

Principles for effectively co-governing natural resources

Presented to the House of
Representatives under section 20 of the
Public Audit Act 2001.

February 2016

ISBN 978-0-478-44230-4

Contents

Auditor-General’s overview	3
Part 1 – Introduction	6
The purpose of this report	6
What we looked at	6
How we carried out our work	10
Structure of this report	11
Part 2 – Building effective relationships	12
Successful co-governance takes time and commitment	12
Effective relationships support co-governance	12
Co-governance built on strong principles	14
Part 3 – Having a shared understanding of purpose	15
Understanding each party’s objectives or aspirations	15
Regularly reviewing co-governance arrangements	21
Part 4 – Working together	23
Many ways to set up co-governance	23
Planning and setting up good processes takes time	25
Understanding the extent of decision-making powers	28
Defining roles and responsibilities clearly	28
Reviewing terms of reference and agreements regularly	29
Part 5 – Getting people with the right experience and capacity	32
Experience and capacity	32
Succession planning	34
Part 6 – Accountability, transparency, and financial sustainability	35
Accountability and transparency	35
Keeping the public informed of progress	36
Financial sustainability	38
Appendices	
1 – About the Waikato River Authority	41
2 – About the Tūpuna Maunga o Tāmaki Makaurau Authority	44
3 – About the Te Waihora Co-Governance Agreement	48
4 – About the Rotorua Te Arawa Lakes Strategy Group	54
5 – About Ngā Poutiriao o Mauao	59
6 – About the Maungatautari Ecological Island Trust	62
Glossary	67
Figures	
1 – Locations of the co-governance examples we looked at	7
2 – Comparing co-management and co-governance	8
3 – How co-governance has helped the Maungatautari Ecological Island Trust	22
4 – Mechanisms that set up the co-governance arrangements	24
5 – Changes to Rotorua Te Arawa Lakes Group’s terms of reference	30
6 – Changes to the Te Waihora Co-Governance agreement	31
7 – Waikato River Authority accountability processes	36
8 – Recognising Ngāi Tahu’s historical relationship with Te Waihora	38
9 – Why Auckland Council pays for Tūpuna Maunga o Tāmaki Makaurau Authority’s costs	39
10 – Waikato River Authority Endowment Fund	40
11 – Working with others	40

Auditor-General's overview

Many New Zealanders are taking action, independently or in partnership with local or central government agencies, to conserve the environment for future generations and protect our economic, social, and cultural well-being. Throughout New Zealand, iwi, hapū, and community groups are taking part in many projects to monitor, protect, and enhance the health of their local environment.

Some of these environmental projects are co-governed. Although co-governance is the focus of this report, I also touch on some co-management projects. Governance focuses on strategic matters, while management is concerned with day-to-day operational responsibilities.

Policies on, and approaches to, co-governance vary. In this evolving space, formal agreements often follow informal arrangements or long negotiations, including Treaty of Waitangi settlements.

Most importantly, successful co-governance relies on effective relationships. All parties to a relationship need to value it and prioritise building an effective relationship. This takes time and commitment. Building and maintaining mutual trust and respect needs constant attention to achieve good environmental outcomes.

This report identifies some principles to consider when setting up and maintaining effective co-governance and co-management arrangements. The principles are:

- build and maintain a shared understanding of what everyone is trying to achieve;
- build the structures, processes, and understanding about how people will work together;
- involve people who have the right experience and capacity;
- be accountable and transparent about performance, achievements, and challenges; and
- plan for financial sustainability and adapt as circumstances change.

Parties need a shared understanding about the project's purpose, including understanding each other's objectives and aspirations and being open to learning from each other, to work towards a common objective.

Good public administration supports good governance. As with all governance, co-governance benefits from having good administration, including clear processes for running and recording meetings and making decisions. Co-governance also

benefits from clearly defined roles and responsibilities. Structures and processes need to support the carefully built relationships and not replace them or get in the way.

Getting people with the right experience and capacity can be challenging, because many community groups or hapū start with limited capability and capacity. Public entities need to be careful not to make unrealistic demands straight away, and help build capability among the co-governors.

To maintain support for co-governance, parties need to set up proper financial management and accountability processes and ensure that they keep the public informed of progress. They also need to think about how they will sustain the project.

Good environmental outcomes can take time to achieve. Governance arrangements and participants will change. Some participants might see significant change to their roles. This means that people need to be flexible and willing to adapt. It also means that they need to be prepared to review their co-governance arrangement from time to time to ensure that it remains fit for purpose and continues to meet the parties' aspirations.

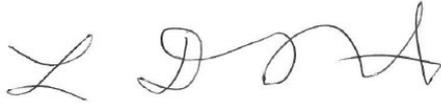
Co-governors also need to plan for the long term, including thinking about succession management to ensure that the right people continue to be appointed. This is why effective relationships are so important. They allow the parties to maintain a shared understanding as the work, and the people involved, change.

The lessons that could help to achieve successful co-governance are:

1. Develop good relationships.
2. Be prepared to work together, listen and learn from each other, and go the extra mile to understand each other's perspective and reach compromise where needed.
3. Work out a shared understanding of purpose and check understanding from time to time.
4. Agree how to work together, including deciding what form of governance will work best.
5. Take the time to plan and set up processes.
6. Understand the extent of decision-making powers and clearly define roles and responsibilities.

7. Find people with the right experience and capacity, such as strong leadership skills, and governance or management experience, and who have the time to be involved.
8. Keep the public informed of progress and what is being achieved.
9. Provide assurance that finances are well managed.
10. Plan how the project can be sustained through its lifetime.

I thank all of the people who took part in this review. Many were not public officials and did not have to participate. That they were willing to speak with my staff and highlight the rewards and challenges of co-governance shows their commitment. I commend the valuable work they are doing.

A handwritten signature in black ink, appearing to read 'Lyn Provost', written in a cursive style.

Lyn Provost
Controller and Auditor-General

3 February 2016

1

Introduction

- 1.1 In this Part, we discuss:
- the purpose of this report;
 - what we looked at;
 - what we did not look at;
 - how we carried out our work; and
 - the structure of this report.

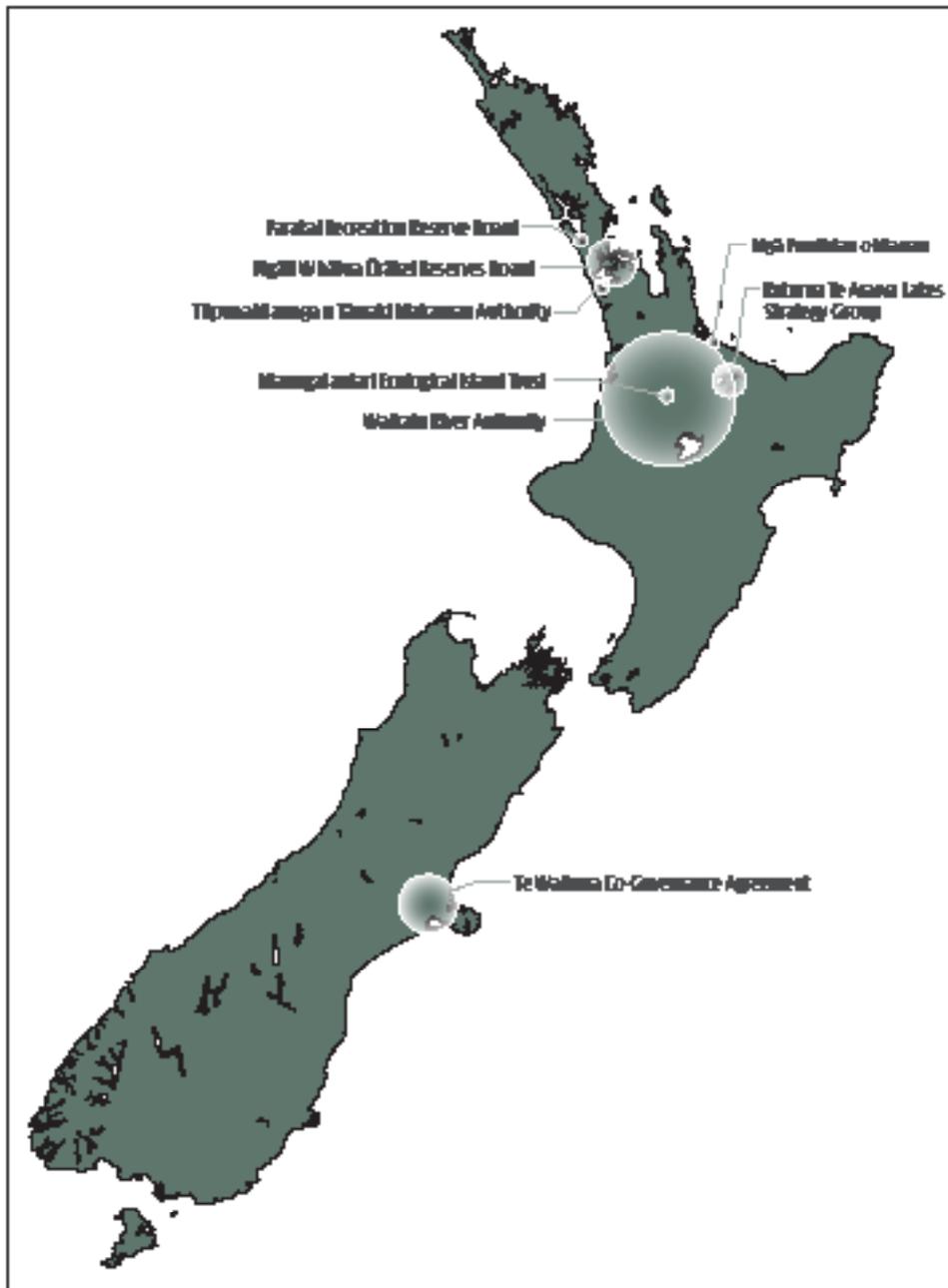
The purpose of this report

- 1.2 Many New Zealanders are taking action to conserve the environment. Throughout New Zealand, iwi, hapū, and community groups are working to monitor, protect, and enhance the health of their environment.
- 1.3 Some natural resources are “co-governed” – the work to restore or conserve them is led as a result of negotiated decision-making arrangements between iwi and/or other groups, central government, and/or local government. Many of these arrangements have come about after long negotiations, including Treaty of Waitangi settlements. The arrangements have many legal forms and include statutory bodies, trusts, and other relationships.
- 1.4 We looked at a selection of these arrangements to identify what works well and what does not. We wanted to identify factors that need to be considered when setting up and maintaining effective co-governance arrangements.

What we looked at

- 1.5 We looked at eight examples of co-governance and how co-governance is being used for environmental projects (see Figure 1). The examples are:
- Waikato River Authority;
 - Tūpuna Maunga o Tāmaki Makaurau Authority (Auckland);
 - Te Waihora Co-Governance Agreement (Lake Ellesmere, Canterbury);
 - Rotorua Te Arawa Lakes Strategy Group;
 - Ngā Poutiriao o Mauao (Tauranga);
 - Maungatautari Ecological Island Trust (Waikato);
 - Ngāti Whātua Ōrākei Reserves Board; and
 - Parakai Recreation Reserve Board.

Figure 1
Locations of the co-governance examples we looked at



- 1.6 All the examples involved iwi and local authorities. Some also included community groups. Some arose out of Treaty of Waitangi claims settlements. Others were voluntary, including one that was later formalised through a Treaty settlement.
- 1.7 We reviewed participants' experiences and perceptions and used that information to identify what helps to set up and operate co-governance arrangements successfully.
- 1.8 Although our main interest was in co-governance, we looked at examples that were sometimes a mixture of co-governance and co-management. We identified principles that apply generally to both co-governance and co-management.
- 1.9 In resource management work, the terms "co-governance" and "co-management" are both used to describe negotiated arrangements between iwi, central government, local government, and/or local groups to achieve effective management of an environmental or conservation resource.
- 1.10 These terms are sometimes used interchangeably because their definitions are not well understood. Governance focuses on strategic matters, while management is concerned with day-to-day operational responsibilities. When used correctly, the terms can describe the extent of decision-making powers (see Figure 2).

Figure 2
Comparing co-management and co-governance

Co-management	Co-governance
The collaborative process of decision-making and problem solving within the administration of conservation policy.	Arrangements in which ultimate decision-making authority resides with a collaborative body exercising devolved power – where power and responsibility are shared between government and local stakeholders.

Source: Dodson, G. (2014), "Co-Governance and Local Empowerment? Conservation Partnership Frameworks and Marine Protection at Mimiwhangata, New Zealand" in *Society & Natural Resources: An International Journal* (2014) Volume 7, Issue 25, available at www.tandfonline.com.

- 1.11 Where natural resources are managed as part of or after a Treaty settlement, co-governance often means that there are equal numbers of iwi representatives and council members involved. Usually (an exception is the Waikato River Authority), councils retain final decision-making powers over the management of natural resources. This is in keeping with councils' responsibilities under the Resource Management Act 1991 and the Local Government Act 2002.

