
- the objectives are clear;
  - the steps for achieving them are sensible and well thought out;
  - costs and benefits have been carefully weighed;
  - foreseeable risks or difficulties are identified and provided for; and
  - the project meets its objectives.
- 3.13 Further project planning may be needed to provide for the details of how the project is to be carried out. The contract should be promptly and adequately documented, and should be carefully managed and checked as it is carried out.
- 3.14 A public entity may be called on to justify its decisions after the event, so it must record in writing its analysis, advice, and decisions.

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<sup>17</sup> See our report *Procurement: A Statement of Good Practice* (June 2001); and Ministry of Economic Development, *Government Procurement in New Zealand: Policy Guide for Purchasers* (latest edition July 2002).

## Identifying and managing conflicts of interest

- 3.15 A conflict of interest arises where 2 different interests intersect.<sup>18</sup> In the public sector, a conflict of interest exists where a person's duties or responsibilities to a public entity could be affected by some other separate (and usually private) interest or duty that they may have. Conflicts of interest can have both legal and ethical dimensions.
- 3.16 One way of considering whether a conflict of interest may exist is to ask:  
*Does the issue create an incentive for the person to act in a way that may not be in the best interests of the public entity?*
- 3.17 Proper management of conflicts of interest is important in the public sector. Where activities are paid for by public funds, or are undertaken in the public interest, taxpayers will have strong expectations of probity. Media and the public take a strong interest when they think taxes are being spent irresponsibly or misused for private gain.
- 3.18 Public perceptions are important. It is not enough that public officials are honest and fair; they should also be clearly seen to be so.
- 3.19 Labelling a situation as a "conflict of interest" does not mean that corruption or some other abuse of public office has actually occurred. Usually, there is no suggestion that the person concerned has taken advantage of the situation for their personal benefit, or that the person has been influenced by improper personal motives. But a perception of the possibility for improper conduct – no matter how unfair to the individual – can be just as significant. Impartiality and transparency in administration are essential to the integrity of the public sector. The criterion is whether an outside observer would consider there to be a reasonable risk that the situation could undermine public trust and confidence in the official or the public entity.
- 3.20 The issue is not confined to considering the possibility of financial loss to the public entity concerned. It can relate to the potential for public funds, resources, or time being used by someone to advance their own private interests.

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<sup>18</sup> This section is a summarised version of the discussion of conflicts of interest in our report *Christchurch Polytechnic Institute of Technology's management of conflicts of interest regarding the Computing Offered On-Line (COOL) programme* (2004). See especially Part 2 of that report.

- 3.21 There are 2 aspects to dealing with a conflict of interest:
- *Identification.* A conflict of interest needs to be identified and declared to the necessary people in a timely and effective manner.
  - *Management.* Decisions need to be made about what, if anything, needs to be done to avoid or mitigate the conflict of interest.
- 3.22 In the public sector, simply declaring a conflict of interest may not be enough. Once a conflict of interest has been identified and declared, the entity may need to take further steps to remove any possibility – or perception – of public funds being used for private gain.

## Senior management expenses

- 3.23 Public entities need to take particular care over the expenditure of public funds relating specifically to, or incurred by, senior personnel of an organisation. This is because such expenses often involve an element of personal benefit, and carry an increased potential for abuse.<sup>19</sup>
- 3.24 This expenditure can include things like travel, accommodation, entertainment and hospitality, car use, communications devices, gifts, fees paid to the person, expenses paid on credit card, and reimbursement of expenses paid personally. Some of this expenditure is called “sensitive expenditure” or “discretionary expenditure”.
- 3.25 In this inquiry, we looked at travel and credit card expenses incurred by TWOA personnel.
- 3.26 We expect a public entity to have clear policies and practices governing travel, including such matters as:
- the need for a documented business case setting out the purpose and outcomes being sought and containing a budget or indicative cost, before the trip is undertaken;
  - the need for formal approval of the travel (given by a more senior person);
  - the appropriateness of the use of business class or first class flights;
  - the quality of accommodation that is permissible;
  - the need to keep enough documentation to explain and corroborate expenses;
  - how the traveller will account for the costs incurred; and
  - other reporting requirements (such as trip reports).

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<sup>19</sup> See our report *Central Government: Results of the 2003-04 Audits, Part 6* (2005), and The Institute of Internal Auditors NZ Inc., *A Management Guide to Discretionary Expenditure* (1996).

- 3.27 Policies governing the use of credit cards should deal with such matters as:
- the appropriateness of making cash withdrawals;
  - whether the card can be used for private expenditure;
  - the need to keep enough documentation to explain and corroborate transactions;
  - how credit card transactions are reviewed and approved by a person senior to, and independent of, the card holder; and
  - how the card holder will account for the costs incurred.
- 3.28 Our inquiry also looked at fees paid to board members. We expect fees to comply with public sector standards or rules.<sup>20</sup>

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<sup>20</sup> Such as Cabinet Office, *Cabinet Office Circular CO (03) 4: Fees Framework for Members of Statutory and Other Bodies Appointed by the Crown* (latest edition July 2003).

## **Part 4 – Appointing TWOA and MO1 Limited personnel**

4.1 In this Part we:

- describe the general employment practices at TWOA;
- set out our findings on appointments of members of Rongo Wetere’s whānau to positions within TWOA and MO1 Limited; and
- discuss the fees paid to directors of MO1 Limited.

### **General employment practices**

4.2 It is common for employees or contractors of TWOA to have a personal or family connection to other TWOA personnel. This is so at senior and junior levels, including cases where relatives have direct reporting relationships. The practice is not limited to Rongo Wetere’s whānau.

4.3 For much of TWOA’s existence (particularly when it was a small organisation, in its early years), it has been a close-knit organisation. The TWOA personnel we met displayed a strong commitment to, and passion for, TWOA’s work and goals. TWOA has relied heavily on personal links between individuals, and a strong feature of its practice is to work with people it knows and trusts. The people we spoke to did not see this as undesirable. If anything, they saw it as a positive part of the organisation’s culture.

4.4 The body of people established as TWOA came from a private organisation. For a long time, TWOA was a small organisation with meagre finances, and we were told that it often struggled to adequately remunerate new staff. We were told that this was a natural consequence of TWOA in its early years receiving little financial support from the Government. We were also told that it was difficult to attract qualified and experienced staff to Te Awamutu.

4.5 Rongo Wetere told us that a competitive approach to recruitment was not always an efficient use of time and money. He also said that a competitive approach does not always produce the best appointee.

4.6 We accept that small businesses in the private sector may often employ and contract with family members. However, TWOA is a public entity. If a public entity is considering appointing a relative of a senior person, it must manage the conflict of interest carefully. The entity must avoid perceptions of undue influence or preferential treatment. When employing staff, TWOA is required by sections 77F-77H of the State Sector Act 1988 to act independently, to appoint on merit, and (wherever practicable) to advertise vacancies so suitably

qualified people can apply. Meeting these obligations should not be avoided because it is thought to be an inefficient use of time and money. In our view, the proliferation of related individuals working at TWOA suggests that TWOA has not always complied with its statutory requirements.

- 4.7 TWOA introduced a conflicts of interest policy in late 2003.<sup>21</sup> From this time, it also set up a conflicts of interest register for Council members and senior managers. The register has been updated irregularly. It includes a column to record proposed “mitigating strategies” for each declared interest. A new draft conflicts of interest policy has been prepared in 2005.

## **Rongo Wetere’s whānau**

- 4.8 We have not examined all appointments of personnel in TWOA that may have involved conflicts of interest. Instead, we focused on Rongo Wetere’s whānau. We identified 17 close relatives of Rongo Wetere who have – or have had – employment or contracting connections with TWOA.
- 4.9 In general, the individuals have been suitably qualified for the jobs TWOA appointed them to. However, the methods of selection are unclear and have varied widely. The use of a competitive approach has been inconsistent. Rongo Wetere’s involvement has also varied. He made some appointments personally, but there were many appointments where he was not involved closely. Kingi Wetere made some appointments in MO1 Limited.
- 4.10 We understand that members of Rongo Wetere’s whānau have been involved in TWOA and the AI Trust for a long time, and some of these people have been involved since before TWOA was established as a Crown entity in 1993. Many of the relatives told us that, especially in the early days, they gave much voluntary or casual help to TWOA. They sometimes worked long hours for little or no pay, for long periods. They incurred many direct expenses but did not ask or expect TWOA to pay them back. They did this out of loyalty to Rongo Wetere. As one relative said, “this was manaaki, our tīkanga, supporting the concept for our brother Rongo”.
- 4.11 We do not doubt the passion and dedication that people have shown for the goals of TWOA. However, the practice of employing relatives so readily should have stopped once TWOA was established as a Crown entity.
- 4.12 Because there are so many employed or contracted relatives, this report does not discuss all of Rongo Wetere’s whānau connections. The appointments of greatest concern involve the closest of Rongo Wetere’s relatives – his children and fiancée.

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<sup>21</sup> This policy came about because of the internal review into the Kiwi Ora course discussed in Part 7.



### *William Wetere – Information Officer and Marketing Manager*

- 4.13 William Wetere was employed as TWOA's Information Officer in 1997. The position was part-time at first, later became full-time, and later still changed into that of Marketing Manager. He came to the Information Officer position with experience in media and television production.
- 4.14 Rongo Wetere was involved in selecting William Wetere for the position. Rongo Wetere told us he thought that TWOA had advertised the position, and that it had considered other applicants. TWOA was not able to provide us with evidence to support this. A letter confirmed the appointment, but TWOA could not find employment agreements for the 2 positions (Information Officer and Marketing Manager). William Wetere's appointment to the positions happened up to 8 years ago, so the records may have been lost or disposed of. We were told that few professionals were tempted to work at TWOA in those days, because wages were low and work conditions were often less than comfortable.
- 4.15 William Wetere's appointments occurred before TWOA set up a conflicts of interest policy and register.

### *Kingi Wetere and William Wetere – MO1 Limited*

- 4.16 When TWOA set up MO1 Limited in 2001, Kingi Wetere became the first General Manager and William Wetere became Operations Manager. We were told that these appointments, as well as the transfer of other staff, were part of the basis on which the Mahi Ora course was bought by MO1 Limited. Immediately before the purchase, Kingi Wetere and William Wetere held equivalent positions with the vendor company Mahi Ora Limited. We were told that it made sense, for business continuity reasons, for them to carry on managing the course.
- 4.17 We were told that Rongo Wetere was not involved in these appointments. TWOA could not tell us what, if any, selection methods were used, and who approved the appointments. The positions were not advertised. People we interviewed could not recall any particular discussions about the appointments, and the appointments were not written into the sale and purchase agreement (nor recorded in any other contract between Mahi Ora Limited and MO1 Limited). There may have simply been assumptions or oral understandings about the continued operations of the Mahi Ora course. TWOA's Council does not appear to have been involved.
- 4.18 Minutes of the first board meeting of MO1 Limited show that Rongo Wetere, Kingi Wetere and William Wetere were all present and took part. Rongo Wetere chaired the meeting. During the meeting, Kingi Wetere's appointment as General Manager was the subject of a formal resolution, but it appears to us that it was simply confirmation of an arrangement already informally agreed. The salaries for Kingi Wetere and William Wetere were set at the meeting. We were told that all 3 were excluded from decision-making about those salaries. There is no record in the minutes of any abstentions or declarations of interest.

- 4.19 Kingi Wetere was also an inaugural director of MO1 Limited. We do not know how this decision was made, who made it, and to what extent (if any) Rongo Wetere was involved. TWOA could not provide any evidence that TWOA's Council considered or determined the composition of the board of MO1 Limited.
- 4.20 The board members of MO1 Limited later decided to appoint William Wetere as a director of MO1 Limited. Rongo Wetere took part in the board meeting where that decision was made, and seconded the motion to appoint William Wetere.
- 4.21 Later still, William Wetere (who was effectively the second in charge) became General Manager of MO1 Limited for a period (and, for part of that time, shared the job with Kingi Wetere). Rongo Wetere was absent from the board meeting when William Wetere was appointed as General Manager, although Kingi Wetere was present and took part in the meeting.
- 4.22 All of these appointments were before TWOA set up a conflicts of interest policy and register. After the register was set up, Rongo Wetere recorded that his son Kingi Wetere was General Manager of MO1 Limited. Kingi Wetere also recorded his relationship with Rongo Wetere. The register noted, in the relevant "mitigating strategy" columns, that Kingi Wetere reported to MO1 Limited's board, and that Rongo Wetere would not be involved in Kingi Wetere's salary setting, review, and performance appraisal. It did not address the likelihood that Rongo Wetere, as a member of the board himself, would be dealing regularly with matters in which Kingi Wetere was intimately involved.

### *Marcia Krawll*

- 4.23 Marcia Krawll has had 3 consultancy contracts with TWOA since 2001. All 3 related to her role as International Events Co-ordinator, and the third also provided for her position as Programme Co-ordinator. As Programme Co-ordinator, Ms Krawll managed the creation of the Greenlight programme (see Part 7). She came to the positions with experience in event management, educational consulting, programme development, and indigenous issues, and with contacts in North America. She is not an employee of TWOA. TWOA receives her services under a series of fixed-term independent contractor arrangements.
- 4.24 Ms Krawll's first 2 contracts pre-dated her personal relationship with Rongo Wetere. We have no particular concerns about them. When the second contract ended in late 2002, Ms Krawll and Rongo Wetere were in a personal relationship. Ms Krawll continued to carry out some work for more than a year after that contract expired, including 5 international trips (see Part 8). She submitted invoices for some of her time, but told us that she was largely consulting at no charge during this period.

- 4.25 The third contract was agreed in late 2003, but was backdated to cover part of the previous uncontracted period. Rongo Wetere helped negotiate this contract, and the rate of pay. He sent a memo to TWOA's Council chairperson in which he declared his conflict of interest and attached a draft contract, recommending that it be approved. The chairperson reviewed and signed the contract for TWOA.
- 4.26 At about this time Rongo Wetere recorded his relationship with Ms Krawll in TWOA's conflicts of interest register. The recorded mitigating strategy is that Ms Krawll's contract would be approved, and her performance monitored, by the Council chairperson.