- 1.12 In the examples we looked at, some were about governance and others more about management. In some, people's roles included elements of both governance and management.
- 1.13 The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 set up the Waikato River Authority as a co-governance entity. The Waikato River Authority sets the direction for managing the Waikato River in its "Vision and Strategy" document. This document is considered to be part of the Waikato Regional Policy Statement. It is binding on all national, regional, and district policy and decisions for the management of the river.
- 1.14 The Tūpuna Maunga o Tāmaki Makaurau Authority is also a co-governance entity. Auckland Council is responsible for managing the Maunga, under the direction of the Tūpuna Maunga o Tāmaki Makaurau Authority.
- 1.15 The Rotorua Te Arawa Lakes Strategy Group is charged with providing leadership in putting into effect its vision and strategy for the Rotorua lakes and their catchments. As the governance group, it provides the direction, vision, and strategic oversight for the lakes programme. The strategy group needs to approve any decisions about funding under the Rotorua Te Arawa Lakes Programme.
- 1.16 Local authorities usually control the creation, membership, and disestablishment of joint committees. However, when they are part of Treaty redress, the creation and membership of these committees are agreed between councils and iwi and provided for in Treaty legislation. This is the case for the Rotorua Te Arawa Lakes Strategy Group. The Te Arawa Lakes Settlement Act 2006 provides for the establishment of a permanent joint committee that can be disestablished only with the agreement of all parties. This means that the Te Arawa Lakes Trust is an equal member with the regional and district councils.
- 1.17 As we have mentioned, some of the examples we looked at contained elements of co-governance and co-management. The parties to the Te Waihora Co-Governance Agreement told us that their arrangement was "one step away from true co-governance". However, the partners were clear that they wanted an arrangement that allowed for some form of co-governance:
- Ngāi Tahu own the lake bed via the treaty settlement, which must mean something. It's at the least a very powerful symbol, but not just symbolic. [You] can't dismiss their view, even though they have no [Resource Management Act] powers.*
- 1.18 Importantly, in this instance, the parties are clear about their limits but also clear about where they want to get to: "[It's] not quite co-governance ... The arrangement starts at co-management, with the mechanism to move to

co-governance.” The parties’ agreement confirmed their commitment to “strive toward appropriate vesting of decision-making powers in the Parties as co-governors over the Te Waihora catchment”.

- 1.19 The members of Ngā Poutiriao o Mauao are clear that they are co-managers. The Mauao Trust, as the owners of the historic reserve, are the governors.
- 1.20 In the Maungatautari Ecological Island Trust’s case, the Trust has a co-governance structure, where the board is co-chaired by a mana whenua representative and a landowner representative. The Trust members maintain that the co-governance regime ensures that tikanga Māori is incorporated in governance and day-to-day management decisions.
- 1.21 Responsibility for managing the scenic reserve rests with Waipa District Council. The Council has a working relationship with the Trust to deliver the desired outcomes. For the land within the fenced perimeter but outside the reserve, it is intended that the Trust will manage the land as though part of the scenic reserve. Landowner covenants would cover this management arrangement.

What we did not look at

- 1.22 We did not look at the effectiveness of the co-governance arrangements in achieving environmental outcomes because, in most instances, it was too early to assess effectiveness. However, we have reported their achievements to date, where these are publicly available (see the Appendices).

How we carried out our work

- 1.23 To carry out our work, we:
- reviewed co-governance literature and material relating to the examples that we chose;
 - visited Auckland, Waikato, Bay of Plenty (Tauranga and Rotorua), and Canterbury to meet the people involved and to understand their projects well; and
 - interviewed 54 people in central government, local authorities, iwi, and community groups, most with governance and/or operational roles.

- 1.24 Because each co-governance arrangement was different, we had lines of questioning to guide our conversations. Basing our questions on our expectations of good governance and leadership, we focused on:
- clarity of purpose;
 - roles and responsibilities;
 - capability;
 - accountability and integrity;
 - information and reporting; and
 - financial sustainability.

Structure of this report

- 1.25 In Part 2, we discuss the importance of effective relationships when setting up and putting into effect co-governance arrangements.
- 1.26 In Part 3, we discuss how parties need to build and maintain a shared understanding of what they are trying to achieve.
- 1.27 In Part 4, we discuss how parties need to put in place the processes and understandings about how they will work together to achieve their purpose.
- 1.28 In Part 5, we discuss how important it is to involve people with the right experience and capacity in setting up and putting into effect co-governance arrangements.
- 1.29 In Part 6, we discuss how parties need to plan for accountability reporting and financial sustainability.
- 1.30 Appendices 1-6 provide background information about the six of the co-governance examples.

2

Building effective relationships

- 2.1 In this Part, we discuss the importance of building effective relationships when setting up and maintaining successful co-governance arrangements.

Summary of what we learned about building effective relationships

- 2.2 The quality of the relationship between the parties to co-governance affects its chances of success. The objectives and aspirations of parties can evolve. Effective relationships help parties respond to changing circumstances.
- 2.3 Parties need to be prepared to invest in their relationship. Having people who value relationships involved in co-governance helps to build mutual respect and trust. This allows parties to have the difficult conversations they need to ensure that they have a shared understanding of what they are trying to achieve and compromise when they have to.
- 2.4 There is no one set of rules to follow when setting up a co-governance arrangement. Instead, parties need to find what works for the particular circumstances and to recognise that those circumstances can evolve. When setting up and operating environmental projects, the parties should focus on principles that will support successful co-governance and co-management.

Successful co-governance takes time and commitment

- 2.5 As participants in the projects explained to us, the success of co-governance depends on the quality of the relationship between the parties. Good relationships take time to nurture.
- 2.6 Outcomes that are good for the environment also take time to achieve. Some environmental projects can evolve as the parties' aspirations and objectives respond to changing circumstances. We consider that effective relationships help parties respond to those changing circumstances.

Effective relationships support co-governance

- 2.7 Effective relationships support the parties to set up and maintain co-governance arrangements. As one participant pointed out:
- If I was starting from the beginning, it's about forming a really good relationship first before getting into the detail. So each party understands who you are and what you are about. I appreciate that now, whereas before I didn't – in the past it was about getting on with the job. I'm proud to be part of the process.*
- 2.8 Parties need to be prepared to invest in the relationship. These relationships can be slow to build, because the parties often have different perspectives, aspirations, and are sometimes dealing with historical grievances. In some instances, we were

told that the relationship between iwi and local authorities before the projects were set up was fraught or non-existent.

- 2.9 Investing in a relationship requires having people who value relationships involved in setting up and maintaining the co-governance arrangements. As one interviewee said:

At the end of the day, you can have all the arrangement you want ... it comes down to the quality of the people.

- 2.10 Forming good relationships requires people who are:

- willing to work together;
- committed to listening and learning from each other; and
- willing to try to understand each other's perspectives.

- 2.11 Another interviewee told us:

You have to have people who can work with other people, who can walk a mile in each other's shoes.

- 2.12 Co-governance requires people who are diplomatic, willing to compromise, and able to convince colleagues without being domineering or disruptive.

- 2.13 These attributes allow parties to build mutual respect and trust. Respect and trust enable the parties to have difficult conversations that are needed to ensure that they have a shared understanding of what they are trying to achieve.

In the end, it's about relationships, trust, and being solution focused.

- 2.14 Some of the projects showed that people who were not willing to listen and understand others' perspectives affected both the relationship and what the parties were trying to achieve. In some instances, this resulted in court action (see paragraphs 3.8-3.12).

- 2.15 The parties' aspirations and circumstances can change over time. Effective relationships help the parties to check, formally or informally, whether the co-governance arrangement still meets the parties' needs and is fit for purpose.

- 2.16 As well as being important to the success of co-governance, effective relationships are an achievement in themselves. At the heart of many of these co-governance projects was a desire to develop a working relationship, in particular between iwi and local authorities. We discuss this in more detail in Part 3.

Co-governance built on principles

- 2.17 Building relationships takes time and parties' aspirations and objectives can evolve. Parties need to find what works for their particular circumstances. We have identified some principles that are helpful in setting up and operating co-governance arrangements.
- 2.18 The principles are:
- build and maintain a shared understanding of what everyone is trying to achieve;
 - build the structures, processes, and understanding about how people will work together;
 - involve people who have the right experience and capacity;
 - be accountable and transparent about performance, achievements, and challenges; and
 - plan for financial sustainability and adapt as circumstances change.
- 2.19 We discuss each of these in more detail in Parts 3-6.

Having a shared understanding of purpose

- 3.1 In this Part, we discuss how parties:
- need a shared understanding about what they are seeking to achieve (a clear purpose); and
 - might need to periodically review the project.

Summary of what we learned about shared understanding of purpose

- 3.2 Parties need a shared understanding about the purpose of co-governance, including understanding each other's objectives or aspirations. The aspirations and circumstances of parties can change, so people should periodically review the project to ensure that their approach stays in line with the purpose and continues to meet the parties' needs.

Understanding each party's objectives or aspirations

- 3.3 We identified that a key principle in setting up and maintaining co-governance is that the parties need to build and maintain a shared understanding about what they are trying to achieve. To build a shared understanding of the purpose, the parties need to understand each other's objectives or aspirations, which will help them to work together to achieve a shared outcome.
- 3.4 In 2011, Local Government New Zealand identified "common objectives" for parties when setting up local arrangements.¹ We heard similar statements when parties were referring to their aspirations. In paragraphs 3.5-3.29, we discuss these common objectives, central government objectives, iwi aspirations, and local government objectives.

Common objectives

- 3.5 For all parties, including community and industry groups, co-governance provides new ways of managing a resource to:
- achieve conservation or environmental outcomes;
 - build a relationship and understanding of each other; and
 - reduce the number of incidents where parties feel the need to use the courts to achieve their purposes.
- 3.6 In 2010, commissioners replaced Canterbury Regional Council's councillors. The Minister for the Environment, in his letter of expectation to the commissioners, stated that they had to improve their relationship with Ngāi Tahu. Therefore, the commissioners wanted an arrangement that recognised the environmental imperative for fixing Lake Ellesmere/Te Waihora, while building and strengthening

¹ Local Government New Zealand (2011), *Local Authorities and Māori: Case studies of local arrangements*.

a relationship between Canterbury Regional Council and Ngāi Tahu. They were determined to form and maintain a good relationship.

- 3.7 One dairy industry representative commented on how the Waikato River Authority had helped to bring industry partnerships and interests together:

[Industry members] have a group called the Waikato Dairy Leaders Group. It involves the chairs of the milk companies in the Waikato and the president of Waikato Federated Farmers, and Fonterra. We are interacting with the Waikato River Authority, it's about how dairy interacts with policy-makers around the [Healthy Rivers: Plan for Change]. In the past, there has been an "us and them" tension. But now we have lots more interaction and are working in partnership ... anything is better than fighting in the Environment Court.

Saving money by avoiding litigation

- 3.8 Several of the projects highlighted how forming good relationships between the parties can reduce the need to go to the courts. Of course, there are some instances when seeking direction from the courts is the most appropriate vehicle to help resolve a problem between parties.
- 3.9 There was one example with the Maungatautari project where an aggrieved party had sought redress in the courts. The issues that caused this action were about securing public access across privately owned land, resource consent requirements to permit tourism activities on rural land, and the need for a concession to run a tourism business within the Scenic Reserve.
- 3.10 Although the option of going to court is available to all parties, ideally people would not resort to litigation against one another before other avenues have been tried.
- 3.11 The parties to the Te Waihora Co-Governance Agreement noted that one benefit of their relationship was less litigation between Ngāi Tahu and the territorial authorities. Similarly, one person involved with the Te Arawa lakes told us that one of the benefits of parties working more closely together in the Rotorua Te Arawa Lakes Programme was not ending up in the Environment Court.
- 3.12 Several people commented on the costs of litigation as opposed to the cost of setting up and maintaining co-governance arrangements. One participant commented on how expensive it can be if parties end up in court, and the antagonism created within the community. They also commented that some people had the perception that co-governance created too much transactional friction and cost. However, they believed that the true cost of not involving people was that parties were often in court.

Prior to that, it was “see you in court.” ... [The] previous council probably saw us more in court than outside ... [and] once you cost it out, it could be poverty inducing.

Central government objectives

- 3.13 The three main government departments involved in setting up co-governance arrangements are the Office of Treaty Settlements, Ministry for the Environment, and the Department of Conservation. Although central government objectives for a natural resource will be particular to that resource, we summarise the broad objectives of each of these government departments below.

The Office of Treaty Settlements

- 3.14 Some of the examples of co-governance we looked at were set up under Treaty of Waitangi settlements. The Office of Treaty Settlements leads the settlement of historical Treaty of Waitangi claims and seeks to build positive relationships between the Crown and Māori. Some Treaty settlements provide for the involvement of iwi in decision-making about natural resources. This is a type of cultural redress that acknowledges Māori interests and values in natural resources, and is in contrast to economic redress. The Office works with the relevant Minister and agency with authority over the resource in question, such as the Ministry for the Environment and the Department of Conservation.
- 3.15 The negotiations are informed by a set of guidelines that Cabinet approved in 2010. Under these guidelines, any arrangement for involving iwi should:
- provide an effective role for iwi in managing natural resources;
 - lead to good environmental, economic, social and cultural outcomes for iwi and other New Zealanders;
 - address matters giving rise to the claim but not create new injustices;
 - be well designed, simple, transparent, and affordable; and
 - result in durable settlement of the claim.

The Ministry for the Environment

- 3.16 The Ministry for the Environment has been supporting collaborative governance and collective action for nearly a decade. Arrangements such as the Land and Water Forum can help the Government to prepare policy. Other arrangements can help with governance. The Ministry considers that collaborative governance and collective action are ways in which a group of stakeholders, with often differing values and interests, can agree and follow rules to manage a shared natural resource:

Collaborative governance and collective action can help government and stakeholders deal with complexity, build trust and reduce conflict related to managing shared natural resources. This may help achieve sustainable management of the resources in the long term.²

- 3.17 The Ministry also considers itself to have a significant and growing role in negotiating and putting into effect Treaty of Waitangi claims settlements. The Ministry noted that virtually all Treaty of Waitangi claims settlements now have some natural resource component, which may include provisions for co-management or joint-management involving both local authorities and iwi. To help to achieve its Treaty of Waitangi commitments, the Ministry helps the Office of Treaty Settlements to negotiate natural resources arrangements and relationship agreements with iwi/hapū.
- 3.18 In May 2014, the Ministry noted that it had obligations that created an ongoing relationship with 27 groups of Māori who had Treaty settlements with the Crown and that these relationship agreements were increasing in number and scope.
- 3.19 The Ministry encourages local authorities to engage with people, including with iwi and hapū, early in the Resource Management Act 1991 plan-making process to minimise tensions created by competing values, and in the interests of robust and durable plans. The Ministry also provides funding to get communities involved in practical environmental initiatives and resource management processes.
- 3.20 Also, in 2011, the Government established a \$15 million fund administered by the Ministry to contribute to community efforts to tackle polluted lakes and rivers. The Fresh Start for Fresh Water Clean-up Fund provided regional councils and their project partners with financial help to improve water bodies of national significance. Projects to receive funding included Te Waihora and Rotorua Te Arawa Lakes (see Appendices 3 and 4).

The Department of Conservation

- 3.21 The Department of Conservation's outcome statement is:
- New Zealanders gain environmental, social and economic benefits from healthy functioning ecosystems, from recreation opportunities and from living our history.³*
- 3.22 The Department of Conservation works towards the outcome statement through five intermediate outcomes that express the results that it is seeking to achieve in the medium term through its interventions. The five outcomes are:
- The diversity of our natural heritage is maintained and restored.
 - Our history is brought to life and protected.

2 See 'Collaborative governance research' on the Ministry for the Environment website at www.mfe.govt.nz.

3 Department of Conservation, *Statement of Intent 2015-2019*, page 4, available at www.doc.govt.nz.

- New Zealanders and our visitors are enriched by outdoor experiences.
- New Zealanders connect and contribute to conservation.
- Every business fosters conservation for this and future generations.⁴

3.23 The outcomes include a 10-year goal that:

*Whānau, hapū and iwi are able to practise their responsibilities as kaitiaki of natural and cultural resources on public conservation lands and waters.*⁵

3.24 The Department of Conservation has had a central role in setting up many of the collaborative arrangements for public conservation land and land transferred to iwi subject to conservation legislation. It has entered into more than 40 conservation protocols, accords, relationship agreements, and memorandums of understanding with iwi as Treaty settlement redress or in line with its statutory obligation under section 4 of the Conservation Act 1987 to give effect to the principles of the Treaty of Waitangi.

3.25 Agreements may also be negotiated and put into effect with communities and businesses. The Department of Conservation makes clear that any agreement involving conservation lands and waters must enhance conservation. The relationships developed through these agreements “should be based on mutual good faith, cooperation and respect”.⁶

3.26 The Department of Conservation also administers the Reserves Act 1977. All Treaty settlement negotiations over reserves – for example, the Parakai Recreation Reserve and the Tūpuna Maunga (ancestral mountains) – have involved the Department.

Iwi aspirations

3.27 For iwi, co-governance can provide an opportunity to exercise their rangatiratanga, including:

- to regain or restore mana (which includes recognising the historical and cultural importance of the resource to iwi);
- to actively exercise their responsibilities of kaitiakitanga; and
- for some iwi, to encourage economic development.

3.28 Also, for some iwi, such as Ngāi Tahu and Te Arawa, co-governance provides the opportunity to recognise their respective ownership of Te Waihora and Te Arawa lake beds and the customary rights and responsibilities that go with that.

4 Department of Conservation, *Statement of Intent 2015-2019*, page 4, available at www.doc.govt.nz.

5 Department of Conservation, *Statement of Intent 2015-2019*, page 5, available at www.doc.govt.nz.

6 Department of Conservation (2005, amended 2007), *Conservation General Policy*, 2. Treaty of Waitangi Responsibilities, available at www.doc.govt.nz.

- 3.29 For Te Arawa, recognition of the iwi's traditional relationship is expressed in the relevant Treaty of Waitangi claims settlement legislation. This states that the purpose of the Rotorua Te Arawa Lakes Strategy Group is:
- ... to contribute to the promotion of the sustainable management of the Rotorua lakes and their catchments, for the use and enjoyment of present and future generations, while recognising and providing for the traditional relationship of Te Arawa with their ancestral lakes.*
- 3.30 To ensure that the clarity of purpose is maintained, this expression is repeated almost word for word in other strategic documents, such as the *Vision and Strategy for the Lakes of the Rotorua district*.⁷
- 3.31 The objectives of the Tūpuna Maunga o Tāmaki Makaurau Authority include giving visibility to the mana whenua world view, and their associations and connections with the maunga, through shared decision-making. The role and visibility of mana whenua is central to the discussions and outcomes the Authority is trying to achieve.
- 3.32 Several parties told us that they were considering how the natural resource could provide tourism earnings (see paragraph 6.17).

Local authorities' objectives

- 3.33 For local authorities, these arrangements provide an opportunity to encourage participation and involvement in decision-making, including by iwi, and can help in fulfilling responsibilities under the Resource Management Act 1991 and Local Government Act 2002 and in operating under the Reserves Act 1977.
- 3.34 For example, the Rotorua Te Arawa Lakes Strategy Group began as a joint committee under the Local Government Act as a way of working together to preserve and protect the Rotorua lakes and their catchments.
- 3.35 The Mauao Historic Reserve Vesting Act 2008 vested ownership of the Mauao reserve in the Mauao Trust (representing three of the iwi in Tauranga). Under that Act, Tauranga City Council continued as the administering body of the reserve. In 2012, the Mauao Trust presented the iwi's aspirations for involvement in the administration of Mauao to the Council. The Council unanimously supported this aspiration and a Memorandum of Understanding was prepared to share the responsibility for administration with a joint administration board – Ngā Poutiriao o Mauao.

- 3.36 In the Maungatautari project, Waipa District Council set up an advisory committee that represents a balance of iwi and community interests, to ensure that the parties can share, understand, and develop common objectives. The Council has also contracted the Maungatautari Ecological Island Trust to help deliver the legislative outcomes for scenic reserves.
- 3.37 One regional council representative told us that its elected members and staff consider working with iwi on natural resources to be business as usual.

Regularly reviewing co-governance arrangements

- 3.38 The aspirations of parties involved in co-governing and the circumstances of the project can change. Parties should periodically review their arrangement, either formally or informally, to ensure that their approach continues to meet the parties' needs and stays in line with the purpose for which the co-governance arrangement was set up. In some instances, it will be possible or desirable for the partners to review the purpose of their arrangement.⁸
- 3.39 Before 2010, the Maungatautari Ecological Island Trust project was not meeting the aspirations of mana whenua. The parties reviewed and made changes to what they were trying to achieve. The parties feel that the co-governance arrangement put in place since then works well (see Figure 3).

⁸ We note that this may be more difficult where there is a statutory purpose and a change to legislation might be required.

Figure 3
How co-governance has helped the Maungatautari Ecological Island Trust

One of the purposes set out in the Maungatautari Ecological Island Trust deed is for the Trustees to pay and apply the trust fund to carry out activities, including consulting with tāngata whenua - “thereby respecting their cultural interests”. The deed spells out that, in achieving its charitable purposes, the trustees shall “respect the spirit and principles of the Treaty of Waitangi”.

Mana whenua had always been represented on the Trust but never felt fully involved in decision-making. Their aspirations for the mountain had not been fully recognised.

In 2009/10, iwi members’ concerns led to a small group of Trustees looking at how mana whenua would be better included in the Trust’s governance. The group decided that, to reflect true partnership, the board needed to have a co-governance structure and looked to the Waikato River Authority as a model. For the Trust, this meant co-chairpersons and having an equal number of iwi, community, and landowner representatives at the table.

Some members, reflecting concerns of the community, challenged the concept of co-governance. They were especially concerned because there was a Treaty of Waitangi claim on the mountain. However, in 2012, the Trust deed was amended to set up a co-governance structure. Each of the three parties can have up to five representatives on the board, which is co-chaired by a mana whenua representative and a landowner representative. One of the co-chairs stated:

Co-governance has provided the opportunity to bring in Te Ao Māori ... There is more recognition of tikanga. A more steady awareness and acceptance and trust of Māori values. Co-governance has brought it to the fore.

The Treaty settlement process also caused some confusion and concern in the community and with adjoining landowners. The parties felt that good information about the settlement process and the outcomes would have reduced these concerns. The Settlement Act transfers ownership of the reserve to Te Hapori o Maungatautari (the Maungatautari community, comprising iwi with customary interests in Maungatautari and members of the wider community connected with Maungatautari). This body is the registered proprietor but is not a legal entity. It is there to represent the interests of iwi and the community, and to help with discharging the functions of the administering body.

Waipa District Council is working to bring the parties together to clarify the respective roles and responsibilities and will retain the Maungatautari Reserve Committee. One interviewee told us:

Iwi have given considerable concessions throughout the treaty settlement process. They wanted the ancestral title recognised. Having the reserve vested in local iwi and wider community is a concession, they have less influence and control. Having a new [reserve] committee will address this a bit. Iwi haven’t got a lot else out of the settlement but they are still committed to the project, and I try to remind people of this.

Working together

- 4.1 In this Part, we discuss how parties need to:
- be clear about the type of arrangement that will help them to achieve their purpose, including which mechanism for setting up the arrangement is best for them;
 - take into account the time it takes to prepare to co-govern and to co-manage;
 - be clear about how they work together, including the extent of their decision-making powers and their roles and responsibilities; and
 - regularly review their agreements.

Summary of what we learned about how parties should work together

- 4.2 Natural resources and environmental projects can be managed under many mechanisms. Parties need to have a shared understanding about which mechanism will best help them to achieve their purpose.
- 4.3 Parties need to take the time to plan and set up processes. They need to recognise that putting effective processes in place takes time and recognise the ongoing time and resources it takes to support co-governance.
- 4.4 Parties need to have a shared understanding about the extent of their decision-making powers. This benefits both the relationship and the project. It also provides clarity about people's roles and responsibilities.
- 4.5 It is helpful to regularly review the terms of reference of agreements to ensure that they are still fit for purpose as circumstances and aspirations change.

Many ways to set up co-governance

- 4.6 The examples of co-governance that we looked at were set up under many mechanisms. Some were set up under Treaty settlement legislation. The Rotorua Te Arawa Lakes Strategy Group was set up under the Local Government Act 2002 and given permanent status through the Te Arawa Lakes Settlement Act 2006. Others were agreements given semi-formal status through a signed agreement or memorandum of understanding. The Maungatautari Ecological Island Trust was set up as a charitable trust.

Figure 4
Mechanisms that set up the co-governance arrangements

Name	Type of entity/ mechanism	Legislation
Tūpuna Maunga o Tāmaki Makaurau Authority	Statutory entity, Treaty settlement	Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014
Waikato River Authority	Independent statutory body, Treaty settlement	Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 Nga Wai o Maniapoto (Waipa River) Act 2012
Te Waihora Co-Governance Agreement	Voluntary agreement	not applicable
Rotorua Te Arawa Lakes Strategy Group	Joint council committee under Local Government Act 2002, confirmed by Treaty settlement legislation	Te Arawa Lakes Settlement Act 2006
Ngā Poutiriao o Mauao	Memorandum of Understanding	Not applicable
Maungatautari Ecological Island Trust	Charitable Trust	Not applicable
Ngāti Whātua Ōrākei Reserves Board	Reserve Board, Treaty settlement	Ngāti Whātua Ōrākei Claims Settlement Act 2012
Parakai Recreation Reserve Board	Reserve Board, Treaty settlement	Ngāti Whātua o Kaipara Claims Settlement Act 2013

- 4.7 The parties to the Te Waihora Co-Governance Agreement said that their agreement was voluntary and not enforced by a Treaty of Waitangi settlement. For them, this made a difference – they said it took more time to form the agreement. One of those involved told us: “There was no legislation behind our relationship, so we had to be more patient and more innovative in our approach.” However, another participant maintained that “even with a Treaty Settlement, it takes time to work out co-governance ... A Treaty Settlement is only the start [of a relationship]”.
- 4.8 A participant in another project said that theirs differed from voluntary agreements because legislation had mandated the relationship. However, as another participant in the same project pointed out, “no amount of writing into an Act will say how relationships will work, what they look like, and how they should act”.