### *Kingi Wetere – Pouhere*

- 4.27 When Kingi Wetere was employed as a part-time Pouhere in 2004, he was one of 2 TWOA employees with this title. The Pouhere positions are strategic senior management roles, reporting to Rongo Wetere. The precise nature of the positions is unclear to us. They have been described as involving strategic planning and special projects, as being deputies to the chief executive, and as forming part of a succession plan to groom potential successors for Rongo Wetere's eventual retirement. TWOA knew about Kingi Wetere's leadership and management skills through his tenure as General Manager of MO1 Limited.
- 4.28 Rongo Wetere selected Kingi Wetere for this position after consultation with others. The position was for a fixed term of 12 months. The position was not advertised, and there was no competitive selection process. TWOA could not provide evidence that it considered any other candidates for the position. The chairperson of the Council signed the employment agreement for TWOA.
- 4.29 The family relationship between Kingi Wetere and Rongo Wetere had been recorded in TWOA's conflicts of interest register by the time the appointment was made, but the register contained no mitigating strategy about how to manage any issues arising from Kingi Wetere holding the position of Pouhere.

### *Concluding comments*

- 4.30 Rongo Wetere and Kingi Wetere made declarations in the conflicts of interest register soon after it was set up in late 2003. Some, but not all, of Rongo Wetere's whānau connections and related entities were recorded in the register. Mitigating strategies were recorded for some, but not all, interests. In practice, there was often little consideration of how to manage conflicts of interest beyond writing them in a register and abstaining from signing some contracts.
- 4.31 Within the public sector, declaring a conflict of interest, with nothing more, is unlikely to adequately manage the situation. Nor is asking someone else to sign a contract (as occurred with Ms Krawll and the Pouhere position) a sufficient mitigation measure when the conflicted person has been heavily involved behind the scenes anyway.

- 4.32 In some of the appointments of close relatives, Rongo Wetere was directly involved. With the senior positions discussed here, even where Rongo Wetere did not participate in the formal resolution or in signing the contract, it seems that the decisions were made with his knowledge and (at least tacit, and perhaps explicit) consent or support. Regardless of how well suited the appointees may have been to the positions they were appointed to, in our view their personal connection to Rongo Wetere must have been significant in them being considered for, and obtaining, their positions. This is not an acceptable way for public entities to employ staff.
- 4.33 The wisdom of having several members of one family holding senior positions in a public entity is questionable. For example, in 2002 and 2003 most of the board members of MO1 Limited were members of Rongo Wetere's whānau. A son of TWOA's chief executive was once the head of TWOA's subsidiary, and later was in a position akin to a deputy chief executive role at TWOA. In our view, there is a potential for a lack of independence and rigour in decision-making when several members of one family hold senior positions in an organisation.
- 4.34 TWOA is not a small family business in the private sector. It is a public entity, and should be managed as a public entity.

### **Fees paid to directors of MO1 Limited**

- 4.35 Two other inaugural directors of MO1 Limited in 2002 were Min Marshall and Bruce Bryant. Ms Marshall was already employed by TWOA, as its Corporate Services Director. Mr Bryant is an accountant in private practice and was, at the time, a member of TWOA's Council.
- 4.36 The board of MO1 Limited agreed to pay Ms Marshall \$40,000 a year (and superannuation), and Mr Bryant \$50,000 a year (and expenses), for their roles as directors.
- 4.37 These payments did not meet the fee guidelines issued by the Cabinet Office.<sup>22</sup> (The guidelines apply to subsidiaries of TWOA.) Ms Marshall's and Mr Bryant's fees were more than twice the maximum set out in the fee guidelines.
- 4.38 In Ms Marshall's case, she was already an employee of TWOA. If, because of her senior position in TWOA, she needed to be involved with MO1 Limited, it should have been considered part of her job. It was not appropriate for her to receive directors' fees on top of her salary.

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<sup>22</sup> Cabinet Office, *Cabinet Office Circular CO (03) 4: Fees Framework for Members of Statutory and Other Bodies Appointed by the Crown* (latest edition July 2003).

- 4.39 Our appointed auditor identified the issue about Ms Marshall in his audit of MO1 Limited's 2002 financial statements, and brought it to the attention of MO1 Limited. The payments to Ms Marshall stopped. An agreement was reached where she was expected to – and did – repay a portion of those fees. She resigned as a director of MO1 Limited in 2004.
- 4.40 The issue about Mr Bryant was brought to the attention of MO1 Limited in 2004, and Mr Bryant decided to resign as a director of MO1 Limited. MO1 Limited continued to engage his services as a professional adviser under an ongoing consultancy arrangement with his accounting firm. (When his term as a member of TWOA's Council expired, TWOA also engaged him on a similar consultancy basis.) He was not asked to repay any fees. Rongo Wetere told us that he did not consider asking for the money to be returned because of Mr Bryant's considerable contribution to MO1 Limited. In our view, MO1 Limited should have considered asking him to do so.
- 4.41 Ms Marshall and Mr Bryant told us that they did not know about the relevant guidelines and expectations around directors' fees. We accept those explanations. TWOA and MO1 Limited did not appear to be aware of the guidelines either. We are disappointed that these issues arose. However, we are satisfied that, once the improper fee payments were identified, they were stopped.

## Part 5 – Acquiring land and buildings

- 5.1 In this Part, we describe:
- TWOA’s general practices for acquiring land and buildings;
  - TWOA’s property dealings with the AI Trust;
  - the purchase and renovation of the Glenview hotel complex; and
  - property dealings with Rongo Wetere’s whānau entities.
- 5.2 Our discussion includes land and buildings that TWOA obtained by purchase, lease, or construction.

### General practices

- 5.3 In our view, TWOA has relied heavily on Rongo Wetere in its approach to buying, leasing, renovating, or constructing property. Rongo Wetere has gathered much knowledge and expertise in property dealings, and appears to have often acted on instinct. There has been a lot of informal and oral assessment and decision-making.
- 5.4 The Council was informed of property purchases, but decisions were sometimes made by Rongo Wetere and later reported to the full Council for formal approval. More recently, a property committee made up of senior TWOA personnel advised Rongo Wetere, but he still had an important role in these matters.
- 5.5 Given TWOA’s size and asset base, we expected it to have a formal capital acquisition strategy. We were provided with 2 documents – *Capital Funding Business Plan 1999-2000* and *Development Plan for 2001-2003*. These documents were part of a Ministerial submission seeking Crown funding, and (among other things) discussed expected capital funding needs. However, while they were sufficient for their purpose, neither of them met our expectations of a capital acquisition strategy. The documents covered a relatively short period, and contained limited analysis of options, benefits, and risks.
- 5.6 In our view, capital acquisition decisions were made in an opportunistic fashion. To some extent, this may have been a necessary consequence of TWOA’s rapid and significant growth in recent years. TWOA’s Council acknowledges that this was not ideal, but told us that it was still able to obtain “reasonable or good terms”.
- 5.7 Business cases for proposals were often not documented. We were told that proposals were usually discussed and debated at length. A full and documented

assessment of proposed purchases is important. Written business cases help ensure that decisions are thoroughly thought out at an early stage, and reduce the likelihood and effect of obstacles and surprises later.

- 5.8 One example of what can happen when a proper business case is not prepared is an 11 hectare rural site at Ohaupo, bought with the intention of constructing a carving school. TWOA discovered shortly afterwards that traffic access was difficult. TWOA has recently sold the property. Another example is the Glenview hotel complex (see paragraphs 5.29-5.47).
- 5.9 Policies on financial reporting and budgeting, investment, fixed assets, and property management did not exist at the time of the decisions discussed in this Part. TWOA has prepared such policies recently. This is a positive change, but these policies should have existed earlier. At the time of our fieldwork, most of these policies were still in draft form. In our view, they should be finalised quickly.
- 5.10 Our appointed auditor and other advisers have been urging TWOA, for some time, to document the business cases for major decisions. Documentation has improved very recently, but much of this has been compiled well after the decisions were made.
- 5.11 Capital purchases and construction projects increased significantly in recent years, as student numbers and funding grew. In 2004, the budget for building purchases and projects was \$10.1 million, but \$25.5 million was spent. In our view, little serious effort was made to control or constrain capital spending during 2004. The overspending has been a major contributor to the financial difficulties TWOA has experienced in 2005.

## **Property dealings with the AI Trust**

- 5.12 The AI Trust gathered its property portfolio by obtaining old, run-down buildings cheaply, and refurbishing them. Many of its properties became the early campuses of TWOA, and TWOA still leases them from the AI Trust. In the early years of TWOA's existence, the AI Trust purchased more properties, which TWOA immediately leased. This arrangement seemed to work well for both parties. We accept that it was a useful approach in the early years, when TWOA had little money of its own to fund capital projects.
- 5.13 TWOA told us that it would not have survived its initial years without the support of the AI Trust (which included TWOA leasing property at below-market rents, and using the AI Trust's assets as collateral to obtain credit).

### ***Conflicts of interest***

- 5.14 For a long time, TWOA gave no consideration to identifying and managing conflicts of interest involving the AI Trust. Because of the way in which the 2 entities worked closely together, it appears to us that those involved did not

consider that conflicts of interest could exist. People who were on the governing bodies of both entities signed many of the lease documents. Documents sometimes had the same individuals signing on behalf of both parties, or signing on behalf of TWOA on some occasions and on behalf of the AI Trust on other occasions. Rongo Wetere was a trustee of the AI Trust, and the 3 members of TWOA's property committee advising him in recent years were also trustees on the AI Trust.

- 5.15 In our view, these leases could not have been negotiated on a commercial or transparent basis. This exposed TWOA to a risk that the individuals involved might not have acted solely with TWOA's interests in mind.
- 5.16 After the conflicts of interests register was established in 2003, some (but not all) of TWOA's Council members and senior managers who were trustees of the AI Trust declared their connection. The register did not record what steps, if any, would be taken to manage the conflicts of interest.

### *Leases*

- 5.17 At the time of our inquiry, the AI Trust owned all or parts of 8 of TWOA's 13 main campuses (including many of its older and larger campuses). Leases from the AI Trust accounted for about 30% of the value of properties that TWOA rents from others. Most of the leases were longstanding arrangements, and are now charged at commercial rates. More recently, TWOA has purchased land in its own name. Since 2000, there has been only one instance where a site to be occupied by TWOA was purchased by the AI Trust.
- 5.18 Until recently, TWOA had not formally reconsidered whether it ought to continue to lease its larger campuses, or whether it would be more prudent to own them outright. We expected TWOA to have reviewed this situation from time to time, so it could be sure that leasing continued to be in its best interests. A comprehensive capital acquisition strategy, if one existed, may have covered this. TWOA's Council has recently considered swapping the Glenview hotel complex for a number of properties it currently leases from the AI Trust.
- 5.19 We are concerned about the number of large campuses (costing \$1.7m in rent payments annually) that are leased from the AI Trust. Our concern here is not that TWOA leases properties from the AI Trust, but that there are so many lease arrangements. This creates an unhealthy dependency on the AI Trust, and could leave TWOA in a vulnerable position if the relationship between the entities deteriorates or ends. Most of these leases expired at the end of 2004 and have not yet been renewed, so are running on informally. TWOA needs to address this situation immediately.



### *Leasehold improvements*

- 5.20 TWOA has constructed some large buildings on land it leases from the AI Trust. For example, TWOA has constructed a marae-type facility at the Hamilton campus, which cost about \$650,000. The land is owned by the AI Trust.
- 5.21 We are concerned that TWOA has spent so much money erecting buildings on land that it does not own. Under common law, things that are attached to the land (like buildings) are assumed to be the property of the landowner. TWOA could not provide us with any agreements to the contrary; nor evidence of any other formal arrangements covering the value of the improvements that TWOA had made. If the leases are brought to an end, the landowner – the AI Trust – could gain a significant windfall and TWOA could lose the benefit of its significant investments. This is not a prudent way for a public entity to manage its resources.
- 5.22 Our concerns are heightened by the conflicts of interest between people connected with TWOA and the AI Trust, and the (currently) informal nature of the leases discussed above.

### *Porirua campus*

- 5.23 As noted above, since 2000 TWOA has made most property purchases in its own name. An exception to this is the site for the Porirua campus, known as Todd Park, which was acquired in 2001. It appears that TWOA initially intended to purchase the site itself (the sale and purchase agreement was initially drawn up in its name), but the property was purchased by the AI Trust and leased to TWOA.
- 5.24 TWOA could not afford the property on its own, and could not borrow the necessary funds without the consent of the Secretary for Education. The AI Trust could not afford the property on its own either, so TWOA lent \$3.1m to the AI Trust. Deliberately or not, structuring the transaction in this way avoided the need to seek the Secretary for Education's formal approval under the borrowing restrictions in the Education Act 1989.<sup>23</sup>
- 5.25 TWOA's Council decided to grant the loan, but the documentation for the decision was very poor. This is unsatisfactory, because the decision was unusual. It is not common for a public entity to grant an unsecured loan of this size to another entity.
- 5.26 The legality of this arrangement was discussed in advance with an official in the Ministry of Education, but TWOA did not get any written assurance or other formal confirmation from the Ministry.

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<sup>23</sup> Section 192(4)(d), Education Act 1989.

- 5.27 There was no written business case for, or assessment of, the decision to grant a loan, and TWOA sought no other professional advice. The loan and its terms were not properly recorded in writing until more than 2 years later, when the parties signed an “acknowledgement of debt” document. Until then it was not clear if and when the loan had to be repaid, and what (if any) interest would be charged and when it was payable. Again, most of the signatories to the lease and loan documents had conflicts of interest because they were involved in both organisations.
- 5.28 Our appointed auditor and other advisers have previously criticised this transaction, and its poor documentation.

## **Glenview hotel complex**

- 5.29 TWOA bought the Glenview hotel complex in Hamilton in 2003. TWOA’s management of construction on the site, and renovations to the complex, contributed to the capital budget over-spending that TWOA experienced in 2004.