Reserves Act 1977

- 4.9 Several of the co-governance examples that we looked at were managing reserves under the Reserves Act 1977. The Reserves Act provides for areas having conservation, scenic, historical, or other values to be preserved and managed for the public's benefit and enjoyment. Reserves can be governed and managed by central government, local authorities, reserve boards, or other administering bodies. The Reserves Act sets out management and accountability requirements for those responsible for the reserves, including some financial accountability requirements.
- 4.10 The Reserves Act did not anticipate Treaty settlement co-governance arrangements. As a result, Treaty settlement legislation often requires specific provisions to make the Reserves Act work in a co-governance arrangement.
- 4.11 We heard mixed views about how the Reserves Act works in the context of Treaty settlements. One council representative commented that:
- The Reserves Act is quite prescriptive. It still refers to cheque signatories. It is quite interesting trying to apply it to the co-governance world. So while the responsibility is devolved down to councils, it still is quite an intensive Act to work out.*
- 4.12 Another person noted that they found it best if the parties that were going to be responsible for implementing the settlement were also involved in the Treaty negotiations, and, where appropriate, could influence the final details of co-governance to ensure that it was workable. In our view, this could include further consideration of existing third-party rights over reserves and considering whether there is any scope to re-negotiate significant third-party interests, such as long-term leases, if all the parties are willing.

Planning and setting up good processes takes time

- 4.13 We saw the value of planning when setting up co-governance arrangements. In some instances, this planning takes time. For example, preparing a co-governance agreement between Ngāi Tahu and Canterbury Regional Council took about a year, which one participant said was "reasonably fast" for such an agreement.
- 4.14 In December 2012, a Redress Deed was signed by the Crown and the Tāmaki Makaurau Collective. In August 2014, the Act setting up the Tūpuna Maunga o Tāmaki Makaurau Authority came into effect. In September 2014, the Authority had its first hui. The gap between signing the deed of settlement and the first meeting gave the Tāmaki Collective and Auckland Council staff time to discuss how they were going to work together. They discussed the financial reporting format, frequency of reporting, and programme for meetings. Participants told

us that it was worth investing the time early on because it saved time in the long run. It meant the Authority could “hit the ground running”.

- 4.15 The Waikato River Authority took time to set up its processes before allocating any funding for restoration initiatives. It told us that it used expert advice, such as legal and tax and independent audits, to help ensure that it had good policies and processes in place (see paragraph 6.9). The Waikato River Authority made the decision that no money would be allocated to projects in the first financial year while it was getting the funding strategy in place. Part of its approach involved ensuring that other parties, especially potential applicants for funding, understood that the Waikato River Authority had to have the right processes in place before it could start funding projects.
- 4.16 In contrast, the Maungatautari Ecological Island Trust built a predator-proof fence before it had sorted out all the matters that would affect the running of the sanctuary. The Trust started building the fence to maintain the momentum of and community interest in the project. This meant that it started without securing all its funding. More importantly, although land owners agreed to have the fence on their properties, these agreements and access through properties for fence maintenance purpose were not secured at the time. Some of these matters remain to be resolved at the time of our audit.
- 4.17 These examples highlight the importance of taking time to get important processes sorted and managing expectations of external stakeholders at the same time.

Making decisions by consensus

- 4.18 Many of the examples we looked at use a consensus decision-making model. For example, as stated in its agreement, all decisions of the Te Waihora co-governance group must be “reached through the highest level of good faith engagement and made on a consensus basis”. In this case, a consensus means a consensus between a majority of the commissioners and a majority of the board, rather than all of the individual members.
- 4.19 As stated in its legislation, the Waikato River Authority must reach decisions by consensus and, in working together, the members must reach decisions pursuing “the highest level of good faith engagement”.
- 4.20 Ngā Poutiriao o Mauao operates on the basis of consensus decision-making. If this is not achieved, then resolutions can be passed only when a 75% majority agrees.

Fortunately it hasn't had to come to that ... We have a conversation. A board approach works better for this kaupapa, where we are talking and trying to listen and understand each other.

- 4.21 A Maungatautari Ecological Island Trust general meeting strives to reach consensus decisions on all matters. If a consensus decision cannot be reached on a question, the motion is decided by a majority of votes. Each member gets one vote. If voting is tied, the motion is lost.
- 4.22 While consensus is not the same as unanimous agreement, it is important that co-governors seek to make important decisions with full board support. Reaching consensus means the parties are talking and agreeing on shared objectives. This might mean decisions take longer to be reached, but the outcome is often more enduring. Making decisions consensually needs processes that support the relationship, not supplant it or get in the way. As one interviewee explained:
- You need structure and relationships. No formal structure [or process] can work if you're not willing to talk to the other person. You do need structure, but structure alone doesn't work.*

Administrative and advisory processes

- 4.23 The parties in the examples we looked at highlighted the time and resources it takes to support co-governance and the need to take into account sufficient resourcing and support for the parties to carry out their business. They mentioned:
- administrative support for setting agendas, briefing members, and recording minutes;
 - legal, policy, or scientific advice;
 - communication and media support; and
 - support for financial reporting.
- 4.24 Where co-governance is part of a Treaty settlement, these processes are often included in the settlement legislation. Others used memorandums of understanding, terms of reference, or other signed agreements. Some parties told us that they used local authority procedures to run meetings.
- 4.25 Others spoke of how they were trying to incorporate tikanga Māori into their meetings, such as opening with karakia or holding meetings on marae. Some mentioned that, through working with iwi on these projects, local authority staff, who had not been exposed to it, were gaining an understanding of, and appreciation for, tikanga Māori and iwi aspirations.

Understanding the extent of decision-making powers

- 4.26 A shared understanding about the extent of decision-making powers benefits both the relationship and the project. It provides clarity about people's roles and responsibilities, which helps the project to run smoothly.
- 4.27 The extent of decision-making powers generally relates to the level the parties operate at. Governance focuses on strategic matters, while management is concerned with day-to-day operational responsibilities. Co-management then implies the sharing of decision-making and responsibility while co-governance gives decision-making authority and control to an entity that combines state or official authority and local community authority.
- 4.28 Whether parties operate at a governance level, a management level, or somewhere between, all parties need to understand the extent of their powers, and whether they are working strategically or operationally.
- 4.29 Understanding the extent of their powers, and whether they are operating at a strategic or operational level, helps to define the roles and responsibilities of the parties.

Defining roles and responsibilities clearly

- 4.30 The co-governance examples that we looked at highlighted the importance of clear roles and responsibilities. In particular, roles need to be defined in a way that supports the co-governance and/or co-management focus of the parties.
- 4.31 The parties in the Waikato River Authority considered that their roles and responsibilities were spelt out clearly in legislation, which provided certainty. Section 22 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (the Settlement Act) states that the duty of the members is to act to achieve the purpose of the Waikato River Authority.
- 4.32 The purpose of the Waikato River Authority is to:
- set the primary direction through the vision and strategy to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations;
 - promote an integrated, holistic, and co-ordinated approach to the implementation of the vision and strategy and the management of the Waikato River; and
 - fund rehabilitation initiatives for the Waikato River in its role as trustee for the Waikato River Clean-up Trust.⁹

- 4.33 The Settlement Act sets out the composition of the Waikato River Authority and how members are to be appointed. Some participants explained that, as appointees, members are there to represent the “best interests of the river”, not to represent their own (or their constituents’ or iwi’s) interests.
- 4.34 Those we spoke to who were involved with the Waikato River Authority were confident that its members had governance and leadership experience, meaning that they understood their co-governance role.
- 4.35 A memorandum of understanding sets out the functions of Ngā Poutiriao o Mauao Joint Administration Board, which includes preparing and reviewing a Mauao Reserve Management Plan. The memorandum of understanding states that, to avoid doubt, where any matters arise that are outside the purpose or functions of the joint board or objectives of the Mauao Reserve Management Plan, instructions must be sought from the Mauao Trust.

Reviewing terms of reference and agreements regularly

- 4.36 Although it helps to get as much sorted out as early as possible, parties said that it was also important to regularly review the terms of reference or their agreements to ensure that they remain fit for purpose as circumstances and aspirations change. In 2013, the Rotorua Te Arawa Lakes Strategy Group’s review of its terms of reference led to them being amended (see Figure 5).

Figure 5 Changes to Rotorua Te Arawa Lakes Group's terms of reference

In 2010, the three partner organisations in the Rotorua Te Arawa Lakes Strategy Group had an independent “health check” of how well the terms of reference were meeting the partners’ intent. The health check recognised that:

... you have to revisit it [the arrangement], and you will have to spend time in each co-governance situation to see how it's shifted and changed.

One of the outcomes of the health check was that the parties agreed to explore further the group’s constitutional decision-making process – in particular, to look at the group’s role in specific functions and to work on an agreed understanding of how decision-making on lake-specific “policy, strategies and agreements” would work.

In 2013, the terms of reference were amended to set out the groups’ specific responsibilities and delegated functions. One participant said that, despite the terms of reference, the matter of decision-making had not yet been solved. However, some pointed out that it might not matter in the end, if the parties are willing to work “hand in hand” with each other and achieve agreed outcomes.

Changes to the strategy group included changing the name of the group from the Rotorua Lakes Strategy Group to the Rotorua Te Arawa Lakes Strategy Group. The chairperson of the Te Arawa Lakes Trust told us that the iwi felt that the original name did not fully represent Te Arawa’s interest in the lakes.

Another change concerned the chairperson of the strategy group. Originally, the Mayor of Rotorua District Council chaired all the meetings. The partners agreed to change the chairperson every year. In mid-2015, the chairperson of the Te Arawa Lakes Trust chaired the strategy group.

The chairperson of the Trust and strategy group described the name change as “another sign of people’s willingness to sit down and discuss people’s perspectives”. The chairperson of Bay of Plenty Regional Council explained that changing the chairperson for the strategy group recognised the partnership approach.

One matter that several people we spoke to raised was about being able to change the composition of the strategy group’s membership. The current membership comprises one-third Te Arawa Lakes Trust, one-third regional council, and one-third district council. The chairperson of the Te Arawa Lakes Trust had strongly argued for iwi to account for half (three out of six) of the membership at the start. Others now also think that it would be useful to have a flexible arrangement to adapt to changing circumstances. In most new similar arrangements involving iwi and territorial local authorities, iwi representatives account for half of the members.

- 4.37 Ngāi Tahu and Canterbury Regional Council also reviewed their agreement to make sure that they had the right people at the right level (see Figure 6).

Figure 6
Changes to the Te Waihora Co-Governance Agreement

Canterbury Regional Council and Ngāi Tahu wrote and signed an agreement that set out the functions, powers, and duties that they would exercise jointly. However, some of the early iwi representatives on the co-governance group were seen as not understanding their roles and responsibilities. We were told that they were too focused on operations but wanted full governance immediately. This led to a challenging relationship:

They wanted to go down to the operational level on what plants were to be planted, instead of focusing on the strategy, direction, and vision.

Some people also came with their “baggage”. For example, some of the Ngāi Tahu representatives were described as being stuck in “grievance mode”:

They are used to trying to get what they can from the enemy. But that doesn't make for a good long-term relationship ... what [they] don't understand is that with co-governance they've got to give up something as well.

This led to the partners revising the board membership to include the Kaiwhakahaere (chairperson) of Te Rūnanga o Ngāi Tahu to ensure that they had people who were used to operating at the strategic and governance level.

A later amendment saw the Mayor of Selwyn District Council included in the agreement. The members considered that including the Mayor would help ensure that the co-governance agreement will continue after the commissioners are replaced.

5

Getting people with the right experience and capacity

- 5.1 In this Part, we discuss the importance of having people with the right experience and capacity involved in setting up and maintaining co-governance arrangements. We discuss:
- experience and capacity; and
 - succession planning.

Summary of what we learned about getting people with the right experience and capacity

- 5.2 Involving people with the right experience, such as those with strong leadership and governance skills, and capacity is important. It is also a challenge, particularly because experienced people are in short supply and those who are experienced are busy.
- 5.3 Building capability and helping iwi members fit in commitments needs to be considered so that they are fully engaged partners.
- 5.4 Planning for succession is needed because good environmental outcomes can take a long time to achieve. As circumstances change, the needed experience and abilities of people involved will also change. Being able to adapt and bring in new people with minimal disruption is important.

Experience and capacity

- 5.5 The examples of co-governance that we looked at showed how important it is to have people involved who:
- have strong leadership skills; and
 - understand the difference between, and have experience of, governance and management.
- 5.6 The parties identified the challenges of finding experienced members, in particular, experienced iwi members. This includes iwi members who might not be experienced in governance matters but who can bring a depth of connection and perspective and a cultural identity and experience that others might not have. One person told us:

Make sure that you're not there because uncle put me there, but having people who have qualifications and long-term experience. It's about what they bring to the bigger group. They don't have to be experts in everything, but they must have something to contribute to the combined knowledge. So iwi, when making these selections need to be strategic in who they put on boards or governance groups.

5.7 A lack of experienced, capable people means high demands are placed on the few. As one iwi leader said to us:

My favourite statement is – ‘be careful what you ask for.’ Because you might get it. Have we got the capacity to be able to deliver on any responsibilities that we are given?

5.8 Other participants echoed this statement.

5.9 In most of the examples of co-governance that we looked at, capacity affected iwi, because of all the other commitments that iwi leaders have.

5.10 We experienced this when trying to organise interviews with some of the iwi participants. Sometimes, we were unable to arrange a suitable time to meet. Some local authority members also found it difficult to balance the demands on their time.

Addressing capability and capacity matters

5.11 Finding experienced people with the capacity to engage in co-governance can be challenging. Many community groups or hapū are starting from a base of low experience and capacity. Parties need to think collaboratively about how to address capacity matters, in particular for iwi. The risk of not addressing this matter is that iwi may lessen their involvement or try to be involved in too many matters. For example, some participants said that iwi might need to think about and prioritise what they need to be involved in, rather than try to be involved in everything.

5.12 No one solution can resolve capacity matters, because the circumstances of each project are different. However, some solutions can be simple, such as holding meetings on Saturdays, and on marae, to help iwi members attend outside working hours. The important point is that all parties involved in co-governance work together to agree on solutions that are appropriate to them. Again, this highlights the value of effective relationships.

5.13 Under the terms of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, a fund was set up to support capability and capacity building for the five Waikato River iwi. Each iwi receives \$1 million a year for 30 years. The fund enables the five iwi to engage in new co-management arrangements for the river.

5.14 Some local authorities told us that they had employed iwi members to help build capability and capacity in the iwi. For example, Canterbury Regional Council employs a Ngāi Tahu person to help build his management skills, and to learn and share with the rest of the iwi how the local authority works. It has also helped the local authority to better understand the iwi and how to work with it. Canterbury

Regional Council staff told us that they saw it as an opportunity to grow capability on both sides.

Succession planning

- 5.15 Because environmental outcomes take a long time to achieve, the parties need to think about succession planning to ensure that the people with the required experience and capacity continue to be appointed. This is especially because changes in staff of local authorities and iwi or community members can affect relationships and the project.
- 5.16 Parties to the Waikato River Authority told us of the importance of ensuring that the right people with the right skills continue to be appointed to the board. One participant said that the “biggest risk is that someone is appointed who is not the right person”. Such an appointee might have in mind their own agenda, instead of the interests of the river, or might not be able to work with others. Members of the Waikato River Authority told us that they consult with the appointers (both the Ministers and iwi) about the right mix of skills and experience of potential board members.
- 5.17 One useful approach to succession management (and to build capability and capacity) was having co-chairpersons and deputy chairpersons. Co-chairpersons and deputy chairpersons learned from each other and increased the knowledge of others. This helped to raise capacity and reduce the pressure on the co-chairpersons. Appointing deputy chairpersons can provide an opportunity to prepare people for a future co-chairperson role.
- 5.18 Waikato River Authority members told us that, as well as helping to manage succession, having co-chairpersons sends a message that the governance is true co-governance.

Accountability, transparency, and financial sustainability

- 6.1 In this Part, we discuss the need for:
- accountability and transparency; and
 - the parties to consider how the projects will be funded in the long term (financial sustainability).

Summary of what we learned about accountability, transparency, and financial sustainability

- 6.2 The parties need to set up proper financial management and accountability processes, to provide assurance that finances are well managed.
- 6.3 The parties need to keep the public informed of progress and be transparent about what is being achieved to maintain support for the projects.
- 6.4 The parties need to plan ahead to secure the financial sustainability of the project. Otherwise, they run the risk of not achieving their outcomes because they do not have the money to sustain the project.

Accountability and transparency

- 6.5 It is important that public money is spent accountably and transparently. The public is entitled to be assured that co-governance is not wasting taxpayers' or ratepayers' money, and is achieving positive results. Therefore, parties need to set up proper financial management and accountability processes to provide assurance that finances are managed well.
- 6.6 These processes can help to prevent misinterpretation and protect reputations. As participants pointed out, it takes only one mistake for reputations to be lost.
- 6.7 The Waikato River Authority members we spoke to commented on how they are careful because it is a new co-governance arrangement between the Crown and iwi. Canterbury Regional Council's commissioners also made this point. They were aware that if anything goes wrong, it could be used to criticise Māori.
- 6.8 We consider that proper financial management and accountability processes, and transparency, serve the interests of all parties.
- 6.9 The Waikato River Authority is an example of how to set up accountability processes and provide transparency (see Figure 7).

Figure 7 Waikato River Authority accountability processes

The Waikato River Authority provides the Minister for the Environment with an annual report, which is presented to Parliament. The annual report includes a summary of attendance at meetings and the financial statements.

Every year, the Auditor-General audits the Waikato River Authority.

Because it was a new co-governance agreement between the Crown and iwi, the Waikato River Authority members spent a lot of time putting processes and systems in place, such as financial management and risk management:

We put a funding strategy in place so we would be fair to everyone. The funding deed provides line of accountability. We undertake independent audits of big and small projects, using a random sampling. We also have random test of our systems by KPMG to check systems are in place and working. Because this is public funding and public money, we have to be very careful.

There are four different stages before an application is approved. Full peer reviews and checks of applications are carried out to ensure that the proposed projects are achievable. The applications are also independently reviewed before going to the investment committee and then the full board, which decides whether an application is successful.

The Waikato River Authority relies on external consultants for the endowment fund and legal and financial advice. It carries out reviews of that advice:

... [We] always have to keep the pencil sharp. This is public money so [we must be] open to scrutiny, and we must ensure that advice received is always the best advice.

One staff member pointed to how successful their accountability methods are:

As a demonstration of how successful we are, you just need to look at the metrics – funds are distributed and funds invested and we are not in the papers [for bad news].

Conflict of interest

The Waikato River Authority has also set up a register of conflicts of interest, which lists all the duties of the members. All Waikato River Authority members have multiple responsibilities and interests. We were told that members take managing conflicts of interest seriously. One experienced member described the register as the “best conflict register” they were aware of. Other parties told us that the Authority manages conflicts of interest well.

Keeping the public informed of progress

- 6.10 Environmental outcomes take a long time to achieve and the public needs to be kept informed about the parties’ work. In some of these projects, it will take decades to see improvements. For example, in Te Waihora, the parties told us that because of the lake’s function as a catchment for surrounding land run-off, it will take 20-30 years before the lake stops deteriorating and starts improving. Similarly, members of the Waikato River Authority are aware that the river will probably get worse before it improves.

- 6.11 The length of time it takes to achieve results can affect public perceptions of the projects' effectiveness. It is important to manage peoples' expectations about the pace of progress to keep stakeholders and the public engaged to sustain support for the project. This can be done by keeping people informed about the progress made to date, and by explaining why it takes so long.
- 6.12 For example, in mid-2015, information about the Rotorua Te Arawa Lakes Programme on its website stated that annual monitoring showed that water quality in many of the lakes had declined slightly when compared to the previous year. Climatic conditions and rainfall affect water quality and this highlights the importance of long-term sustainable water quality solutions:
- The decrease in water quality levels for 2014/15 by no means takes away from the work done to-date, or its importance. Rather, it reinforces the fact that there is no quick or easy fix for cleaning up our lakes, but that action must continue for the benefit of our community, the environment and our economy.*
- 6.13 The public can also be kept informed about progress by reporting on the activities under way. The activities can serve as indicators towards achieving outcomes, but can also be achievements in themselves. For example, the Ministry for the Environment publishes regular updates on the projects that are funded through the Fresh Start for Fresh Water Clean-up Fund. The updates are based on reports provided by the parties to the projects. The Rotorua Te Arawa Lakes Programme listed the actions being taken to improve the quality of the lakes. These included:
- ongoing harvesting of lake weeds;
 - building floating wetlands;
 - using aeration devices to help stop the release of nutrients from the lakebed and help prevent algal blooms;
 - changing how land is managed, to reduce run-off of sediments and nutrients; and
 - making permanent changes to land use by clearing gorse and converting land, so less nitrogen is used.¹⁰
- 6.14 The Te Waihora Co-Governance Agreement provides an example of how activities contribute to meeting the aspirations of iwi and achieving environmental outcomes that can also meet the needs of the wider community.

¹⁰ Adapted from Rotorua Te Arawa Lakes Programme page at the Ministry for the Environment website, www.mfe.govt.nz.

Figure 8
Recognising Ngāi Tahu's historical relationship with Te Waihora

The National Water Conservation (Te Waihora/Lake Ellesmere) Order 1990 (the order) recognises the historical relationship between Ngāi Tahu and Te Waihora as a nationally outstanding feature.

The order specifically requires the consideration of habitat for indigenous wetland vegetation and fish, along with wildlife, and tikanga Māori in respect of Ngāi Tahu history, mahinga kai and customary fisheries, when managing the lake, and, in particular, lake openings.

The order, together with the resource consent authority jointly held by Te Rūnanga o Ngāi Tahu and Canterbury Regional Council, now allows the timing of the opening of Te Waihora to be more conducive to manaakitanga and fish migration, instead of just for flood protection:

We've had reports from the fisherman that the fishing has been the best that they've seen for the past years. That's the journey we've been on.

Financial sustainability

- 6.15 Environmental outcomes take a long time to achieve and parties need to plan ahead to secure the financial sustainability of the project. Otherwise, they run the risk of not achieving their outcomes because they do not have the money to sustain the project. In our view, the earlier and further ahead parties plan for there to be enough money available, and the more broadly they think about different ways of securing this, the more likely they are to succeed in achieving the intended environmental outcomes.
- 6.16 Large and complex projects like the Maungatautari Ecological Island project require a large degree of collaboration with funding partners. It is unlikely that projects of this scale will ever be self-sustaining financially and will require local government assistance. This is appropriate where the land being managed is in public ownership or a Crown reserve that has been set aside for a conservation purpose. However, it is still important to ensure that the funders agree to this long-term financial commitment. Without this commitment, trusts like the Maungatautari Ecological Island Trust always face a challenge of meeting operational costs because committed funding is always less than operational costs. This makes it difficult for the Trust to prepare for eventualities like when the fence will need replacing.
- 6.17 Several of the parties involved in the projects have aspirations for eco-tourism ventures to become self-sustaining. For example, one member of the Tūpuna Maunga o Tāmaki Makaurau Authority spoke of a vision to become self-sustaining through tourism and economic development. Maungatautari was another example where the parties hoped that the resource could support a thriving eco-tourism venture to help cover operational costs.

- 6.18 Several of the co-governance arrangements were set up under Treaty of Waitangi settlements. These were negotiated between the Crown and iwi. In some cases, Crown funding is time-bound and long-term funding needs to be resolved. This can create pressure for some parties. But as Figure 9 shows, the broader and long-term benefits need to be considered along with the financial costs in working out whether and how to fund co-governance in the long term.

Figure 9
Why Auckland Council pays for Tūpuna Maunga o Tāmaki Makaurau Authority's costs

Auckland Council is responsible for paying the Tūpuna Maunga o Tāmaki Makaurau Authority's costs. Auckland Council received some funding from the Crown for start-up costs, which covered only a short period. People at Auckland Council expressed concern about putting into effect co-governance arrangements that arise from a Crown-iwi negotiation process, which incurs costs to another party. We were told that the Crown is prepared to help pay for some start-up costs, but that it does not compensate local authorities for ongoing costs.

When local authorities raised their concerns about the cost of co-governance to the ratepayers, we were told that the Crown's response was that involving iwi benefits the community "and they should have been doing this anyway". Auckland Council staff told us that the Crown seemed to consider that Auckland Council was "big enough to pay and look after [itself]":

So it requires quite a bit of good will. We accepted there was a greater-good argument. At the end of the day, there are these great big green chunks of landscape that are public parks, and public access has been safeguarded in the process. So there was a bigger picture here than just money. It wouldn't have been appropriate to stand in the way of the settlement by putting in arguments of cost-transfer.

- 6.19 We saw some practices that might promote financial sustainability. The Waikato River Authority is an example of preparing for when Crown funding ends (see Figure 10).

Figure 10 Waikato River Authority Endowment Fund

Under its Deed of Settlement with Waikato-Tainui, the Crown committed to provide funding for a contestable Clean-up Fund “to fund initiatives for restoring and protecting the health and wellbeing of the Waikato River for present and future generations”. The fund is administered by the Waikato River Clean-up Trust. The Waikato River Authority is the sole trustee of the Waikato River Clean-up Trust.

The Trust receives \$7.333 million every year until 2036 and \$7.342 million in 2037/38. This funding includes \$333,000 each year from the Ngāti Maniapoto settlement.

Usually, clean-up funding goes to the regional council. However, because of the co-governance arrangement, the funding goes to the Waikato River Authority to administer.

Because the time frame required to realise the restoration vision is likely to exceed the Crown’s 30-year funding commitment, the Waikato River Authority has set up an endowment fund. In the first year of operation, the Waikato River Authority received the first three years of funding up front (\$21 million). No money was allocated to projects in that first year. Instead, the money was put into the endowment fund. Also, any funds not committed towards projects in each funding year are added to the endowment fund. The Waikato River Authority has a policy to not spend the full amount of funding each year, but not at the expense of grants for the projects.