### *Purpose of the acquisition*

- 5.30 TWOA told us that it bought the site so it could build a library. TWOA decided that, as a large tertiary education institution, it was essential to establish a library. TWOA had been looking for a site for some time. Attempts to find other sites, or to enter into sharing arrangements with other tertiary education institutions, had proved unsuccessful.
- 5.31 A secondary benefit was that the property provided opportunities for conference facilities. The complex could be used for intensive short courses, for video-conferencing between campuses, and for administrative meetings. The accommodation could be used by people attending short courses, and for large TWOA functions and conferences. Some of TWOA’s administrative staff could also be located in office space in the complex. When not being used for TWOA activities, the conference and accommodation facilities could be made available to the public or other corporate clients, to earn additional revenue.
- 5.32 The site contains a bar, which is leased to a commercial operator. We have no particular concerns about TWOA owning a bar, because it is an incidental part of the complex.
- 5.33 The proposal for a library had been under careful consideration for a long time, and was the subject of several reports and analyses. We do not question TWOA’s need for a library. However, the choice of a hotel and conference centre site for the library is surprising. In our view, the business case for choosing a hotel site and for engaging in a major hotel and conference centre renovation project was not sufficiently robust, given the size of the project. TWOA could not provide us with any documents showing that the

conferencing and accommodation proposal had been thoroughly assessed before the decision to purchase was made.

- 5.34 When negotiating the price, TWA did not have appropriate and reliable valuation advice. The vendor provided the only written valuations TWA saw that were close to the price ultimately agreed. The independent valuation that TWA obtained was based on the site being used wholly as a library, so it came up with a much lower figure.

### *Managing the renovation costs*

- 5.35 The Glenview hotel was purchased for \$5.1 million in July 2003. TWA's Council approved in advance the decision to purchase, and the price.
- 5.36 During 2003 and 2004, TWA spent \$9.3 million:
- constructing the library on part of the site;
  - adding more accommodation, and conference and office facilities; and
  - upgrading the existing accommodation.
- 5.37 The works finished in 2005, and all parts of the complex are now operational. The works have been carried out to a modern, comfortable standard.
- 5.38 In our view, TWA poorly planned and controlled the construction and renovation project. When the purchase was being considered, a brief written feasibility analysis used an indicative figure of \$900,000 as the cost of "fitout". The Council resolutions approving the purchase of the property mentioned only the purchase price, and there is no evidence that it considered at that time the further costs it might have to commit to.
- 5.39 By August 2003, the project managers had determined the cost "to complete renovation and fitout of the facility" as \$2.9 million. The Council noted this figure and gave "in principle" approval to "the extensions to the Glenview International Hotel". However, the papers from that time explicitly discussed only the library, office space, and conferencing areas (and did not mention the ground works, new accommodation areas, or improvements to the existing accommodation). The people we spoke to insisted that the figure of \$2.9 million related only to the library, office space, and conferencing areas.
- 5.40 In December 2003, reports mentioned that increased capacity needed to be catered for, and so "extra carparking was developed, and accommodation facility expansion is being investigated". It does not appear that this extra work was carefully costed; nor that it was explicitly considered and approved by the Council. Rather, the senior managers involved just added it to the project. By early 2004, total cost figures of more than \$6 million were being mentioned to the Council.

- 5.41 The costs significantly over-ran all earlier estimates. The total cost was at least \$9.3 million. A recent valuation indicates that the value of the whole complex is now \$10 million, considerably less than the \$14.4 million or more spent on acquiring and renovating the complex.
- 5.42 The construction and renovation project was not thoroughly planned. It grew in piecemeal fashion, as TOWA senior managers decided on additional work. New tasks were added on as they came to mind, or as regulatory requirements and looming deadlines appeared. In our view, TOWA gave little rigorous thought to precisely what should be done, when and how it should be done, what the likely costs would be, and why TOWA was doing it. Little thought was given to monitoring or controlling the escalating costs. The managers involved seemed content to spend whatever was necessary. TOWA's Council told us that it obtained 2 internal audit reports to help it understand the nature of the costs. TOWA's Council also said that, by the time management sought approval for particular amounts, the expenses had often already been incurred.
- 5.43 The most thorough descriptions of the project have been prepared after the event. If TOWA had prepared a thorough and comprehensive business plan and project plan before beginning this acquisition and renovation project, it could have avoided or mitigated many of the problems that occurred. Such plans would have given more clarity and focus to the analysis and decisions about what could reasonably be done, when and how it should be done, and what the total financial investment in the project ought to be.
- 5.44 In making these comments, we are not criticising the project management firm engaged to undertake most of the works. It was acting under instructions. Rather, we think TOWA showed a lack of planning and rigour.

#### *Operations by the AI Trust*

- 5.45 The AI Trust took possession of the hotel part of the complex (and possibly also the conference areas, although this is not entirely clear) in 2004, and now operates the hotel business on that part of the site. The AI Trust is earning all revenue from and incurring expenditure on that business. However, there is no formal lease or other contract in place yet between TOWA and the AI Trust. The AI Trust does not yet pay rent. In addition, we were told of a proposal to sell the hotel to the AI Trust as part of a "swap deal", under which properties that TOWA leases from the AI Trust might be sold to TOWA.
- 5.46 With very little in writing, it has been difficult to establish the details of the current operations and proposed transaction involving the AI Trust and the Glenview hotel complex. To have a significant business arrangement like this operating on such a casual basis is unacceptable for a public entity. The situation suggests that, even as recently as 2004, TOWA had little appreciation of the need to undertake methodical and documented analyses of significant business decisions; nor of the need for particular care and transparency in dealings with related parties (since, yet again, many of the TOWA personnel involved were also trustees of the AI Trust).

5.47 We were told that TWOA arranged for the AI Trust to operate the hotel part of the site because it was not appropriate for a tertiary education institution to be running a hotel business. This supports our conclusion that TWOA did not fully consider, at the time of purchase, what it was going to do with the complex. The rationale for the choice of site and the subsequent messiness might have been better handled had a thorough business case been prepared and carefully assessed before the decision was made to purchase the site.

### **Property dealings with Rongo Weterere's whānau entities**

5.48 Several recent Te Awamutu property transactions by TWOA involve Rongo Weterere's whānau entities. They include:

- the lease, still in force, of a commercial property at 53 Mutu Street from Wairau Property Developments Limited (one of Susan Cullen's companies);
- the lease, no longer in force, of a residential property at 1131 Bank Street from Wairau Property Developments Limited;
- the sharing, no longer in force, of a commercial property at 55 Rickit Road (owned by MO1 Limited) between MO1 Limited and Power Chill NZ Limited (Kingi Weterere and William Weterere's air-conditioning company); and
- the lease of a residential property at 133 Raeburne Street from the Te Whatu Family Trust (William Weterere's family trust). Ownership of the property has since changed hands.

5.49 All of these sites have been used for a legitimate business purpose. However, we did not find any documentation from the time assessing (or explaining the choice of) each site. Therefore, it was not clear why each particular site was selected over other options (or whether other options were even considered). We were told that the property market was very tight in Te Awamutu, and that there were often few choices available when new sites were needed.

5.50 It was also often unclear who had been involved in suggesting and considering the sites. In particular, we received contradictory evidence about whether Rongo Weterere had made the decision to enter into the 53 Mutu Street lease.

## Part 6 – Acquiring goods and services

6.1 In this Part, we describe:

- TWOA’s general practices for acquiring goods and services;
- TWOA’s contracting with Power Chill NZ Limited;
- TWOA’s contracting with Aranui (2003) Limited;
- Enercon International Inc and Pace Energy Solutions’ contracted work for TWOA;
- TWOA’s selection of Gazza’s Groomers as the vehicle fleet grooming contractors; and
- the setting up of Oma Investments Limited, to import and distribute supplies for TWOA and MO1 Limited.

### General practices

6.2 Some purchasing and contracting decisions were made at TWOA’s head office, and some at individual campuses. As in Part 5, we found that TWOA’s business cases for proposals were frequently not documented. There was, again, much informal and oral assessment and decision-making.

6.3 Insufficient thought was given to identifying and managing conflicts of interest in relation to acquiring goods and services. We were told that, if anything, the family connections led to TWOA and MO1 Limited getting far better deals from the private organisations than they might otherwise have done. The people we spoke to did not seem to realise that, if this possibility existed, then the possibility that benefits could flow in the reverse direction also existed. That latter possibility, or the potential that others might reasonably perceive that possibility, is precisely why conflicts of interest must be managed carefully.

6.4 We have no reason to doubt whether the services were delivered. We also have no reason to doubt the quality of service provided. The dollar amounts we discuss are the total value of the business transactions between TWOA and the other entities involved, not any profit that might have been made by those other entities.

6.5 We could not assess specific purchases or contracts for compliance with policies, because at the relevant times TWOA did not have procurement policies.

- 6.6 Our appointed auditor, and other advisers, have urged TWA for several years to:
- improve its documenting of business cases;
  - consider tendering;
  - have written contracts;
  - ensure that contracts are properly authorised; and
  - identify and manage conflicts of interest.
- 6.7 It is taking too long to embed these disciplines into the culture and everyday practices of TWA. A lot of work was done in 2004, with the help of external consultants, to prepare detailed procurement policies. At the time of our fieldwork, TWA had a draft procurement policy and a draft contract management policy. It is too soon for us to say whether these new policies are having a positive effect on business practices.

### *Major construction projects*

- 6.8 All major building construction and renovation work for TWA is managed by one preferred supplier – Livingstone Bros Limited. The business relationship has been in place for many years, after Livingstone Bros Limited worked on the Te Awamutu campus in the early 1990s. During 2003 and 2004, TWA paid a total of \$23.5 million to Livingstone Bros Limited. We were told that Livingstone Bros Limited’s preferred supplier status had been confirmed in writing, but no one could find the letter of confirmation.
- 6.9 We do not doubt that a business relationship of this nature might be useful, but we would expect such a significant and exclusive arrangement to be put in place only after careful and thorough assessment, and to be reviewed from time to time. We saw no evidence that TWA has ever formally assessed how and why it should have such an arrangement; nor that it has reviewed the relationship. Without this, TWA cannot be sure that it receives value for money from the exclusive arrangement; nor can it be confident it does not need to consider alternative options (either generally or for particular projects).
- 6.10 These comments are not a criticism of Livingstone Bros Limited. It is an established construction and project management firm with offices in Hamilton and Te Awamutu. In the files we reviewed, it managed its projects professionally, with documented project plans prepared at the outset (including the peer review of budgets in selected cases), and with detailed and regular reporting to TWA. Livingstone Bros Limited’s role covered most aspects of project design and management (except landscaping or grounds works, data cabling, site security, and loose furnishings). It carried out carpentry and concreting work, and selected and controlled subcontractors for other aspects of projects. Subcontractors accounted for around 70% of the costs of a project, and Livingstone Bros Limited usually used a competitive approach to select

subcontractors. TWOA told us that it was satisfied with the standard of the services provided by Livingstone Bros Limited.

## **Power Chill NZ Limited**

- 6.11 Power Chill NZ Limited does a significant amount of air-conditioning work for TWOA and MO1 Limited, both directly and as a subcontractor (through Livingstone Bros Limited). Power Chill NZ Limited undertakes major construction projects, small installations, and ongoing maintenance and servicing.
- 6.12 We examined this contracting arrangement because of the potential for conflicts of interest. Kingi Wetere and William Wetere are involved in Power Chill NZ Limited, but we were told they are not closely involved in its day-to-day operations.
- 6.13 The work Power Chill NZ Limited has done for TWOA and MO1 Limited over the last 5 years (including as a subcontractor to Livingstone Bros Limited) amounted to \$3.8 million. This included \$2.7 million as a subcontractor to Livingstone Bros Limited, \$1.1 million directly for TWOA, and about \$70,000 for MO1 Limited.
- 6.14 Power Chill NZ Limited was not formally a preferred supplier to TWOA, and had no exclusive arrangement. It did not undertake all of TWOA's air-conditioning work, and we were told it sometimes quoted unsuccessfully for TWOA work. Nevertheless, it had worked on many large TWOA projects in recent years. Kingi Wetere told us that Power Chill NZ Limited set discounted prices for TWOA jobs, which helped ensure frequent success.
- 6.15 The selection of Power Chill NZ Limited was often non-competitive. This was not the fault of Power Chill NZ Limited, but raises concerns about the robustness of TWOA's decision-making.
- 6.16 TWOA's Council told us that it was not aware of specific contracts with Power Chill NZ Limited. Equally, there is no evidence that Rongo Wetere was involved in deciding to contract with Power Chill NZ Limited.

### ***Work subcontracted to Power Chill NZ Limited by Livingstone Bros Limited***

- 6.17 We were least concerned about the projects managed by Livingstone Bros Limited. Livingstone Bros Limited selected its subcontractors independently of TWOA, and provided professional and external oversight. There were no conflicts of interest here.
- 6.18 Livingstone Bros Limited's usual practice was to seek 3 quotes for all subcontracting. Unfortunately, this was often not possible for air-conditioning work. We were told that alternative suppliers in the region were often too busy, or did not like the work on offer from TWOA (because many of TWOA's



projects were renovations of old buildings, rather than the construction of new buildings). To make up for this lack of competition, Livingstone Bros Limited had some of Power Chill NZ Limited's quotes peer reviewed by external consultants, to provide further assurance about value for money.

#### *Work undertaken directly for TWOA*

- 6.19 Work commissioned directly by TWOA was usually smaller installation projects or maintenance and servicing work. Individual campus managers, not head office, commissioned the work. There were no conflicts of interest here, but we considered TWOA's decision-making practices. Practices varied across campuses.
- 6.20 We examined 9 of the projects that Power Chill NZ Limited had quoted for. In 4 projects, Power Chill NZ Limited was the only company that quoted for the work. These projects were each worth between \$25,000 and \$50,000. For the other 5 projects, we were told that TWOA sought quotes from other companies, but documentary evidence of the other quotes had not always been retained so we could not verify this. The inconsistency of TWOA's practices was disappointing, as was the frequent lack of a competitive approach to ensure that the successful contractor (whether or not it was Power Chill NZ Limited) represented good value for money.
- 6.21 Power Chill NZ Limited was entitled to quote or tender for TWOA work. There is no reason in principle why Power Chill NZ Limited should not have been chosen to undertake such work, if robust selection methods and assessments showed that it was the best available supplier.
- 6.22 There was no suggestion that Rongo Wetere was personally involved in deciding whether Power Chill NZ Limited would provide services to TWOA, so we did not identify any conflicts of interest for him. Nevertheless, it was a company with close personal connections to TWOA at a senior level. This increased the need for sound and transparent decision-making. That was not always evident here, because of the lack of competitive selection in some cases.