The Waikato River Authority wants the endowment fund to reach a point where it generates an annuity. This will allow the Waikato River Authority to continue to fund its Vision and Strategy beyond the 30-year period.

- 6.20 Another method that may help with financial sustainability is to work in partnership with industry or other stakeholders. Again, the Waikato River Authority is an example (see Figure 11).

Figure 11 Working with others

To put into effect its Vision and Strategy, the Waikato River Authority recognised that it needed to work with major stakeholders who affect the river, such as Waikato Regional Council and industry partners.

The Waikato River Authority, the Council, and DairyNZ are working on a restoration strategy for the Waikato and Waipa Rivers (the Waikato Restoration River Strategy). As at November 2015, the Waikato River Authority and DairyNZ have contributed \$200,000 each in direct costs, with the Council contributing \$75,000. Other costs will be met by significant in-kind support, such as staff time from DairyNZ and the Council.

The restoration strategy is intended to help guide investment decisions for improving the health of the Waikato River during the next 5-15 years.

A main aim of the restoration strategy will be to ensure that the combined work – and the work of other agencies – is carried out as efficiently as possible, while getting maximum benefit by ensuring that it is integrated and co-ordinated to avoid duplication.

A key supporting action has been the creation of a Waikato River Restoration Forum, involving the three strategy partners as well as all Waikato River iwi, the Department of Conservation, Fonterra, Genesis Energy Limited, and Mighty River Power Limited, along with local councils. The Waikato River Authority’s chief executive chairs the forum, which will offer advice and input into the preparation of the restoration strategy.

Appendix 1

About the Waikato River Authority

Type of arrangement

The Waikato River Authority is an independent statutory body under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

Description

The arrangement covers a catchment of 11,000 km². It comprises the Waikato River from Huka Falls to Te Pūaha o Waikato, the Waipa River from its source to its connection with the Waikato River, and their catchments.

Background

The Waikato River Authority was set up on 25 November 2010 under section 22(1) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (the Act) and section 23(1) of the Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010. The Act creates a co-governance and co-management framework between the Crown and river iwi.

The Waikato River Authority is the custodian of the *Vision and Strategy for the Waikato River* (the strategy), which is the direction-setting document for the Waikato River. The strategy formed the cornerstone of the legislation to the settlement between Waikato-Tainui and the Crown.

Purpose

Section 22 of the Act states that the purpose of the Waikato River Authority is to:

- *set the primary direction through the vision and strategy to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations:*
- *promote an integrated, holistic, and co-ordinated approach to the implementation of the vision and strategy and the management of the Waikato River:*
- *fund rehabilitation initiatives for the Waikato River in its role as trustee for the Waikato River Clean-up Trust.*

The duty of the members of the Authority is to act to achieve the purpose of the Authority.

Appointment and composition of membership

The Authority has 10 board members – five appointed from each river iwi (Tainui, Te Arawa, Tuwharetoa, Raukawa, and Maniapoto) and five Crown-appointed members. The regional council nominates one Crown member and one is nominated by the territorial authorities. The Minister for the Environment appoints one of two co-chairpersons; iwi choose the other.

The Authority's investment committee consists of the co-chairpersons and deputy co-chairpersons, and two others. It gives the full board recommendations on applications for funding. In 2015, one of the deputy co-chairpersons chaired the investment committee.

Accountability

The Authority is a unique public entity. It is not subject to the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987. Trustees do not have to make minutes of their meetings public or publicise where meetings are held, and can hold meetings behind closed doors. One interviewee told us that the Authority is an “arm's length from government”. However, the meetings are of interest to many and the Authority gives iwi boards a written summary of its discussions.

The Authority's annual report to the Minister for the Environment is presented to Parliament. The annual report includes financial statements and a summary of attendance at meetings.

The Authority must monitor its activities and achievements and the clean-up initiatives that the Trust funds. The Authority must report at least once every five years to the Crown and river iwi on the results of its monitoring.

Achievements

Waikato Regional Council reports on water quality trends in the Waikato River. Its website shows that water quality in the Waikato River has improved since the 1950s because urban and industrial wastewater treatment has improved considerably. However, levels of nitrogen in the river have risen during the past 20 years, probably as a result of changes in land use.

It will take a long time before the river is restored and people told us that the state of the river will probably get worse before it gets better. This might affect how the public perceives the Authority's effectiveness. However, the Authority's work is helping to improve the quality of the river and increase support for river projects.

Restoration strategy

The restoration strategy is intended to show the benefits and outcomes of all the agencies working together to improve the Waikato River. The strategy is being prepared at the same time as the regional council's Healthy Rivers: Plan for Change/Wai Ora: He Rautaki Whakapaipai project, which is about a change to the plan under the Resource Management Act 1991 to help limit sediment, bacteria, and nutrients (phosphorus and nitrogen) entering the river. The strategy is a "bigger picture" non-binding plan for organisations/groups investing in catchment restoration and protection activities. Both initiatives seek to give effect to the *Vision and Strategy*. Benefits from these two plans are expected in 2-5 years' time.

One industry partner summed up the success of the co-governance arrangement as:

This sort of model – I wouldn't feel nervous with this model being rolled out to other parts of New Zealand as it works quite well [here].

Appendix 2

About the Tūpuna Maunga o Tāmaki Makaurau Authority

Type of arrangement

The Tūpuna Maunga o Tāmaki Makaurau Authority is a statutory authority under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014.

Description

As part of a Treaty of Waitangi settlement, 14 Tūpuna Maunga (ancestral mountains) were returned to the 13 Mana Whenua iwi and hapū of Auckland:

- Matukutūruru/Wiri Mountain;
- Maungakiekie/One Tree Hill;
- Maungarei/Mount Wellington;
- Maungawhau/Mount Eden;
- Maungauika/North Head;
- Ōwairaka/Te Ahi-kā-a-Rakataura/Mount Albert;
- Ōhinerau/Mount Hobson;
- Ōhūiarangi/Pigeon Mountain;
- Ōtāhuhu/Mount Richmond;
- Pukewīwī/Puketāpapa/Mount Roskill;
- Rarotonga/Mount Smart;
- Te Kōpuke/Tītīkōpuke/Mount St John;
- Takarunga/Mount Victoria; and
- Te Tātua a Riukiuta/Big King.

The Department of Conservation administers Maungauika/North Head. Auckland Council manages and administers Rarotonga/Mount Smart. The Crown still owns the land of Māngere Mountain and part of Maungakiekie/One Tree Hill but both are administered by the Tūpuna Maunga o Tāmaki Makaurau Authority for the purposes of the Reserves Act 1977.

Background

The Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 transferred ownership of the 14 Tūpuna Maunga to Ngā Mana Whenua o Tāmaki Makaurau (the collective group of the 13 iwi and hapū of Auckland, also known as the Tāmaki Collective).

In February 2010, a framework agreement was drafted. In December 2012, a Redress Deed was signed by the Crown and the Tāmaki Makaurau Collective.

In August 2014, the legislation came into effect. In September 2014, the first Authority hui was held.

Auckland Council was heavily involved in negotiations between the Crown and iwi. This was because, when the claim was settled, Auckland Council would be responsible for putting parts of the settlement into effect.

Purpose

The Tūpuna Maunga o Tāmaki Makaurau Authority was set up to co-govern the Tūpuna Maunga (the Maunga returned to iwi and hapū) as the administering body under the Reserves Act. The Authority also administers the two Maunga retained in Crown ownership, under the Reserves Act.

The governance arrangement reflects the value of the Maunga to mana whenua and others. The Maunga are held in trust for the common benefit of the iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau and for other Aucklanders.

The Tūpuna Maunga o Tāmaki Makaurau Authority has a statutory purpose that emphasises the value of the Maunga to the iwi and hapū of Auckland. In exercising its powers and functions, the Authority must have regard to the spiritual, ancestral, customary, and historical significance of the Maunga and administered lands to Ngā Mana Whenua o Tāmaki Makaurau.

The Authority may also recognise any economic development aspirations that iwi might have.

The Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 conferred powers and function on the Authority. This includes a power or function that the Minister of Conservation has delegated to all local authorities under section 10 of the Reserves Act 1977. One person told us:

Co-governance is decision-making and this is a strong focus for the Authority. It's good, and something that we haven't had before.

Appointment and composition of membership

The Tūpuna Maunga o Tāmaki Makaurau Authority has six members who represent the 13 iwi and hapū of Ngā Mana Whenua o Tāmaki Makaurau, six members appointed by Auckland Council, and one non-voting representative of the Crown. The 13 iwi and hapū have been grouped into three rōpū, which each appoint two members to the Authority. The rōpū are:

- **Marutūāhu Rōpū** – Ngāti Maru, Ngāti Pāoa, Ngāti Tamaterā, Ngāti Whanaunga, and Te Patukirikiri;

- **Ngāti Whātua Rōpū** – Ngāti Whātua o Kaipara, Ngāti Whātua Ōrākei, and Te Rūnanga o Ngāti Whātua; and
- **Waiohua Tāmaki Rōpū** – Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Ngāti Te Ata, Te Ākitai Waiohua, and Te Kawerau ā Maki.

The chairperson must be appointed by the rōpū entities. The deputy chairperson must be appointed by Auckland Council.

Accountability and transparency

The Tūpuna Maunga o Tāmaki Makaurau Authority does not report to Parliament. However, it must prepare an annual report for each financial year, which includes the dates and times of the Authority's meetings in the financial year and a summary of the Authority's activities in the financial year. The Authority may also include other relevant information at its own discretion. The report must be made publicly available.

The funding and revenue of the Authority are held by Auckland Council and must be accounted for separately from other funding revenue or other income of Auckland Council.

Auckland Council must report every three months to the Tūpuna Maunga o Tāmaki Makaurau Authority on the costs, funding, and revenue of the Maunga.

Auckland Council must also provide to the Tūpuna Maunga o Tāmaki Makaurau Authority an annual financial report on the Maunga.

The Tūpuna Maunga o Tāmaki Makaurau Authority may ask that Auckland Council's auditor review the Council's accounts relating to the Maunga to provide public confidence.

The Tūpuna Maunga o Tāmaki Makaurau Authority has a webpage hosted by and within Auckland Council's website. It provides some information including:

- meeting times, agenda, and minutes;
- the importance and history of the Tūpuna Maunga o Tāmaki Makaurau Authority and the Maunga; and
- the settlement legislation.

The Authority will eventually have its own website, independent from the Council.

Achievements

The Authority is still working on how it will report against its goals. One indicator they are using to measure how they are protecting and enhancing the environment of the Maunga is how many pests, such as rabbits and possums, have been killed or removed.

The Authority is also working on other indicators to measure how the Authority is giving effect to its other purpose of recognising the significant spiritual, ancestral, customary, and historical values of the Maunga to iwi – for example, how iwi's mana whenua is recognised through the governance and management of the Maunga. One measure of success will be when mana whenua are:

... enabled and supported to express their Kaitiakitanga over the Tūpuna Maunga (the intergenerational rights and obligations of Mana Whenua to care for the Tūpuna Maunga), and to address the previous cultural and physical separation between Mana Whenua and Tūpuna Maunga.

Staff think another measure of success for what the Authority is trying to achieve will be when the Maunga are referred to in the media as Maunga, not volcanic cones. Another measure of success will be how the wider community shows its commitment to the Maunga. One participant said:

I would like to see them revered as really kind of peaceful beautiful places to go to. I want to see the community around them ... fighting for the protection of those places.

Appendix 3

About the Te Waihora Co-Governance Agreement

Type of arrangement

The Te Waihora Co-governance Agreement is a voluntary co-governance arrangement.

Description

Te Waihora (Lake Ellesmere) is the largest lake in Canterbury and is an important link in the chain of coastal lagoons and estuaries along the South Island's east coast.

The lake and surrounds form an internationally significant wetland for wildlife that supports rich flora and fauna. Te Waihora also has outstanding significance for Ngāi Tahu as a tribal taonga, representing a major mahinga kai and an important source of mana.

The lake shore margins support the largest area of contiguous wetland habitat in the lowlands of the eastern South Island. The lake's catchment includes:

- the foothills that feed the Selwyn River;
- groundwater aquifers of the Canterbury Plains between the Waimakariri and Rakaia rivers, which surface as springs feeding the lowland streams entering Te Waihora; and
- hill-fed catchments of the north-western edge of Banks Peninsula.

Land-use changes and clearing of wetlands have sped up the worsening of the lake's water quality. The 2010 Lake Water Quality Report by the National Institute of Water and Atmospheric Research (NIWA) rated Te Waihora as having the worst nutrient status of 140 lakes measured.

Background

Our lake was our backyard, it was our livelihood – we live and breathe the place.

In 1991, the Te Waihora Management Board was formed to advise the Ngāi Tahu Māori Trust Board on the Ngāi Tahu claim aspects that related to Te Waihora. It represents the six Papatipu Rūnanga of mid-Canterbury who have interests in Te Waihora.

In 1998, ownership of Te Waihora lakebed was returned to Ngāi Tahu as part of the Treaty of Waitangi Deed of Settlement, along with specific planning and bylaw-making powers.

The Te Waihora Management Board then worked with the Department of Conservation on a joint management plan for the lakebed and surrounding land that the Department of Conservation administers. Ngāi Tahu was also thinking about what next and looking for a closer relationship with Canterbury Regional Council. In 2009, the Canterbury Water Management Strategy (CWMS) process provided the next opportunity for thinking about a relationship. Said one participant: “The seed [for co-governance] was planted in the Canterbury Water Management Strategy”.

The CWMS has 10 target areas, with one of the target areas being about Kaitiakitanga. Under Kaitiakitanga, the CWMS recorded co-governance of Te Waihora catchment as a specific goal. The strategy sought to achieve, by 2015:

A formal co-governance arrangement (developed in partnership by Ngāi Tahu, the Crown, and Canterbury local government) for the active management of Te Waihora (Lake Ellesmere) and its catchment.

One participant described this time as:

... an interesting process, and it brought to the fore “what did it mean to be a Treaty partner?”

At the time of the consultation with the Rūnanga on the CWMS, Ngāi Tahu expressed frustration about a conservation order on Te Waihora for opening the lake. The conservation order recognised outstanding wildlife but not fish, because fish are not defined as wildlife. It also did not recognise the presence of outstanding tribal significance because the order was granted before the Resource Management Act 1991 was passed. Ngāi Tahu and the regional council agreed that the parties had to look at amending the order, so that the importance of the fishery and the significance of Te Waihora to Ngāi Tahu could be recognised.

Commissioners replace councillors

In 2010, commissioners replaced Canterbury Regional Council councillors. One interviewee told us that this is when the relationship began to change.

The Minister for the Environment, in his letter of expectation to the commissioners, stated that they had to develop the relationship with Ngāi Tahu. As part of this, Ngāi Tahu nominated one of their own as a commissioner. One Ngāi Tahu representative told us: “This action was a little step for Canterbury, but a huge step for Ngāi Tahu.”

Not long after starting, all the commissioners went to talk to the Kaiwhakahaere (chairperson) of Te Rūnanga o Ngāi Tahu. The discussion focused on how Ngāi Tahu and the commissioners would work together. Te Waihora was the first area that was brought to the commissioners’ attention.

The commissioners went on a bus tour of the Te Waihora catchment. They met members of the Te Waihora Management Board, and the Board said it wanted to develop co-governance “sooner rather than later”. The commissioners agreed. Canterbury Regional Council staff were asked to prepare an agreement.

On 25 August 2011, the Te Waihora Management Board (representing Te Rūnanga o Ngāi Tahu) and Canterbury Regional Council signed an agreement of intent. This agreement signalled a shared commitment to exploring a co-governance model for the restoration and rejuvenation of the mauri and ecosystem of Te Waihora.

Whakaora Te Waihora funding

At the same time as signing the agreement of intent, Ngāi Tahu and the regional council jointly contracted with the Crown to a cultural and ecological restoration programme for Te Waihora, known as Te Whakaora Te Waihora. Whakaora means “to save, rescue, resuscitate, revive, restore to health, cure, and heal”. The regional council was awarded \$6 million from the Fresh Start for Fresh Water Clean-up Fund towards the restoration and rejuvenation of the mauri and ecosystem health of Te Waihora. The Crown’s investment leveraged funding from other parties for a total investment of \$11.6 million towards cleaning the lake.

The funding was an incentive to prepare a co-governance agreement. The commissioners told us that the Minister had indicated that funding could be put towards the lake, which made it possible, and necessary, to work out a relationship:

The relationship was focused around the management of the money. We might not have got into that relationship if the government had not come up with the funding.

After the August agreement of intent, the co-governance meetings were largely centred on what the co-governance framework would look like. The process took about a year, “which is reasonably fast” for these types of arrangements. During that time, a joint restoration plan was signed by the two parties on 9 December 2011.

On 23 November 2012, the Te Waihora Management Board and Te Rūnanga o Ngāi Tahu and Canterbury Regional Council signed a co-governance agreement:

So the [Ministry for the Environment] funding was the catalyst but also to be fair, another catalyst was the commissioners.

It was clear to all the people we interviewed that without the commissioners, the relationship between the Rūnanga and Canterbury Regional Council would have been less positive. “The commissioners meant that the relationship changed from the worst relationship to the best relationship”. The commissioners had been

surprised by the lack of a relationship between Canterbury Regional Council and iwi in a post-settlement region. The chairperson, in particular, was determined to set up a positive relationship. It was not just her, “but it was quite clear, it was her agenda ... Under her watch, it [the relationship] was going to be fixed”.

Purpose

The commissioners wanted an arrangement that recognised the imperative of fixing the lake, while building and strengthening a relationship with Ngāi Tahu. Both parties sought an arrangement that recognised Ngāi Tahu’s ownership of the lake bed and customary rights and responsibilities that go with that ownership. The Ngāi Tahu Claims Settlement Act 1998 included provision for Ngāi Tahu to have planning powers and other powers to make bylaws for the lake bed. The arrangement had to take into account the regulatory framework – Canterbury Regional Council’s statutory responsibilities under the Resource Management Act 1991 and the Local Government Act 2002, which require Canterbury Regional Council to manage the catchment well.

An example of co-governance was when the parties jointly applied to Canterbury Regional Council for resource consents to open and close Te Waihora. Before 2014, the authority to consent to the opening of the lake was held by just Canterbury Regional Council, and was primarily used for flood management purposes. The parties wanted the consent process to include recognition of Ngāi Tahu’s ownership of the lake bed and its cultural values, consistent with the National Water Conservation (Te Waihora/Lake Ellesmere) Order 1990. The application was granted and Te Rūnanga o Ngāi Tahu and Canterbury Regional Council jointly hold the resource consents to open and/or close Te Waihora/Lake Ellesmere to the sea.

The parties considered this a matter of significance. A hearing was held over three days to amend the authority. Another significant symbol was that Canterbury Regional Council and Ngāi Tahu jointly applied for the resource consents.

Composition

The Te Waihora co-governance group comprises four commissioners from Canterbury Regional Council, five members from Ngāi Tahu, including the Kaiwhakahaere of Te Rūnanga o Ngāi Tahu, and the Mayor of Selwyn District Council. The Kaiwhakahaere of Ngāi Tahu and the chairperson of Canterbury Regional Council are the group’s co-chairpersons.

Accountability

The Te Waihora partners have to deliver on their contract with the Ministry for the Environment for the Whakaora Te Waihora restoration project. Each year, they have to carry out a work programme. Every month, they report financial and other information to the Ministry for the Environment. Canterbury Regional Council also reports on the Whakaora te Waihora project in its annual report. The Ministry for the Environment's participation in the steering group provides further oversight.

The commissioners are aware of their accountability for taxpayers' money. Canterbury Regional Council's audit committee closely monitors the project and receives regular reports about spending on it.

Achievements

The commissioners told us that they had to limit further nitrate and phosphorus loss from the catchment that drains into the lake. The main problem in the catchment is nitrate loss. In 2012, the commissioners put temporary limits in place. By May 2015, they had almost completed a process that will see those temporary limits replaced by limits that are specific to the Waihora catchment and based on Selwyn Waihora Zone Committee recommendations. The commissioners noted that they intend to work with farmers on preparing more environment and management plans.

The Ministry for the Environment records progress on the Whakaora te Waihora project. The April 2015 update on the Ministry's website reported:

- more than 200,000 native plants had been planted;
- spraying of 100 hectares of grey willow using both ground and aerial methods;
- spraying of all known sites of reed canary grass around the lakeshore;
- completion of about 36 kilometres of waterway re-battering work;
- completion of erosion control works on the Kaituna River;
- holding of five farm environmental plan workshops;
- completion of 53 farm environmental plans;
- fencing of lengths of the Kaituna and Huritini/Halswell catchments to keep stock out;
- monthly water monitoring with two new monitoring stations that will provide continuous data every two to three hours;
- monitoring of important mahinga kai (yellowbelly flounder, shortfin eel, and longfin eel);
- a sediment survey at 18 sites; and
- science investigations, including:

- Mahinga Kai Bio Health;
- two NIWA/University of Canterbury reports on lake opening sites, the feasibility of deepening in-lake channels, and possibilities for an engineered lake level;
- the trial re-establishment of macrophyte beds, with more than 3000 macrophyte plants now growing at the macrophyte culture facility at Taumutu;
- investigations into in-lake nutrient processing and nutrient attenuation; and
- investigations into fish re-stocking and a review of fisheries management.

The commissioners admitted that work remains to be done to achieve the environmental goals. Several people told us that, although it would take 20 to 30 years before the lake stops deteriorating – because it takes a long time to repair environmental damage, the community was starting to understand this. Over time, the community should start to see improved ecosystems, improved water quality, and species revival.

The parties thought that the success of the agreement should also be acknowledged:

You'll see, in a sense, that the success in this will not be about the relationship between Ngāi Tahu and ECan [Canterbury Regional Council] and how that plays out in a formal arrangement. The success will be about the way it motivates and inspires other parts of local government to work, and improve the quality of their relationship, with Ngāi Tahu. And I'm seeing signs of that happening now.

Appendix 4

About the Rotorua Te Arawa Lakes Strategy Group

Type of arrangement

The Rotorua Te Arawa Lakes Strategy Group is a joint committee established under the Local Government Act 2002.

Description

The Rotorua Te Arawa Lakes catchment includes the 12 large Rotorua lakes and their associated catchments. Rotorua, Rotoiti, Rotoehu, and Ōkāreka are identified as the four priority lakes.

The other lakes are Rotoma, Okataina, Tarawera, Tikitapu, Rotokakahi, Rotomahana, Okaro, and Rerewhakaaitu.

The lakes are an important local, regional, and national asset. They are a significant tourist destination. Each year, Lake Rotorua alone welcomes more than 500,000 international visitors. The lakes are identified as having national, cultural, and heritage significance. They are a taonga to the Te Arawa people and the health of the water is described as essential to their wellbeing.

During the past few decades, the lakes' water quality has deteriorated dramatically because of:

- sewage discharge from lakeside communities;
- changes in land-use practices;
- large amounts of nutrients stored in the bottom sediments (from historical practices such as the discharge of treated sewage into Lake Rotorua); and
- nutrient enrichment of groundwater aquifers from historical farming practices (which will continue to feed into the lakes during the coming decades).

This has stimulated algal blooms and weed growth. Algal blooms significantly reduce the amenity value of the lakes, pose a risk to human health, and regularly result in lakes being closed to swimming and fishing.

Background

The Rotorua Te Arawa Lakes Strategy Group co-ordinates management of the Rotorua lakes. It is made up of elected representatives from Bay of Plenty Regional Council, Te Arawa Lakes Trust, and Rotorua District Council. It is a joint committee within the meaning of clause 30(1)(b) of Schedule 7 to the Local Government Act 2002.

The structure of the strategy group is largely in response to its history. In 2000, Bay of Plenty Regional Council, Te Arawa Māori Trust Board, and Rotorua District Council adopted the Strategy for the Lakes of the Rotorua district after extensive public consultation. The strategy sought to preserve and protect the lakes of the Rotorua district and their catchments for the use and enjoyment of present and future generations, while recognising and providing for the traditional

relationship of Te Arawa with their ancestral lakes. After adopting the strategy, the three organisations considered the opportunities for a joint governance structure.

In 2003, the regional council and the district council set up a joint committee under the provisions of the Local Government Act. Membership rights were extended to the Te Arawa Māori Trust Board. The following year, the parties agreed the basis for a new joint committee to be called the Rotorua Lakes Strategy Group.

The committee was given formal status in 2006 through the Te Arawa Lakes Settlement Act 2006, which also transferred ownership of the lakebeds back to Te Arawa. The Act also set up the Te Arawa Lakes Trust (which replaced the Te Arawa Māori Trust Board).

In 2007, a memorandum of understanding was signed between the Crown and the strategy group members. The purpose of the memorandum of understanding was to help the four partners in addressing the future of the Rotorua lakes. The parties sought to maintain or improve the water quality of the lakes through a Rotorua Lakes Protection and Restoration Action Programme. As part of the memorandum of understanding, the four parties were to consider funding for specific projects on a case-by-case basis to contribute to agreed project outcomes.

In 2008, the Crown, through the Ministry for the Environment, committed \$72.1 million to the Rotorua Te Arawa Lakes Programme to reach water quality targets for the four priority lakes. Bay of Plenty Regional Council and Rotorua District Council matched this funding for a total programme cost of \$144.2 million, with additional funding for the protection and restoration of the other eight lakes.

Purpose

The strategy group represents the opportunity to provide for Te Arawa's relationship with its ancestral lakes, and express rangatiratanga, by managing the lakes' catchments through Te Arawa values. The arrangement recognises that Te Arawa owns the lake beds, and "it has got to be more than just nominal ownership".

The purpose is expressed in the Treaty settlement legislation as:

... to contribute to the promotion of the sustainable management of the Rotorua Lakes and their catchments, for the use and enjoyment of present and future generations, while recognising and providing for the traditional relationship of Te Arawa with their ancestral lakes.