#### *Work undertaken for MO1 Limited*

- 6.23 There were conflicts of interest in the work Power Chill NZ Limited undertook for MO1 Limited. For much of the period that we reviewed, Kingi Wetere was General Manager (and a director) of MO1 Limited, and the sole director of Power Chill NZ Limited. In his MO1 Limited capacity, he commissioned and monitored some air-conditioning work undertaken by Power Chill NZ Limited. The work was not competitively quoted or tendered.
- 6.24 Kingi Wetere's connection with Power Chill NZ Limited was declared on TWOA's conflicts of interest register in late 2003. The register did not record any mitigating strategies for dealing with his conflicts of interest.

- 6.25 Kingi Wetere acknowledged to us that this situation was difficult. He told us that, if anything, he took an especially hard line on Power Chill NZ Limited, and sometimes challenged its invoices if he thought it had spent too long on a job. He told us he never exceeded his delegation as MO1 Limited's General Manager. However, in our view he put himself in an impossible position. An outside observer would be unlikely to regard him as independent and impartial in managing those business dealings. Also, MO1 Limited and Power Chill NZ Limited shared premises for more than a year. That arrangement added to the lack of transparency between these 2 companies.

### **Aranui (2003) Limited**

- 6.26 Aranui (2003) Limited is a company owned and operated by Rongo Wetere's brother, Ara Wetere.
- 6.27 In TWOA's early years, Ara Wetere undertook some voluntary work for TWOA, and donated quantities of building materials for some projects.
- 6.28 In 2003 and 2004, Aranui (2003) Limited carried out much landscaping, grounds maintenance, drainage, tar-sealing, and fencing work at several TWOA sites. From 2003 to early 2005, TWOA paid Aranui (2003) Limited \$1.8 million. Ara Wetere told us he did much of the work himself. His company had a small permanent staff, and contracted casual workers as and when required. His company also often used subcontractors.
- 6.29 The recent relationship with TWOA began when Ara Wetere called in to see his brother when he returned to Waikato after many years away. Rongo Wetere told him "there's work available if you so want it". He was referring to fencing and concreting in and around the Hamilton area. Ara Wetere was experienced in this work.
- 6.30 We examined this procurement because of the large amount of contracting Aranui (2003) Limited has undertaken for TWOA, and the close family ties of the people involved.

### ***Selection and oversight***

- 6.31 The work carried out by Aranui (2003) Limited did not come within the scope of work managed by Livingstone Bros Limited, and so did not have the external oversight and control by an independent project manager that existed with much of Power Chill NZ Limited's work. On a few occasions, TWOA sought advice or a peer review from Livingstone Bros Limited on a quote or invoice from Aranui (2003) Limited. One of those occasions was long after the work had been completed and, based on the minimal information provided by TWOA, Livingstone Bros Limited was unable to assist.
- 6.32 Almost all of the work carried out by Aranui (2003) Limited was contracted directly with TWOA, and overseen by 2 senior managers from TWOA's head

office. They approved most invoices, but referred some to Rongo Wetere for approval.

- 6.33 We expected TWA to have prepared a proper business case or project plan for the work to be carried out by Aranui (2003) Limited. TWA has not been able to provide us with any proposal or similar document assessing what was required for any of the work.
- 6.34 Given the high value of the work undertaken by Aranui (2003) Limited, we expected evidence of a competitive tender, or evidence that TWA sought a series of quotes before selecting the provider. We found no evidence that TWA used competitive processes.
- 6.35 The arrangements for contracting Aranui (2003) Limited were unacceptably poorly documented. There were no written contracts, and sometimes there were no quotes from Aranui (2003) Limited. On one occasion, this was noted and commented upon by Rongo Wetere, but no action was taken to ensure that the situation was rectified. Instructions on the work required were issued orally and without any follow-up documentation, usually by senior managers of TWA and sometimes by Rongo Wetere.
- 6.36 We were told that TWA used Aranui (2003) Limited because of its availability, speed, and quality of work.
- 6.37 TWA senior managers told us that the work was often urgent. They were desperate to meet deadlines and enable other contractors to start on other jobs. They were having difficulty getting quotes within the timeframes required because there was a shortage of suppliers.
- 6.38 In our view, the perceived urgency was a consequence of TWA's inadequate business cases and planning for the work to be carried out by Aranui (2003) Limited (or the projects that this work formed part of). We do not accept that it was impossible to find other willing contractors for this work.
- 6.39 At times Aranui (2003) Limited completed, without approval, work over and above the intended work. Senior managers accepted this work and authorised payment without proper documentation. This would not have been necessary if TWA had properly prepared business cases or project plans, and closely monitored them.

### *Conflict of interest*

- 6.40 Rongo Wetere had advised Ara Wetere that work was available for him. In several cases, Rongo Wetere personally directed Ara Wetere to do work (including, for example, at the Glenview hotel site).
- 6.41 This was inappropriate because they were brothers. The possibility that a person could be influenced by improper motivations raises a conflict of interest. To give work of this value to a company owned and run by Rongo

Wetere's brother, in the manner in which it was done, was an unacceptable practice for a public entity.

- 6.42 Rongo Wetere has never declared his connection with Aranui (2003) Limited in TWOA's conflicts of interest register. TWOA's Council told us that it was unaware of these contractual arrangements.
- 6.43 Our comments are not a criticism of Ara Wetere, who was entitled to offer his services to anyone who wanted to contract his company.
- 6.44 The overall situation shows poor judgement by Rongo Wetere and the senior managers involved for TWOA.

### **Enercon International Inc and Pace Energy Solutions**

- 6.45 We looked at TWOA's use of 2 consultants from the United States of America (the United States) because of concerns others had raised about the nature of the work, the selection methods, the cost of the work undertaken, and the relationships between the parties involved.
- 6.46 Dr Jack Scherschell and Paul Saxton were energy conservation consultants based in the United States. They were involved in Enercon International Inc, a company that sold technology that improved light output while using less electricity. Dr Scherschell also had his own organisation called Pace Energy Solutions.
- 6.47 Rongo Wetere told us that he had been concerned about the cost of power used by TWOA, particularly at the Porirua and Palmerston North campuses. In 2002, Rongo Wetere was introduced to Dr Scherschell, who was a friend of Ms Krawll. Ms Krawll had worked with Dr Scherschell on and off for 20 years. Rongo Wetere discussed energy conservation measures with him.
- 6.48 Rongo Wetere decided to bring Dr Scherschell and Mr Saxton to New Zealand to investigate energy conservation measures at the Porirua and Palmerston North campuses in 2003. Once here, Dr Scherschell and Mr Saxton visited the Porirua campus, before returning to the United States to prepare a report for TWOA.
- 6.49 There was a long delay in receiving their report. After receiving it, Rongo Wetere decided to go ahead with a full energy conservation system for the Porirua campus, using Enercon International Inc. Dr Scherschell and Mr Saxton returned in June 2004 to install the system. Their work was carried out with the help of local electrical subcontractors.
- 6.50 Dr Scherschell came to New Zealand again in August 2004, after which he, through his company Pace Energy Solutions, prepared a report for TWOA offering a "University Wide Energy Conservation Project". This project did not go ahead.

### *Processes and business case*

- 6.51 We expected to see a properly prepared business case for the work carried out by these consultants. TWOA could not provide us with:
- any assessment by TWOA of the need for the work, or assessment of the consultants' proposal;
  - any post-project report; or
  - any analysis of other options (including, for instance, any contact with organisations such as the Energy Efficiency and Conservation Authority in this country).
- 6.52 We were told that there was a written contract, but TWOA could not provide us with a copy. Rongo Wetere could not tell us whether a set fee had been agreed before the work was carried out. There was little apparent concern about the costs of the project. No one monitored the work as it was carried out, and TWOA had little idea about the resulting benefits or effectiveness of the project.
- 6.53 This situation is grossly unsatisfactory. There was:
- no clear evidence that the work was necessary;
  - no justification for using these particular consultants;
  - no justification for using consultants from as far away as the United States; and
  - a clear disregard for record-keeping and document retention.

### *What did it cost?*

- 6.54 This project cost TWOA at least \$173,599 (\$93,907 paid to Enercon International Inc, \$45,209 paid to Pace Energy Solutions, and \$34,483 in other costs).
- 6.55 Of the \$173,599, air travel for the consultants' 3 trips from the United States cost \$42,136. On 2 of those occasions, the consultants appear to have travelled business class.
- 6.56 There are likely to have been additional costs associated with this work. TWOA has not been able to provide any information about accommodation costs and related expenses while Dr Scherschell and Mr Saxton were in New Zealand.
- 6.57 The travel costs incurred by the consultants appear to be disproportionately high, given the nature and value of the project. With no documented business case or project proposal, we cannot see why TWOA paid to bring these consultants to New Zealand.

- 6.58 In our view, the invitation to undertake this work was based wholly or largely on the personal relationship that existed between one of the consultants and Ms Krawll. The combination of the personal relationship with the lack of business case and proper procurement process amounts to an unacceptable use of public funds.
- 6.59 These comments are not a criticism of Enercon International Inc or Pace Energy Solutions. Our concern is with how TWOA handled its side of the arrangements.

### **Gazza's Groomers**

- 6.60 "Gazza's Groomers" was the trading name of a business run by WoodCo Services Limited, a company owned and operated by Gary Wood. WoodCo Services Limited was contracted to provide fleet grooming services for TWOA's and MO1 Limited's motor vehicles. We looked at this procurement because of the potential for conflicts of interest.
- 6.61 The arrangement involved staff of WoodCo Services Limited travelling to campuses in the North Island to clean TWOA's vehicles. The arrangement was agreed near the end of 2002, and ran until early 2005. TWOA paid WoodCo Services Limited about \$329,000 between 2003 and early 2005.
- 6.62 When the contractual arrangement began, Gary Wood was:
- an employee of TWOA, working in an unrelated area (the IT division); and
  - in a personal relationship with Min Marshall, TWOA's Corporate Services Director and a member of its senior management.
- 6.63 Gary Wood is also the brother of Robin Wood, who was TWOA's vehicle fleet manager and who reported to Ms Marshall.

### **Selecting Gazza's Groomers**

- 6.64 We were told that TWOA needed to arrange for the proper grooming of its motor vehicles. It had been making informal enquiries with a local automotive repair firm about car grooming services, and also had an approach from another person (a relative of TWOA's then purchasing officer), without finding any suitable provider. TWOA was particularly keen to find a provider who could service its national fleet, not just the vehicles in one location. Gary Wood, who had somehow become aware of TWOA's needs, then apparently offered to provide such a service.
- 6.65 TWOA did not call for tenders before awarding the contract to WoodCo Services Limited. The staff we spoke to all told us that the absence of a formal tendering process was simply normal practice at that time.

- 6.66 We do not understand why TWOA thought that Gary Wood was suitable for the job. He had no previous experience in this area, but was apparently willing to employ staff to carry out the work. While there is nothing particularly difficult about cleaning cars, Gary Wood did not have experience in running any sort of business.
- 6.67 We have been provided with a letter and brief proposal from WoodCo Services Limited, from around the time the arrangement was agreed. We have not seen any documentary evidence of an assessment of the proposal by TWOA before it decided to agree to the arrangement. However, we were told that further informal enquiries of other vehicle groomers were made to determine whether WoodCo Services Limited's prices were reasonable.
- 6.68 We were told that written contracts were signed for both the 2003 and 2004 years, but TWOA has been able to provide us with only the 2004 contract. The contract is short and contains little detail about the precise nature or cost of the services to be provided. TWOA told us that a schedule referred to in the contract does not exist.

### *Conflicts of interest*

- 6.69 Ms Marshall and Robin Wood were the main people involved in discussing Gary Wood's proposal. It appears that Robin Wood did not make the decision to accept the proposal, but it is not clear who did. Rongo Wetere signed the contracts, but was not otherwise involved.
- 6.70 Ms Marshall had a conflict of interest. She was in a personal relationship with Gary Wood before and after the contract was first agreed, but told us she had separated from him for the several months around the awarding of the contract. (We understand that the relationship finally ended in late 2004.)
- 6.71 Ms Marshall was also one of the 2 founding shareholders of WoodCo Services Limited. We heard inconsistent explanations for this. Gary Wood told us this was a mistake, because the company was supposed to be his business alone. Ms Marshall told us this was a mistake, because the company was originally intended to be used for another purpose. Ms Marshall was removed as a shareholder in late 2004. We have been assured she never shared in the profits of the company. These explanations do not significantly alleviate the conflict of interest.
- 6.72 Robin Wood was, at the time of agreeing the 2003 contract, directly responsible for managing TWOA's vehicles. He, too, had a conflict of interest, because he is Gary Wood's brother.
- 6.73 These relationships were known to the managers of Ms Marshall and Robin Wood. The conflicts of interest were not hidden, but nor were they managed appropriately by TWOA. In our view, TWOA should not have allowed Ms Marshall and Robin Wood to have had any role in awarding these contracts.

- 6.74 Once TWOA's conflicts of interest register was established in late 2003, Ms Marshall declared her interests, which included her connection with Gary Wood.

### *Subsequent events*

- 6.75 Robin Wood was the person at TWOA originally responsible for overseeing the contract with WoodCo Services Limited. Later, a new employee in Robin Wood's team was given this responsibility so that Robin Wood did not have to deal directly with WoodCo Services Limited. We understand that this was a deliberate move because Robin Wood was uncomfortable managing a contractual relationship with his brother's company.
- 6.76 The relationship between TWOA and WoodCo Services Limited deteriorated during 2004, with a dispute over performance and contractual obligations. TWOA terminated the contract in early 2005, and we understand the contract with MO1 Limited has also ended.

### **Oma Investments Limited**

- 6.77 Oma Investments Limited was set up in 2002 in an effort to source supplies for TWOA and MO1 Limited more cost-effectively, and to manage their resource needs on a more commercial footing (mainly course materials, especially for distance learning courses like Mahi Ora and Māori language courses). Oma Investments Limited sources, imports, packages, and distributes bulk resources and other supplies on behalf of TWOA and MO1 Limited.
- 6.78 Oma Investments Limited is a subsidiary of the AI Trust. We understand that some thought was initially given to whether Oma Investments Limited should be set up as a subsidiary (or division) of TWOA. It was decided it would have greater freedom to take commercial risks if it was completely separate from TWOA (for example, to trade internationally and in foreign currency, to borrow, and to move into areas of business unrelated to TWOA).
- 6.79 William Wetere was instrumental in proposing and establishing Oma Investments Limited, and was its first General Manager. Oma Investments Limited started business at the beginning of 2003, and operated out of properties owned by the AI Trust. TWOA sold its inventory to Oma Investments Limited, but this was later sold back to TWOA. Oma Investments Limited's work for TWOA was then to source, manage, and distribute TWOA's resources (without owning them). More recently, Oma Investments Limited has taken on other customers besides TWOA and MO1 Limited, and is expanding into other entrepreneurial activities, such as recreational clothing. Kingi Wetere is now its General Manager.
- 6.80 We were told that the involvement of Rongo Wetere, Kingi Wetere and William Wetere in Oma Investments Limited worked particularly well, because



a detailed understanding of TWOA's activities was crucial to managing its business needs properly (for example, to assess markets and estimate volumes and dates of supplies needed). We were told that Oma Investments Limited sourced supplies at cheaper rates than TWOA ever managed to get. At the end of 2004, Oma Investments Limited granted a trade rebate<sup>24</sup> of \$3.2 million to TWOA.

- 6.81 In principle, a business arrangement for the efficient management of TWOA's and MO1 Limited's resources is acceptable. But if such an arrangement is to exist, it needs to be professionally managed, with real separation between the parties and transparency in the business transactions.
- 6.82 The contractual arrangements were handled carelessly at first. The contract between TWOA and Oma Investments Limited was not documented and signed until nearly 18 months after operations had begun (and at the urging of our appointed auditor and other external advisers).

### *Conflicts of interest*

- 6.83 Conflicts of interest pervaded the business relationships between TWOA (and MO1 Limited) and Oma Investments Limited:
- For most of 2003 and 2004, William Wetere was General Manager of Oma Investments Limited and for some of that time was also General Manager of MO1 Limited.
  - Kingi Wetere was General Manager of MO1 Limited until early 2004, and then moved into a senior position at TWOA.
  - Rongo Wetere was Tumuaki of TWOA.
  - Rongo Wetere, William Wetere, and Kingi Wetere were all, for a time, directors of both Oma Investments Limited and MO1 Limited.
  - Two other TWOA personnel were for a time directors of Oma Investments Limited and MO1 Limited, while also holding management or governance positions at TWOA.
- 6.84 Some, but not all, of these conflicts of interest were declared in TWOA's conflicts of interest register. In particular, Rongo Wetere did not record that his son was the General Manager of Oma Investments Limited. The register did not include any proposed mitigating strategies.
- 6.85 Kingi Wetere signed the main supply contract between MO1 Limited and Oma Investments Limited for one party, and William Wetere for the other. With the comparable contract signed between TWOA and Oma Investments Limited, the TWOA signatory had been (up until a few weeks beforehand) a director of Oma Investments Limited.

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A trade rebate is a refund or discount offered to a particularly valued customer.

6.86 We were told that this has never presented a problem because everyone had the same kaupapa – they were all moving in the same direction, and the intention of Oma Investments Limited was always to support TWOA. Nevertheless, these were separate entities – 2 in the public sector and one in the private sector – contracting with each other over business matters. We cannot see how the business relationships between TWOA and MOI Limited, on one hand, and Oma Investments Limited, on the other hand, could have been managed in a transparent manner.

## Part 7 – Establishing educational courses

- 7.1 In this Part, we discuss several of the educational courses that TWOA offers:
- Mahi Ora;
  - Lifeworks;
  - Kiwi Ora; and
  - Greenlight.
- 7.2 We looked at how TWOA acquired and set up the courses, and conflicts of interest.
- 7.3 We also discuss a claim over the ownership of the intellectual property in some courses.
- 7.4 The quality of the educational courses offered by TWOA is outside our terms of reference. We note that the courses we discuss have been granted all necessary internal and external academic approvals, and passed numerous external audits and reviews. We understand the courses are widely regarded as innovative, because they provide educational opportunities for people who otherwise have had little success in the education system, and because no student fees are charged. The courses have become extremely popular. The people we met who are involved in these courses display a strong commitment to, and passion for, TWOA's educational goals and activities.
- 7.5 We have focused on work undertaken by TWOA. We have not examined the course development work undertaken by the private companies.
- 7.6 As in other areas discussed in this report, TWOA did not document the business cases for course proposals well. Again, there was much informal and oral assessment and decision-making. In the several courses we discuss in this Part, members of Rongo Wetere's whānau were heavily involved.
- 7.7 For most of the relevant times discussed in this Part, TWOA did not have policies in place for identifying and managing conflicts of interest. Rongo Wetere's paternal relationship with Susan Cullen was recorded in the conflicts of interest register once the register was established in late 2003.

### Mahi Ora

- 7.8 Mahi Ora is a free, home-based 12-month distance learning course. It aims to bring learning and education to Māori who have not previously benefited from

mainstream education. It involves personal development, education and training, technology, and encouragement towards employment. Mahi Ora was created by Ms Cullen and her companies Life Works International Limited and Mahi Ora Limited, which were registered private training establishments. Her companies had researched and prepared the course over several years, at their own cost and at considerable financial risk to the companies and individuals involved.

### *Joint venture with TWOA*

- 7.9 The Mahi Ora course was the subject of a joint venture agreement with TWOA in 2000, and was launched in July 2000. Under the agreement, Ms Cullen's company was responsible for running the course. It employed staff and incurred most of the operating costs. TWOA was responsible for obtaining the necessary academic approvals in its name and overseeing quality. This course, like the others discussed in this Part, qualified for Crown funding based on the number of equivalent full-time students who enrolled. Of the funding received, 78% was provided to Ms Cullen's company and 22% retained by TWOA. We understand this income split ratio is not unusual for joint venture arrangements of this type.
- 7.10 We were told that the idea for a joint venture came from Ms Cullen. The joint venture agreement was prepared by Ms Cullen after all the necessary academic approvals were obtained. The agreement was signed by Ms Cullen and Rongo Wetere. It does not appear there was any negotiation over the terms of the agreement.
- 7.11 The only internal assessment or approval process conducted by TWOA in relation to Mahi Ora was the course approval by TWOA's Academic Board. This was largely an assessment of the educational merits of the course. Rongo Wetere is not on the Academic Board, and was not involved in creating the course or obtaining the academic approvals.
- 7.12 We looked for a business analysis of the joint venture proposal. We could not find one. We were told this was hardly necessary, as the proposal presented no financial risk to TWOA. But there was no analysis of, for instance, the capability and financial viability of the proposed joint venture partner. Nor could we identify any record of a decision by TWOA (even a decision "in principle") to start the necessary approval processes or to enter into a joint venture. The decision to proceed seems to have been a "meeting of minds" after informal conversations. We acknowledge that the relevant events took place some time ago, so it may be difficult to recall such matters accurately. Rongo Wetere was one of those involved, and during our interview he accepted that he must have approved the joint venture.
- 7.13 We were told that Rongo Wetere was initially sceptical about the course, and took some convincing over its merits. We were told that no one had any idea how successful the course would ultimately be. We were also told that, rather than favouring his children, he is especially tough on them in business matters.

7.14 Nevertheless, his participation in the approval of the Mahi Ora joint venture raised a conflict of interest for him. Ultimately, he was the person who agreed to the course going ahead. In our view, it was inappropriate for him to be involved at all. The lack of documentation around TWOA's decision-making exacerbated the conflict of interest, because it makes it difficult for observers to see whether there were sound reasons for the decisions that were made, and precisely who was involved (and to what extent).

### *Purchase of Mahi Ora*

7.15 The Mahi Ora course immediately attracted many enrolments. By the end of 2004 more than 50,000 people had enrolled in Mahi Ora, and in early 2005 it was attracting around 300-500 new enrolments each month. We were told that the financial return on Mahi Ora has been several times greater than the initial investment.

7.16 In 2001, the success of the Mahi Ora course was already evident. It represented a large and ever-increasing proportion of TWOA's students and income. Both parties felt that TWOA should purchase the Mahi Ora course outright, by buying the business. The vendor was Ms Cullen's company Mahi Ora Limited. TWOA established a subsidiary, MO1 Limited, to purchase and then run the Mahi Ora course.

7.17 Because of a family bereavement, Ms Cullen had little direct involvement in the sale and purchase. We were told she was represented largely by Kingi Wetere (who had become involved in her company along with William Wetere).

7.18 The purchase was discussed and approved by TWOA's Council. Two valuations of the course were obtained, which helped inform the price. A TWOA Council member (who became an inaugural director of MO1 Limited) undertook one of those valuations. The purchase price of \$7.022 million was within the range suggested by both valuations.

7.19 Other than the 2 valuations, TWOA could not provide us with any documented assessment, from a business perspective, of the purchase proposal. We were told it was a simple decision because the course was already highly successful and because of the pre-existing relationship between the parties. But there may have been several commercial and strategic issues to consider; for example:

- a due diligence investigation of the business being purchased;
- evaluating and planning for the expected life cycle of the course;
- how the course fitted into TWOA's operational priorities and objectives;
- assessing whether the purchase was affordable given other budget constraints; and
- the best timing for any purchase.

- 7.20 Similarly, TWOA could not provide any evidence of negotiations over the price, or other terms, of the purchase. We expected to see evidence of some negotiation, to indicate that TWOA had sought to achieve sound value for money. We do not know precisely how the terms were arrived at, and who was involved on behalf of TWOA. We were told that all parties saw themselves as working for the common good of TWOA.
- 7.21 It was conceded that Rongo Wetere would have been involved in some discussions, but we were told that he had very little direct involvement in discussions about the purchase of the Mahi Ora course, and that this was deliberate. For instance, he did not sign the sale and purchase agreement. Former members of the TWOA Council told us that Rongo Wetere noted his conflict of interest and distanced himself from the purchase. However, the minutes of the relevant meeting of the Council indicate that he participated in its consideration and approval of the proposal, including moving one of the relevant resolutions.
- 7.22 Rongo Wetere's participation in the Council's consideration of the purchase came to the attention of our appointed auditor during his audit of TWOA's 2001 financial statements. He referred the matter to our Office. We wrote to TWOA in 2002. We expressed concern about Rongo Wetere's apparent involvement in the Council's consideration of the matter, given his conflict of interest, and sought an explanation. TWOA told us at the time that "although not accurately reported in the Wananga minutes" Rongo Wetere had actually excluded himself from "many of the discussions relating to this acquisition". TWOA said –
- In future, should circumstances arise we will more accurately record in our minutes, disclosures on conflicts, and exclusions from discussions.*
- 7.23 We wrote again to TWOA. We reiterated that we thought Rongo Wetere ought to have abstained from all matters relating to the purchase of Mahi Ora. We suggested that TWOA consider taking legal advice on potential conflicts of interest should they arise in the future.
- 7.24 This was the first time we became aware of a conflict of interest at TWOA. We accepted TWOA's assurances about that matter, and expected it to manage such situations better in future. After expressly raising the issue with TWOA in 2002, we did not expect this sort of poor practice to recur.
- 7.25 As soon as the purchase took place, Kingi Wetere and William Wetere took on senior management positions in MO1 Limited, and they and Rongo Wetere became directors of MO1 Limited. Ms Cullen continued to provide some voluntary advice and assistance in respect of the Mahi Ora course. At the same time, the AI Trust bought a property from Ms Cullen that had served as the offices for managing the course, and leased that property to MO1 Limited.

## Lifeworks

- 7.26 Ms Cullen's company Awarua Limited then created another course, similar to Mahi Ora but targeted at Pākehā. It was called Lifeworks. In 2003, after the course had been prepared, MO1 Limited and Awarua Limited signed an agreement. MO1 Limited agreed to pay \$1.7 million to Awarua Limited as a once-only fee for the creation of this course, and then took ownership of full rights to the Lifeworks course in New Zealand. We understand that Rongo Wetere was not involved in this transaction. However, Kingi Wetere and William Wetere held senior positions in MO1 Limited at the time, and would have been involved in the transaction.
- 7.27 MO1 Limited has licensed the Lifeworks course to The Open Polytechnic of New Zealand. Delivery of the course began in early 2003.

## Kiwi Ora

- 7.28 Kiwi Ora is a similar course, but aimed at immigrants and intended to help them adapt to life in New Zealand. It was created entirely by Ms Cullen's company Ora Limited.
- 7.29 A joint venture agreement between TWOA and Ora Limited was first signed in late 2002. Delivery of the course began in early 2003. The nature of the joint venture agreement is similar to the one used for Mahi Ora in 2000. That is, Ora Limited is to deliver the course, and is responsible for all costs (including, for example, employing administrative and tutorial staff to deal with students, and preparing the course materials). TWOA is the identified education provider, monitors the quality of the course, and ensures that the necessary Ministry of Education and New Zealand Qualifications Authority approvals are obtained and maintained. Again, the revenue from the course, which is wholly dependent on student numbers, is split between the parties. The share transferred to Ora Limited under the joint venture agreement was initially 85%, while TWOA retained 15%. Ms Cullen told us that the agreement favoured TWOA.
- 7.30 Like the courses discussed above, Kiwi Ora has attracted many enrolments. In its first 6 months, it had attracted about 5000 students, and by 2005 it was accounting for about a quarter of all TWOA's enrolments.
- 7.31 As with Mahi Ora, the course was considered and approved by TWOA's Academic Board. There was no documentation of any business case or commercial assessment of the joint venture by anyone in TWOA.<sup>25</sup> There was no record of any TWOA discussions or decision in principle to proceed with the business arrangement. There was no documentation of any negotiation that might have occurred over the terms of the joint venture agreement.

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<sup>25</sup> In saying this, we are not suggesting that Ora Limited did not thoroughly research and plan the course.

- 7.32 We were told that the idea for this joint venture came from Ms Cullen and Ora Limited. Rongo Wetere orally agreed to Ms Cullen starting work, but had little knowledge of the details. The only formal approval of the course within TWOA was by the Academic Board. No one else made any decision on behalf of TWOA to proceed with the business arrangement. Ms Cullen drafted the joint venture agreement. She and Rongo Wetere were the signatories to the 2002 joint venture agreement. The joint venture agreement was not referred to TWOA's Council before it was signed.
- 7.33 Rongo Wetere's involvement in this matter – as the only person who apparently gave any form of approval for the business arrangement, and as the signatory to the joint venture agreement – raised a conflict of interest.
- 7.34 In 2003, an adviser to TWOA's Council expressed concern about the nature and scope of TWOA's relationship with private training establishments. Concerns were expressed at a later Council meeting about how the Kiwi Ora joint venture was agreed. TWOA's acting Council chairperson, Craig Coxhead, conducted an internal review of Rongo Wetere's involvement in that agreement. In his report back to the Council, Mr Coxhead found that there was a "clear conflict of interest". He described this as a serious issue, for which there was "no excuse". He made several recommendations, including about the need to adopt a conflicts of interest policy and register. These were implemented in late 2003.
- 7.35 Mr Coxhead's review also noted that there was no formal consideration of Ora Limited's financial viability, and recommended that this should be done in future situations like this. His review noted too that the joint venture agreement had not been put to the Council for consideration, and in some respects had exceeded Rongo Wetere's delegated authority.
- 7.36 Further joint venture agreements were signed for 2004 and 2005. On these occasions, Mr Coxhead ensured that Rongo Wetere was excluded from all decision-making. Mr Coxhead personally negotiated and signed the contracts with Ora Limited, and the Council ratified them. The income split was adjusted slightly in TWOA's favour.<sup>26</sup>
- 7.37 We acknowledge that Rongo Wetere's conflict of interest in the first Kiwi Ora joint venture agreement has already been the subject of a detailed internal review by TWOA. However, we are concerned that our advice in relation to the Mahi Ora course earlier in 2002 was not heeded. By the time of the Kiwi Ora course, TWOA had clearly been put on notice that it needed to take conflict of interest issues seriously. It did not.
- 7.38 Regardless of the merits or subsequent success of a transaction, it is a basic expectation of good practice in the public sector that important business

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<sup>26</sup> In 2005, it changed to an 82% and 18% split.



decisions can be shown to have been carefully considered, justified, and properly authorised. This should apply as a matter of course.

- 7.39 When a conflict of interest exists, the need for transparency is heightened considerably. In those cases, the entity must take extra care to ensure that its actions and decisions are clearly justifiable. Questions are bound to be asked when a major transaction with a public entity involves a close relative of a person as senior as the chief executive.
- 7.40 This was not a remote or insignificant conflict of interest, and TWOA must have known, after Mahi Ora, that Kiwi Ora was likely to be very successful. When this joint venture proposal was considered by TWOA, Rongo Wetere should have had nothing to do with it. He should have taken steps to ensure that he was formally excluded from any formal or informal assessment or decision-making, and he should have had those steps clearly documented. He did not.
- 7.41 The recurring and similar conflicts of interest over these courses are likely to cause members of the public to question the motives behind the various arrangements between TWOA and Ms Cullen's companies. This is regrettable, because TWOA's poor practices could detract from what may well otherwise be high quality educational products.

## **Greenlight**

- 7.42 Greenlight is an adult literacy programme created by TWOA in collaboration with Cuba's Ministry of Education. Contrary to some public allegations, we understand that this programme has not been purchased by TWOA (whether from Marcia Krawll or anyone else).
- 7.43 Rongo Wetere had been concerned for some time about literacy problems impeding the success of students. Before the Greenlight programme, TWOA had been spending sizeable amounts of money on literacy support tutors at some campuses. Ms Krawll recommended that Rongo Wetere speak to officials in Cuba about setting up a literacy programme, because Cuba had a good reputation for literacy education.
- 7.44 Greenlight is a video- and audio-based programme. Students are taught basic literacy and numeracy skills in their home environment and at their own pace. The programme is divided into 4 modules. It is modelled on a Cuban methodology. TWOA personnel have travelled to Cuba 5 times since 2002 in connection with this programme, and several Cuban advisers seconded from the Cuban Ministry of Education have spent a lot of time in New Zealand helping TWOA to create the programme. Work on the programme started in late 2002, and delivery of the first module began in mid-2003, at the same time as work began on the later modules. Each of the modules has been trialled on a small pilot group of students before being finalised. The pilot for the fourth module was almost ready to be rolled out as we were conducting our fieldwork.

TWOA personnel we spoke to are pleased with the programme's success so far, and confident about its future.

- 7.45 Ms Krawll is the co-ordinator of the Greenlight programme.
- 7.46 The creation costs of the programme have been high, and the programme has taken longer to create than was originally envisaged. We were told TWOA thought the programme would cost between \$1.5 million and \$2.5 million. At the time of our fieldwork, costs exceeded \$5 million. TWOA now expects the programme to cost between \$6 million and \$7 million.
- 7.47 Most of the costs are for producing videos and other programme materials. TWOA contracts a professional firm for video production. TWOA bears the costs of the Cuban advisers seconded to New Zealand, and since 2004 TWOA has paid a fee to the Cuban Ministry of Education for their services. We were told that Ms Krawll and Rongo Wetere helped to minimise costs by personally housing some of the secondees free of charge for part of their time in New Zealand. TWOA also has a team of its own staff working on the programme.
- 7.48 We are concerned about the informal nature of the planning for, and control of, such a significant programme. There was no formal written proposal or written business case for the Greenlight programme. TWOA's Council has been kept informed of the programme, but did not formally approve it (or the contractual arrangements with the Cuban Ministry of Education). The Council told us it was not aware of specific details and escalating costs, although Rongo Wetere disputed this. We are surprised that more questions were not asked, given the significance of the programme. The decision to create the programme evolved solely out of discussions between Rongo Wetere, Ms Krawll, and Cuban officials.
- 7.49 There is no detailed project plan guiding and controlling the work. We were told there was a budget, but Ms Krawll conceded that she did not know what it was, or who controlled it. Until very recently she did not report on progress or expenditure to any TWOA manager other than Rongo Wetere. That is unsatisfactory, given their personal relationship.<sup>27</sup>
- 7.50 We were told that revenue from the Greenlight programme has already covered its costs, and that the delivery of the programme is relatively inexpensive. This does not excuse the lack of proper control and monitoring. TWOA had little idea how much the programme would cost to set up, and little discipline has been exercised over costs as time has gone on. There were a number of reasons for the escalating cost. In our view, careful planning at the outset would have prevented or mitigated some of the difficulties that TWOA has encountered.

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<sup>27</sup> The relationship between Ms Krawll and Rongo Wetere was recorded in the conflicts of interest register from late 2003.

## **Claim by the AI Trust regarding intellectual property for educational courses**

- 7.51 In its financial statements for 2003, TWOA noted that the AI Trust intends making a claim against TWOA for intellectual property and artworks that were transferred to TWOA when TWOA was formed in 1993. The intellectual property aspect relates to several of the educational courses that are offered by TWOA (and that presumably originated with the AI Trust).
- 7.52 The intended claim seems to stem from a concern that TWOA ought to acknowledge and pay the AI Trust for those educational courses and other assets that had been originally created and managed by the AI Trust, but were transferred to TWOA when it began to operate as a wānanga. The issue appears to have arisen in the context of recent moves to increase the separation between the 2 entities, and to add greater formality to the business relationships between them.
- 7.53 The matter was raised at a meeting of TWOA's Council in April 2004. It is not clear from the minutes who raised it. The minutes record that it was suggested that the 2 entities agree on a robust process to determine the matter and that one person be appointed to prepare an independent report, which both entities could then consider.
- 7.54 Professional advice was sought from major accounting and law firms. The advice was sought by – and provided to – the 2 entities jointly. The advisers were asked to determine:
- whether certain assets and services were transferred from, or provided by, the AI Trust to TWOA when TWOA was established without full or any consideration being provided; and
  - the fair value of the consideration to be provided by TWOA to the AI Trust for any such assets and services.
- 7.55 The advisers concluded that the AI Trust had a proper basis for a copyright claim in relation to TWOA's Te Ara Reo Māori course materials, and that the AI Trust could seek payment from TWOA in return for giving continued permission to TWOA for it to use certain elements reproduced in those materials.
- 7.56 The advisers also concluded that an appropriate retrospective lump sum payment by TWOA to the AI Trust, for the use of the intellectual property in previous years, would be between \$10.2 million and \$14.2 million, with a mid-point of \$12.3 million. The advisers recommended that the ongoing compensation to the AI Trust, for use of the course materials by TWOA, be an annual royalty of Te Ara Reo Māori revenue, calculated at a rate of 10.2%.
- 7.57 The cost of this legal and accounting advice was shared between TWOA and the AI Trust. The portion paid by TWOA was about \$140,000.

- 7.58 TWOA communicated the nature and detail of the intended claim to Ministers in late 2004, but TWOA personnel told us that this issue is not being actively pursued.
- 7.59 We did not see evidence that the AI Trust has given formal notice of a claim. We were concerned to see that, if anything, TWOA and Rongo Wetere appeared to be leading the intended claim. In particular, Rongo Wetere's position with the AI Trust appeared to conflict with his duty to act to protect the interests of TWOA. Letters from the advisers were addressed to him as both chief executive of TWOA and managing director of the AI Trust.
- 7.60 While we have not evaluated the professional advice, the amounts discussed seem high. We do not understand why this issue arose so long after TWOA took control of the property, and why TWOA appeared to take the lead in establishing the existence and amount of the intended claim.

## **Part 8 – Spending on international travel**

- 8.1 In this Part, we discuss:
- TWOA’s approach to international travel;
  - Rongo Wetere’s international travel; and
  - 2 case studies – a trip in 2002, and one in 2004.
- 8.2 We began by identifying all international trips in the 3 years up to 31 December 2004, so we could decide what to look at in detail.
- 8.3 We identified 122 international trips by TWOA personnel during this period. The cost of international travel was at least \$1.36 million. Senior managers or Council members made 39 of these trips. The value of their travel accounted for about half of the total amount.
- 8.4 We were unable to identify the total costs of TWOA’s international travel. For most personnel (the main exception being Rongo Wetere), the \$1.36 million was just airfares. TWOA could not provide us with a complete reconciliation and analysis of total international travel costs, and we found it impossible to construct this from the documentation provided to us. For most of the travellers, the \$1.36 million did not include accommodation, daily allowances, incidental expenditure, or reimbursement claims.

### **TWOA’s approach to international travel**

- 8.5 The international travel costs incurred by TWOA increased steadily over the 3 years we looked at.
- 8.6 Overall, TWOA poorly documented and poorly accounted for international travel. TWOA had no separate reporting or accounting for international travel. This made it difficult for us to isolate international travel costs from domestic travel costs, and to accurately and completely identify and analyse costs for particular trips or particular personnel. We had to use raw data from travel agency invoices and credit card statements. Other supporting documentation was frequently not available. We cannot be certain that the list of trips we identified is complete. The state of the documentation provided to us raised concerns about how well TWOA’s international travel is monitored and controlled.
- 8.7 We were told that international trips required Rongo Wetere’s approval. This process did not appear to require trip budgets or written business cases to support travel requests. The approval process was largely oral. We expected

documented business cases and trip budgets to be part of an international travel approval process.

- 8.8 In 2 cases, people had been granted international trips for non-business reasons. The first was a 10-day trip to Fiji in November 2002 by a manager and members of his family. We were told that this was a bonus payment for a high-performing manager. The second was a trip to the United States by Rongo Wetere and Marcia Krawll in November 2003, on the death of a close relative of Ms Krawll (we understand that some business activities were also undertaken on that trip, but were not what prompted the trip). The costs of the trips were at least \$9,799 for the first, and \$17,370 for the second.
- 8.9 Some people told us that TWA has a practice of sometimes offering to meet the cost of employees travelling to tangi. However, TWA's Council told us that such a practice is acceptable only for travelling to tangi of employees, not travelling to tangi of relatives. In our view, regardless of whether such a policy is acceptable generally, extending such a policy to pay for international travel goes too far.
- 8.10 We question the appropriateness of TWA meeting the cost of these trips. TWA's Council told us that it did not authorise the trips and is currently investigating them.

### *Relevant policies*

- 8.11 TWA had no travel policy in force for the period covered by our review, despite the growth in international travel during that time. Before late 2003, TWA did not have a credit card policy, and our appointed auditor had expressed concerns about TWA's oversight of credit card use.
- 8.12 TWA issued a credit card policy in October 2003. It was approved by Rongo Wetere, and covered all employees. The important aspects of the policy are that TWA credit cards:
- must be used for business purposes only;
  - can be used to pay for emergency travel expenditure and incidental travel expenses;
  - must not be used to purchase goods or services for private use; and
  - must not be used for cash advances or cash withdrawals.
- 8.13 The policy requires that the cardholder retain credit card receipts, suppliers' invoices, and any other relevant supporting documentation to demonstrate that the expenses were incurred for a business purpose. The cardholder is required to complete a monthly transaction summary, which sets out details of the credit card charges and the cost code to which they should be allocated.

This summary and the related supporting documentation must be certified by the cardholder and authorised by the cardholder's manager. The policy states that –

*The Tumuaki's expenditure is authorised by the [sic] two members of the Council (the Chairman and one other Council member).*

- 8.14 A draft expense reimbursement policy was prepared in late 2004, and a draft travel policy was prepared in early 2005. A draft revision of the credit card policy was also prepared in early 2005.

### **Rongo Wetere's international travel**

- 8.15 We focused specifically on the international travel undertaken by Rongo Wetere. He has undertaken the most trips, and our initial examination of credit card information identified some areas of concern with his travel expenses.
- 8.16 TWOA could not provide us with detailed reports for the costs of all of Rongo Wetere's travel. We compiled the best possible summary and analysis that we could from statements, invoices, and receipts supplied by TWOA.
- 8.17 During 2002, 2003, and 2004, Rongo Wetere had 16 international trips, to Australia, Canada, Cuba, Malaysia, and the United States. Ms Krawll accompanied him on 13 of the 16 trips, at TWOA's expense.
- 8.18 We were told that payments made by, or on behalf of, Rongo Wetere often included costs of other staff travelling with him, but we could neither identify nor verify the extent of this from the information provided to us. Consequently, it was impossible for us to determine the total cost of travel relating solely to Rongo Wetere.

#### *Quality of documentation*

- 8.19 The cost information and documentation that TWOA supplied to us about Rongo Wetere's international travel was deficient in a number of respects.
- 8.20 We saw a budget for only one of the 16 trips, so in most cases we had nothing to compare the actual costs with. We were unable to confirm whether the costs were complete, and whether they were within TWOA's expectations.
- 8.21 Most of Rongo Wetere's travel expenses (other than airfares) were incurred on his business credit card. While credit card receipts often existed, in many cases they were not supported by reliable documentation (such as hotel invoices or itemised restaurant bills) that could adequately explain the nature of the transaction. It was frequently impossible for us to verify whether all of the unsupported costs were for a business purpose.

- 8.22 Rongo Wetere did not begin to submit expense reconciliation summaries for his trips until 2003, and did not submit monthly credit card transaction summaries until August 2004. Before then, his monthly credit card statement was processed and paid without specific authorisation and with incomplete documentation.
- 8.23 There are gaps in expenditure where we would have expected to see costs incurred (for example, some meals and local travel). This suggests that some costs were paid for personally.
- 8.24 While in Cuba, most business expenses were paid in cash. The cash was withdrawn using Rongo Wetere's business credit card or, it seems, sometimes his private credit card. We found little reliable documentary evidence to explain how that cash was used. This made it impossible for us to determine whether all of the cash was used for business purposes, or whether Rongo Wetere owed money to TWOA. Equally, it is not clear whether he was entitled to claim money from TWOA for business expenses that he may have paid with his own money.

#### *Purpose of travel*

- 8.25 There were legitimate business purposes for Rongo Wetere's trips (with the exception of the non-business trip in November 2003 discussed in paragraph 8.8).
- 8.26 Many of the trips were for networking and meeting with academics to discuss indigenous education and higher education issues,<sup>28</sup> attending education conferences, and research and meetings about literacy and what became the Greenlight programme (see paragraphs 7.42 to 7.50).
- 8.27 At the end of this Part, we describe 2 of these trips, to show the sorts of matters that Rongo Wetere's travel related to (see paragraph 8.72 onwards).
- 8.28 Ms Krawll went on many of these trips because of her roles as International Events Co-ordinator and Greenlight Programme Co-ordinator.

#### *Business case and advance approval*

- 8.29 It is good practice to prepare a business case and expected budget for international travel, and to get formal advance approval of the travel (in a chief executive's case, by the chairperson or someone else on the governing body).
- 8.30 Documented business cases and trip budgets were not prepared for most of Rongo Wetere's travel. Rongo Wetere told us that TWOA's Council was told about his travel plans before he departed on a trip, and he usually reported to

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<sup>28</sup> This included, but was not limited to, meetings relating to WINHEC, an international organisation that Rongo Wetere helped to found (see Figure 7 following paragraph 8.77).



the Council after a trip. However, no written pre-approval from the Council or a Council member was obtained before any of his 16 trips.

### *First class flights*

- 8.31 We found 6 trips where Rongo Wetere flew first class.
- 8.32 We were told that Rongo Wetere and Marcia Krawll had never been advised not to travel first class. Because there was no formal TWOA travel policy for the relevant period, we asked Rongo Wetere what his informal policy was on class of travel. He told us that in the early days he travelled economy class, because TWOA was a small, poor organisation. Rongo Wetere told us that his understanding was that travelling in business class was standard practice if the flight took more than 6 hours, and that, depending on health issues and a person's status within the organisation, first class travel was often appropriate.
- 8.33 In November 2003, Rongo Wetere received a complimentary upgrade by Air New Zealand from business to first class. He found it was much more relaxing than his previous experience of travel. On all his subsequent trips to the United States and Cuba, he and Ms Krawll travelled first class.
- 8.34 Rongo Wetere told us he was concerned about health-related issues, such as deep vein thrombosis and an arthritic complaint that he suffered from. We were told that he always started work immediately after arriving at his destination, so it was important that he arrived fresh and alert.
- 8.35 In our view, first class air travel by public entity officials can be justified only under exceptional circumstances. If travel by first class is considered necessary, it must be supported by clear reasons and be independently approved beforehand. The reasons provided to us would justify business class travel, but we do not find them sufficiently compelling to warrant travelling first class.

### *Charging private purchases to TWOA's business credit card*

- 8.36 Good public sector practice requires that a business credit card is never used for private purchases. TWOA's credit card policy instituted in October 2003 reflects this position.
- 8.37 Before this policy came into force, some transactions charged to Rongo Wetere's business credit card appeared to be private. Some money has been repaid<sup>29</sup> to TWOA. Nevertheless, we think this practice was inappropriate. We are not aware of any exceptional reasons why the business credit card needed to be used for those purchases.

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<sup>29</sup>

We have seen evidence that Rongo Wetere has repaid \$5,706.

- 8.38 We did not identify clearly private transactions by Rongo Wetere after TWOA introduced its credit card policy. However, because of the poor quality of supporting documentation for credit card expenses, we cannot be certain that no such transactions occurred.

### *Using cash in Cuba*

- 8.39 About \$42,000 in cash had been withdrawn on Rongo Wetere's business credit card. Almost all of these transactions occurred during his 4 trips to Cuba.
- 8.40 Rongo Wetere told us that, because of restrictions that the United States has imposed on many banks, trying to transact business with TWOA's business credit card while he was in Cuba was difficult. His business credit card was often not accepted for credit card purchases. (In addition, travellers' cheques are often not cleared by banks based in the United States or their international affiliates.)
- 8.41 He resorted to withdrawing cash on his credit card so he could pay for local travel, accommodation, and meal expenses. We were told that making cash withdrawals was also difficult. We were told that, in one case, it took nearly a whole day, and long visits to several Cuban banks, to withdraw cash from the business credit card. Sometimes, we were told, he had to use his private credit card to obtain cash after the business credit card would not work.
- 8.42 We accept that the use of a credit card in Cuba may be problematic, and that cash may be the only way to cover daily travel expenses. However, the non-traceable nature of cash creates a need for extra care, to reduce the risk of misuse or theft, to ensure that the money can be fully accounted for, and to verify that it has been used for a proper purpose. There is a greater need to get and keep evidence of how the money has been used, and to reconcile the amounts withdrawn with the amounts spent. The use of pre-prepared trip budgets would have helped.
- 8.43 The costs paid in cash while in Cuba typically included hotel accounts, taxi charges, and restaurant bills. We could infer a business use for most of the cash. However, we cannot be certain that all of the cash was used for business purposes, because the documentation in support of cash spending was poor.
- 8.44 We asked Rongo Wetere why this was the case. He told us that he got hotel invoices at the time and brought them back to New Zealand, and would have given them to his personal assistant for action. However, we found very few such invoices.
- 8.45 Others told us that that record-keeping and retaining documentation were not matters that Rongo Wetere concerned himself with. We were also told it was not always possible to get receipts from some suppliers in Cuba. Ms Krawll took some responsibility for recording Rongo Wetere's spending. Ms Krawll sometimes recorded transactions in a logbook, and provided her records and receipts to TWOA. Many of those receipts cannot now be found, and the

records and receipts that we did see did not account for all of the cash withdrawn.

- 8.46 TWOA staff went back to Cuba more than once. We are disappointed that TWOA did not put better accounting procedures in place for subsequent trips.
- 8.47 We could not get a full and accurate understanding of how all the cash withdrawn by Rongo Wetere had been used. The lack of documentation in support of the use of cash in Cuba is highly unsatisfactory.

#### *Reconciliation of cash withdrawals*

- 8.48 Even working with the unsupported explanations that we were given, we could not reconcile the records of amounts spent with the amounts of cash that had been withdrawn.
- 8.49 For some trips, the cash withdrawn on the business credit card exceeded the cash expenses that we could identify. Rongo Wetere may owe some money to TWOA, or all of the trip expenses may not have been recorded. But for other trips, the expenses apparently paid in cash exceeded the cash withdrawn on the business credit card. Rongo Wetere did not receive any cash advances before those trips, so on those occasions he must have used cash drawn from private sources to help pay for business expenses. In those cases, TWOA may owe money to him. We cannot determine what amounts may be owing either way.
- 8.50 We were also told that money is likely to be owed to Rongo Wetere from a trip in 2005 (which was outside the period we looked at).
- 8.51 The practice of mixing public funds with private funds is fraught with danger. Unless carefully managed, it can be extremely difficult to account for business cash transactions – which is what happened concerning the trips to Cuba.
- 8.52 Given the passage of time and lack of documentation for these cash transactions, we doubt whether TWOA will be able to accurately determine how much money (if any) is owed to or by Rongo Wetere for the use of cash in Cuba.
- 8.53 TWOA has made little attempt to reconcile cash withdrawals made on the business credit card, and to properly account for any balances owing either way. This is highly unsatisfactory.

#### *Cash donations*

- 8.54 On separate trips to Cuba, Rongo Wetere made, on behalf of TWOA, 2 US\$5,000 cash donations to Cuban agencies. These donations were made as gestures of goodwill, and we understand they were used by the agencies to purchase much-needed computer equipment.

- 8.55 The first donation was made to the Instituto Pedagógico Latinoamericano Y Caribeño<sup>30</sup> (IPLAC) during a trip in March 2004. There was no cash withdrawal for this amount on Rongo Wetere's business credit card. It seems that it was mostly cash withdrawn from his private credit card.
- 8.56 The second donation was made to the Instituto Cubano de Amistad con los Pueblos<sup>31</sup> (ICAP) during a trip in July 2004. In this case, Rongo Wetere supplemented a cash withdrawal of US\$3,000 from his business credit card with US\$2,000 drawn from his own private credit card.
- 8.57 We were told that it was not possible to make these donations with foreign currency cheques, because of the risk that banks in the United States or their international affiliates would not honour them. We were also told it can be difficult to deposit funds into Cuban bank accounts by electronic transfer (although we note that it has subsequently been done for payments relating to the Greenlight programme). An electronic transfer would have been a more transparent option than handing over cash to officials.
- 8.58 Even though there was a receipt for both donations, in our view a public entity should not give donations in cash to foreign officials. This practice is unacceptable.

#### *Rongo Wetere's expense claims*

- 8.59 It appears that Rongo Wetere may have sometimes used his own money to pay for business expenses while travelling. He has not usually claimed and been reimbursed for such payments. We expected a number of claims to have been made.
- 8.60 On the other hand, we located one payment to Rongo Wetere that should not have been made. A single payment of \$13,643 was credited to his private bank account in July 2004. The payment was identified by TWOA staff who were collating information for our inquiry. The payment was based on a form entitled "Expense Claim". Despite the title, it appears that the form was a summary of recent expenses for the finance department to post to its ledger accounts and not a request for reimbursement. Almost all of the expenses listed on the form were incurred on Rongo Wetere's business credit card, and should not have been reimbursed to him.
- 8.61 However, presumably because of the misleading heading, someone has mistaken the form as a claim for payment to Rongo Wetere. We were told

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<sup>30</sup> The Instituto Pedagógico Latinoamericano Y Caribeño (Latin American and Caribbean Pedagogical Institute) is part of the Ministry of Education of Cuba. It provides postgraduate study and international education assistance to countries and international institutions.

<sup>31</sup> The Instituto Cubano de Amistad con los Pueblos (Cuban Institute for Friendship with the People) is a Cuban agency that internationally promotes initiatives, exchanges, and friendship with other countries. One of these promotions involved TWOA's desire to use Cuba's literacy expertise.

Rongo Wetere was not aware that a claim had been made on his behalf, and paid. He had not signed the form. The form was prepared and processed by others, and approved by the Council's chairperson.

- 8.62 We accept that this incident was almost certainly the result of a genuine error. Nevertheless, it reflects poorly on TWOA's accounting processes.

### *Concluding comments*

- 8.63 Overall, we expected there to be sufficient information available to confirm that all expenditure on TWOA business was properly incurred and accounted for. This was not the case with Rongo Wetere's international travel.

- 8.64 Individual trips were usually not budgeted for and were not approved in advance. There was nothing to compare actual costs with.

- 8.65 The supporting and explanatory documentation for many credit card transactions, and especially the withdrawal and use of cash, was inadequate. Post-trip reconciliation of amounts spent was also inadequate. Rongo Wetere told us he handed travel and credit card documentation to his personal assistant after each trip, and assumed it had been taken care of. In our view, he should have ensured that costs he incurred while on TWOA business were being properly accounted for.

- 8.66 Some air travel was first class. We are not persuaded that the expense was justifiable.

- 8.67 It appears that Rongo Wetere paid insufficient attention to keeping TWOA money and personal funds separate.

- 8.68 Rongo Wetere did not comply with TWOA's credit card policy for travel taken after the policy came into effect in October 2003:

- He did not begin to have his credit card expenses approved, and submit regular monthly transaction returns, until August 2004.
- He made cash withdrawals from the business credit card.

- 8.69 In our view:

- Rongo Wetere should reimburse TWOA for the parts of the \$13,643 payment that he was not entitled to claim.
- TWOA should consider seeking reimbursement from the staff who took international trips for non-business reasons.
- TWOA should consider seeking reimbursement from Rongo Wetere and Ms Krawll for the first-class component of air travel that TWOA paid for.
- If Rongo Wetere can produce clear evidence that he used his own money for proper TWOA purposes, he is entitled to be reimbursed.

- 8.70 It was suggested during the course of our inquiry (and apparently in response to our queries) that an exercise to determine what amounts may be owed by or to Rongo Wetere would be carried out shortly. We doubt whether, given the lack of documentation around cash withdrawals and other credit card charges, it will be possible to accurately determine all amounts that may be owed by or to Rongo Wetere. The exercise is likely to account for only some of the credit card and cash transactions. This is an unacceptable situation.
- 8.71 Based on what we saw, we found no evidence to indicate that cash was used fraudulently or was otherwise misappropriated. However, we are concerned about the absence of documentation. Rongo Wetere appeared to be unaware of the importance of taking personal accountability for the money he spent while travelling on behalf of a public entity. TWOA's and Rongo Wetere's conduct in controlling and accounting for international travel expenditure fall well short of what we expect of a public entity and senior public officials.

## **Case study – 2 of Rongo Wetere's trips**

- 8.72 Two of Rongo Wetere's trips show the sorts of matters his travel related to. The first trip was in 2002, and the second in 2004.

### *Trip to Canada, the United States, and Cuba – July to September 2002*

- 8.73 Rongo Wetere visited Canada, the United States, and Cuba from 26 July to 9 September 2002.
- 8.74 Ms Krawll accompanied Rongo Wetere, in her capacity as International Events Co-ordinator. They flew business class. When planning this trip, they were not in a personal relationship.
- 8.75 Other TWOA personnel joined them for part of the Canadian leg of the trip.
- 8.76 At the time of this travel, TWOA had no formal credit card or travel policies in place.
- 8.77 The main locations, dates, and business activities for this trip are presented in Figure 7. Figure 8 shows our summary of the costs incurred.

**Figure 7.**  
**Rongo Wetere's 2002 trip – locations, dates, and activities**

<b>Locations</b>	<b>Dates</b>	<b>Business activity</b>
In transit	26 July	Travel to Canada via the United States.
Vancouver (Canada)	27 to 30 July	Meetings about South American indigenous art exchanges and exhibitions in New Zealand. Initial meetings about establishing WINHEC.*
Kananaskis (Canada)	31 July to 13 August	Attendance (with other TWOA employees) at a WIPCE** conference. At the conference it was agreed to officially launch WINHEC. TWOA was awarded the rights to host the next triennial WIPCE conference in Hamilton, New Zealand.
Albuquerque (United States)	13 to 20 August	Visit to Institute of American Indian Arts.
Phoenix (United States)	20 August	Visit to University of Phoenix in Arizona.
Rosebud (United States)	21 to 24 August	Sinte Gleska University presented Rongo Wetere with an honorary doctorate.
Montreal (Canada)	24 and 25 August	Visit to McGill University.
Havana (Cuba)	25 August to 4 September	Investigation of literacy education initiatives.
In transit	5 to 9 September	Travel back to New Zealand via Mexico and the United States.

\* WINHEC is the World Indigenous Nations Higher Education Consortium. It provides an international forum and support for indigenous peoples to pursue higher education. Rongo Wetere is the founding Co-Chair for the Consortium. Consortium members come from Alaska, Australia, Canada, Hawaii, New Zealand, the Saamiland region of northern Europe, and the continental United States.

\*\* WIPCE is the World Indigenous Peoples Conference on Education. This is an international educational conference held every 3 years.

**Figure 8.**  
**Rongo Wetere's 2002 trip – identified costs**

<b>Cost item</b>	<b>Amount (NZ\$)</b>
Flights	\$24,426
Credit card expenses – accommodation	\$30,406
Credit card expenses – restaurants and food	\$3,525
Credit card expenses – taxis and other transport	\$3,381
Credit card expenses – gifts	\$1,063
Credit card expenses – private*	\$7,342
Credit card expenses – other cash withdrawals	\$3,117
<b>TOTAL COSTS</b>	<b>\$73,260</b>

\* These expenses appeared to be personal. Rongo Wetere has repaid \$5,211 to TWOA.

- 8.78 Figure 8 excludes the airfares of personnel other than Rongo Wetere and Ms Krawll. We were told that the accommodation costs that Rongo Wetere paid for on the Kananaskis leg of the journey include accommodation costs for other TWOA employees attending the WIPCE conference. We have not seen documentation to verify this.
- 8.79 Rongo Wetere told us that the Council was aware of his travel plans. However, there was no documented business case to support the trip. He did not seek formal pre-approval from the Council.
- 8.80 Rongo Wetere had past involvement with WIPCE, and had been involved in discussions to help found WINHEC. Ms Krawll had extensive experience with Canadian and American indigenous peoples and had previously been involved in WIPCE. She also had knowledge of Cuban literacy programmes. The latter part of this trip was when TWOA first investigated the possibility of adapting Cuban literacy initiatives.
- 8.81 Most of the travel, accommodation, and meal expenses in Cuba were paid in cash.

*Trip to Cuba – June to July 2004*

- 8.82 Rongo Wetere visited Cuba from 24 June to 7 July 2004. Ms Krawll accompanied him, in her capacity as Greenlight Programme Co-ordinator. They flew first class on the international legs of the trip. By the time of this trip, they were in a personal relationship.
- 8.83 Two other TWOA personnel joined them for the first part of the trip.
- 8.84 The main locations, dates, and business activities for this trip are presented in Figure 9. The costs of the trip are shown in Figure 10.

*Figure 9.  
Rongo Wetere's 2004 trip – locations, dates, and activities*

<b>Locations</b>	<b>Dates</b>	<b>Business activity</b>
In transit	24 to 26 June	Travel to Cuba via the United States and Mexico.
Havana (Cuba)	26 to 30 June	Attendance at the 11 <sup>th</sup> International Literacy and Education Research Network Conference on Learning.
Havana (Cuba)	1 July to 3 July	Meetings with Cuban Ministers and hosting of ICAP officials regarding Greenlight programme.
In transit	4 July to 7 July	Travel back to New Zealand via Mexico and the United States.



*Figure 10.  
Rongo Wetere's 2004 trip – identified costs*

<b>Cost item</b>	<b>Amount (NZ\$)</b>
Flight, transfer, and United States accommodation package	\$26,235
Credit card expenses – Cuban accommodation	\$5,360
Credit card expenses – Cuban restaurants and food	\$586
Credit card expenses – Cuban taxis and other transport	\$788
Credit card expenses – telephone charges	\$899
Credit card expenses – medical costs	\$150
Credit card expenses – cash donation (part)	\$4,687
Credit card expenses – other cash withdrawals	\$1,351
<b>TOTAL COSTS</b>	<b>\$40,056</b>

- 8.85 Again, the airfares of personnel other than Rongo Wetere and Ms Krawll are excluded from this summary. Again, it is possible that the accommodation costs may include some of the accommodation costs for the other personnel as well, but TWOA did not provide us with documentation to verify this.
- 8.86 As before, Rongo Wetere told us that the Council was aware of his travel plans. However, there was no documented business case to support the trip, he did not seek formal pre-approval from the Council, and no trip budget was prepared.
- 8.87 Ms Krawll and the 2 other TWOA personnel presented papers to the literacy conference. The trip was also taken when the Greenlight programme had identified some technical issues in the preparation of the literacy learning material. Rongo Wetere and Ms Krawll met with the Cuban Minister of Education and other officials to discuss what further technical assistance IPLAC could provide to TWOA for the Greenlight programme.
- 8.88 Most of the travel, accommodation, and meal expenses while in Cuba were paid in cash.

# Appendix 1 – Terms of reference for our inquiry

## 18 March 2005

Since September 2004, the Auditor-General has been inquiring into potential conflicts of interest in relation to the Kiwi Ora programme at Te Wānanga o Aotearoa.

As a result of this preliminary work, some other issues emerged. Further allegations have since been raised in the public domain, some of which have been the subject of requests for the Auditor-General to extend his inquiry. Consequently, the Auditor-General has reconsidered the nature and scope of his current inquiry.

Because of the public interest in Te Wānanga o Aotearoa, the Auditor-General has decided to publicly release terms of reference for this revised audit and inquiry (the inquiry).

These terms of reference set out the full nature and scope of the inquiry into Te Wānanga o Aotearoa. They also describe matters that have been excluded.

The inquiry will examine:

1. The procurement policies and practices used by Te Wānanga o Aotearoa, with a particular focus on selected transactions where Te Wānanga o Aotearoa Councillors, employees, and/or their close relatives are involved.
2. The international travel policies and practices of Te Wānanga o Aotearoa, with a particular focus on selected transactions.
3. Selected payments made to Councillors and/or employees of Te Wānanga o Aotearoa, in relation to their involvement with entities controlled by Te Wānanga o Aotearoa.
4. The identification and management of conflicts of interest by Te Wānanga o Aotearoa in relation to the Mahi Ora, Kiwi Ora, and Greenlight programmes.
5. The relationship and transactions between Te Wānanga o Aotearoa and the Aotearoa Institute Te Kuratini o Ngā Waka Trust (and its subsidiaries).
6. The implementation of Te Wānanga o Aotearoa's capital acquisition strategy in relation to selected recent capital purchases.
7. The processes used by Te Wānanga o Aotearoa when it employed close relatives of the Tumuaki/Chief Executive of Te Wānanga o Aotearoa.
8. Any other issues that the Auditor-General considers relate to, or arise out of, the above matters.

The inquiry will be conducted under sections 16(1) and 18(1) of the Public Audit Act 2001 (the Act). Those sections provide as follows:

**16 Performance audit**

- (1) *The Auditor-General may at any time examine—*
- (a) *the extent to which a public entity is carrying out its activities effectively and efficiently:*
  - (b) *a public entity's compliance with its statutory obligations:*
  - (c) *any act or omission of a public entity, in order to determine whether waste has resulted or may have resulted or may result:*
  - (d) *any act or omission showing or appearing to show a lack of probity or financial prudence by a public entity or 1 or more of its members, office holders, and employees.*

**18 Inquiries by Auditor-General**

- (1) *The Auditor-General may inquire, either on request or on the Auditor-General's own initiative, into any matter concerning a public entity's use of its resources.*

Because of the breadth of issues included within the scope of the inquiry, the Auditor-General has identified some immediate priorities for examination, and is likely to focus mainly on transactions and activities during the 2002, 2003, and 2004 financial years. It is his current intention to report in stages, and to report first on items 1-4 of the matters listed above.

The Auditor-General will **not** examine the following matters as part of the inquiry:

- the appropriateness of the type and funding levels of courses offered by Te Wānanga o Aotearoa;
- concerns about the quality of certain education courses delivered by Te Wānanga o Aotearoa; and
- the enrolment practices (including allegations about the use of inducements) of Te Wānanga o Aotearoa.

In the Auditor-General's view, these issues can be dealt with more appropriately by the relevant government agencies. In respect of these matters, the Auditor-General will liaise, as necessary, with the Tertiary Education Commission, the New Zealand Qualifications Authority, and the Ministry of Education.

The inquiry is being conducted at the same time as the Auditor-General is carrying out his annual audit of Te Wānanga o Aotearoa, under section 15 of the Act and section 220 of the Education Act 1989. While the Crown Manager will be considering the current

financial position and financial viability of Te Wānanga o Aotearoa, this will also be a matter of interest for the 2004 annual audit of Te Wānanga o Aotearoa. The Auditor-General will maintain close contact with the Crown Manager to ensure that any matters arising during the inquiry can be dealt with appropriately.

The Auditor-General will report under sections 20 and 21 of the Act on these terms of reference. The Auditor-General will present his reports on the findings of the inquiry to the House of Representatives.

## **Appendix 2 – Some sources of good practice expectations and guidance in the public sector**

### **Public sector ethical expectations**

Office of the Auditor-General 2005 (latest edition), *The Auditor-General's auditing standards*, AG-3.

State Services Commission 2005, *Setting Standards for Crown Entities*.

State Services Commission 2005 (latest edition), *New Zealand Public Service Code of Conduct*.

Crown Company Monitoring Advisory Unit 2004, *Crown Company Directors' Fees and Reimbursement Guidelines*.

State Services Commission 1999, *Board Appointment and Induction Guidelines*.

Office of the Auditor-General 1998, *Third Report for 1998*, Part 6.

Office of the Auditor-General 1996, *Governance Issues in Crown Entities*.

### **Decision-making**

Ministry of Economic Development 2004 (latest edition), *Government Procurement – Rules and Guidelines for Compulsory Notification by Departments to Industry Capability Network New Zealand (ICN)*.

Office of the Auditor-General 2003, *Inquiry into Public Funding of Organisations Associated with Donna Awatere Huata MP*.

The Treasury 2003, *Guidelines for Contracting with Non-government Organisations for Services Sought by the Crown*.

Ministry of Economic Development 2002 (latest edition), *Government Procurement in New Zealand: Policy Guide for Purchasers*.

Office of the Auditor-General 2001, *Procurement: A Statement of Good Practice*.

Ministry of Economic Development 2001, *Government Procurement Policy – Post-award Transparency – Guidelines and Rules for Publication of Contract Award Notices*.

Office of the Auditor-General 1994, *Third Report for 1994*, Part 1.

The Treasury 1990, *A Guide to the Management of Departmental Purchasing*.

## **Conflicts of interest**

State Services Commission 2005 (latest edition), *New Zealand Public Service Code of Conduct*.

Office of the Auditor-General 2004, *Christchurch Polytechnic Institute of Technology's management of conflicts of interest regarding the Computing Offered On-Line (COOL) programme*.

Office of the Auditor-General 2004 (latest edition), *Conflicts of Interest: A Guide to the Local Authorities (Members' Interests) Act and Non-pecuniary Conflicts of Interest*.

Office of the Auditor-General 2003, *Inquiry into Public Funding of Organisations Associated with Donna Awatere Huata MP*.

State Services Commission 2003, *Walking the Line: Managing Conflicts of Interest*.

State Services Commission 1999, *Board Appointment and Induction Guidelines*.

Tertiary Advisory Monitoring Unit (undated), *Conflicts of Interest in Relation to Tertiary Education Institution Councils*.

## **Senior management expenses**

Office of the Auditor-General 2005, *Central Government: Results of the 2003-04 Audits*, Part 6.

Crown Company Monitoring Advisory Unit 2004, *Crown Company Directors' Fees and Reimbursement Guidelines*.

Office of the Auditor-General 2003, *Inquiry into Expenses Incurred by Dr Ross Armstrong as Chairperson of Three Public Entities*.

Cabinet Office 2003 (latest edition), *Cabinet Office Circular CO (03) 4: Fees Framework for Members of Statutory and Other Bodies Appointed by the Crown*.

Office of the Auditor-General 2002, *Certain Matters Arising from Allegations of Impropriety at Transend Worldwide Limited*.

The Institute of Internal Auditors NZ Inc. 1996, *A Management Guide to Discretionary Expenditure*.

B H C Tyler 1994, *Review of Chief Executive Credit Card Expenditure*, report to the State Services Commission.