Membership

The strategy group consists of the chairperson and one other representative of the Te Arawa Lakes Trust, the chairperson and another councillor from Bay of

Plenty Regional Council, and the Mayor and another councillor from Rotorua District Council.

Accountability

The activities carried out under the strategy are fully reported. The strategy group meets every three months. Team leaders report to the steering group, which relays reports to the strategy group. The agendas and minutes for the strategy group are posted on the regional council's website.

The group reports every six months. This is the main mechanism by which the group knows whether outcomes are achieved. This is based on outcomes and output and includes targets for the lake and how goals are being tracked. The report includes extensive water quality monitoring. As of October 2015, the latest report on the website was for June to December 2012.

The strategy group produces an annual programme report. As of October 2015, the latest on the website is for 2012/13. The latest report detailed progress made in the fifth year of Crown-funded works relating to the four priority lakes. It also provided an update on work to protect and restore the eight non-deed-funded lakes. This included financial information. These reports are included in the regional council's annual report.

Being accountable to the community

The strategy group sees itself as accountable to the community because funding for the lakes has come from ratepayers. For example, the website states that the group's goal is to achieve water quality targets set with the community for each of the 12 lakes.

One of the participants emphasised the importance of being transparent about how decisions about using public money are made. For example, as part of the programme, the Lake Rotorua Incentives Board has been established to purchase the permanent reduction of nutrients entering Lake Rotorua. It does this through securing land management or land use change. Because Rotorua is a small community, people on the board have connections to some landowners who may seek to sell nutrients. Therefore, the board has to manage conflicts of interest.

The strategy group reports directly to the regional council about how it has spent ratepayers' money on the lakes.

Being accountable to the Crown

The strategy group has to deliver on its contract with the Ministry for the Environment, which has to oversee and account for how the money is spent. Each year, the strategy group has to prepare an annual work programme and then

report to the Ministry for the Environment on that work programme, including financial information. These reports are provided every six months. Also, a Ministry for the Environment representative attends the Rotorua Te Arawa Lakes steering group meetings to maintain a good understanding of the programme and provide further oversight.

Achievements

Action plans are under way for each of 12 lakes to improve their quality, including:

- reducing their nutrient (nitrogen and phosphorus) levels;
- sewerage reticulation of lake-side communities;
- ongoing harvesting of lake weeds;
- building floating wetlands;
- land management change to reduce run-off of sediments and nutrients; and
- changing land use by clearing gorse permanently and converting land to low nitrogen land use.

One example of action planned is the building of an in-lake wall to prevent nutrient-rich water entering Lake Rotoiti. The regional council is also preparing a set of regional rules to reduce nitrogen entering Lake Rotorua. These rules build on a nutrient capping rule – Rule 11 – which limits the loss of nitrogen and phosphorus from land-use activities.

The strategy group reports on the lakes programme on a dedicated website. The website contains information on the activities and achievements. It also provides an explanation of activities taken. The website provides information about whether the individual lakes are meeting nitrogen and phosphorus targets.

The Ministry for the Environment website is updated as information comes in. The latest update from April 2015 reported that the programme has had some remarkable success to date:

- Lake Rotorua has reached its long-term water quality target as a result of stream phosphorus-locking.
- A long-term solution to reduce nutrients from the pastoral sector has been developed by a stakeholder advisory group and approved for practice. This will allow water quality to be sustained without detracting from the viability of the rural economy.
- Lake Rotoiti reached its water quality target, showing the best results since monitoring of the lake began in the 1990s.
- Lake Rotoehu, one of the most degraded lakes earlier, is close to reaching its water quality target.

- Lake Ōkāreka's water quality is stable and nutrient targets have been met. All funded interventions have been completed. However, it will take time for these interventions to improve water quality.

Rotorua District Council staff explained that improvements from land use change will take longer to deliver and longer to see the effect but without the land use changes all of the other interventions will be negated. This information is repeated on the programme's dedicated website.

One participant shared a success story with us:

There were some floating islands – floating plants on bottles. These were meant to clean up the lake by soaking up the nutrients. The waka paddled these out and tied them to a buoy. And the ropes broke, so we had to tie them up again. There was a win after a few months – after we pulled the bottles in to take a sample of the plants and send them off for testing. We lifted the bottles out of the water and in between the bottles there were thousands of little creatures, they were koura. The iwi saw this and were happy. The measure of success for them around the health of the lake is the ability to feed guests and sustain themselves from the lake.

The regional council chairperson spoke of an enduring relationship with Te Arawa when the technical targets for the lakes have been reached. In speaking of this, he described how iwi recognise that some of the interventions to improve the lake require chemicals but the partners do not want to rely on that to succeed. The strategy group chairperson explained that some Māori considered that “a foreign substance” was being put into the lake “to clean up another foreign substance”.

The strategy group recognises that it needs a strategy that understands that, although the focus for the lakes might change over 30 years, iwi aspirations might not. Iwi want the lakes to be maintained in a sustainable way and the councils to maintain a relationship with Te Arawa.

The chairperson of the regional council described the Bay of Plenty's partnership model with iwi as a template for other councils. The Mayor of Rotorua District Council thought that the success of the relationship between the three parties was outstanding and an exemplar that should be shared with the rest of the country and internationally. She described the strategy group as a leading collaborative project:

This is a journey that has been going around the table for 12 years. It has a massive history from a community that was disconnected from their lakes to a community that is now very connected from both a Pākehā and Māori perspective. I often sit at national symposiums and wonder why they don't tell the Rotorua story and the lessons learned..

Appendix 5

About Ngā Poutiriao o Mauao

Type of arrangement

Ngā Poutiriao o Mauao is a joint administration board set up under a memorandum of understanding between Tauranga City Council and the Mauao Trust.

Description

Mauao, or Mount Maunganui, is a dormant volcanic cone at the end of a peninsula by the town of Mount Maunganui. It is at the entrance of the Tauranga Harbour. It is considered important and tapu by the local iwi, featuring extensively in local mythology. The summit is 232 metres above sea level.

Mauao is a historic reserve that represents the physical remains of about 800 years of human occupation. It is home to many pā sites, natural springs, nesting birds, native coastal forest, and a flock of sheep that graze on the cleared pasture areas.

Tangaroa, god of the sea, is the three-metre statue on the western side of Mauao. This rock reminds those venturing out to sea that they are entering his domain. There is also a large rock named Te Kuia. This rock personifies a great elderly woman who lived on Mauao. A local custom of boats and kayakers is to offer a koha to Te Kuia, in return for their safety while at sea.

Mauao contains many walking tracks to and around the summit.

Background

Mauao Historic Reserve was vested in fee simple in the Crown, and was subject to the Reserves Act 1977. In July 2004, to help its objective of building healthy relationships with Ngāi Te Rangi, Ngāti Ranginui, Ngāti Pūkenga, and Waitaha, the Crown agreed (in principle) to transfer the fee simple estate in the reserve to the three Tauranga iwi, subject to certain conditions. The transfer was not to be in consideration for the settlement of any Treaty of Waitangi claim against the Crown.

In July 2007, the Mauao Trust was created to represent Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga. The Mauao Historic Reserve Vesting Act 2008 then vested ownership of the reserve in the Mauao Trust. The Act also recognised that Waitaha has ancestral association to the land.

Although the ownership of Mauao was transferred to the tāngata whenua, responsibility for decisions on the control, funding, and management of the

mountain stayed with Tauranga City Council. The Council has administering body status under the Reserves Act 1977.

At a hui in March 2012, the Mauao Trust, supported by the Tauranga Moana Iwi Collective, presented its aspirations to Tauranga City Council for a joint administering body relationship between the Trust and the Council. The Council unanimously supported the proposal and a working party was set up to work through the details about how a relationship could be set up and how it might work. The working party worked for about a year on the details and process. The result was a memorandum of understanding that was agreed to by the Trust in May 2013, and confirmed by the Council in June 2013, to share management responsibility for the reserve.

It is intended that the joint administration board will be given legal effect through Treaty settlement legislation.

Purpose

The purpose of the joint board is to give effect to the purpose of the Mauao Trust to protect and preserve the mauri of Mauao to ensure that the natural, physical, and cultural integrity of Mauao is maintained.

In achieving the purpose, the joint board shall, in managing and administering Mauao:

- act in keeping with the guidance from the Mauao Trust on matters relating to the mauri and tikanga of Mauao;
- act consistently with the principles of the Treaty of Waitangi and its statutory obligations under the Reserves Act;
- co-operate in partnership with a spirit of good faith, integrity, honesty, transparency, and accountability;
- work together using shared knowledge and expertise;
- engage early on matters of known interest to either of the parties;
- enable and support the use of te reo and tikanga Māori;
- acknowledge that the parties' relationship is evolving; and
- have particular regard for the interests of the Tauranga community.

As the chairperson of the joint board explained:

The law says we must protect the mountain while maintaining access to the public. The core value is the protection of the maunga. But more important is protection of the mauri. This encompasses everything about the mountain. For the maunga itself, there's the natural flora and fauna – we want to maintain it and with regard to the flora, increase it by planting native plants – iwi would

say this is like laying the cloak over the mountain by planting more trees, which would also attract more native birds. It's nature and it's natural. It's about how people interact with that environment. But also the mauri – it's the lifestyle.

Appointment and composition of membership

The joint board has eight members. The Mauao Trust (including Waitaha) and Tauranga City Council each appoint four members. The board is chaired by a representative appointed by the Mauao Trust. The deputy chairperson is one of the councillors. “We have a 50:50 shared responsibility”.

Accountability and transparency

The joint board is expected to provide regular reports to the Mauao Trust on the management and administration of Mauao. In practice, the iwi members report to the trust, while the councillors report to the wider Council.

The joint board is also expected to provide an annual monitoring report to the Council at the end of each financial year to identify how any funding has been allocated. The joint board is supposed to use this opportunity to identify potential priorities for funding in the following financial year.

The joint board does not have to make meeting minutes and agendas public. It does not have to be accountable to the public. However, the board is aware that it needs to keep the public informed. At the time of the signing of the memorandum of understanding, the Mauao Trust and the Council released a joint media release.

We didn't want the view of public towards the Mauao trust being about the Māori taking over everything and charging the public.

Achievements

A potential measure of success is the community recognising the historical and cultural value of Mauao for iwi.

Some have spoken about Mauao being the southern beacon for the Pacific. That's always strong in the minds of tāngata whenua. Sometimes, just acknowledging it is just about flagging it for the future.

Another measure of success is the community wanting to protect Mauao.

Impressive that when walking around the mountain people don't seem to litter around the mountain – they're carrying [litter] out with them – this includes overseas visitors.

Appendix 6

About the Maungatautari Ecological Island Trust

Type of arrangement

The Maungatautari Ecological Island Trust is a charitable trust.

Description

Maungatautari is a 3400-hectare forested mountain in Waikato, east of Te Awamutu and south-east of Cambridge and Hamilton. The ecological island surrounds the mountain with a 47-kilometre pest-proof fence. The island includes private land and a scenic reserve of about 2530 hectares. The scenic reserve is owned by the communities of Maungatautari. Te Hapori o Maungatautari is the registered proprietor, although not a legal entity, established to represent the owners and to assist Waipa District Council to carry out its function as the administering body.

Within the 3400 hectares of sanctuary are three enclosures: the Northern Enclosure, the Southern Enclosure (Te Tui a Taane), and the Tautari Wetland. The Northern and Southern Enclosures were developed in 2004 as trial areas to prove that a pest-proof fence could be built and maintained in tall forest. The rest of the island was then fully enclosed.

The 65-hectare Southern Enclosure, Te Tui a Taane, is the largest of the three enclosures and is the centre of activity for the reintroduction of native species and visitors to the mountain.

Background

The scenic reserve on Maungatautari Mountain was originally set aside for “climatic and conservation purposes” in 1927.

The project was the idea of a local farmer, David Wallace, who first put a predator-proof fence around about 17 acres of his own land. He then had the idea of building a fence around the mountain to restore the forest ecosystem and reintroduce to the mountain species that became locally extinct.

Mr Wallace was able to galvanise the community into backing his idea of an ecological sanctuary. He had the support of two local farmers, one of whom was the “test” case for having a section of fence erected on their land. These farmers also helped to consult other landowners and mana whenua.

Support for protecting Maungatautari led to the Maungatautari Ecological Island Trust being set up in 2001. The original trustees included Mr Wallace, the two farmers, a Hamilton kaumātua, the Mayor of Waipa District Council, and the

Waikato Conservator for the Department of Conservation. The board of the Trust was meant to represent the iwi and the community. The trust deed stated that, within three months of the date of the deed, the original trustees had to call for nominations and appointments to the board, which was to consist of 10-16 people.

Mr Wallace was described to us as visionary and inspirational. He was well connected and knew how to tap into the community interests, as well as corporate support. The Trust raised \$14.5 million for the fence project.

However, the project has been described as “fraught from the beginning”. A community with little understanding of some major matters drove the initiative. At first, the Trust had said it would not build the fence unless it had the commercial support to build and maintain the fence. This was based on an expectation that tourism and associated income streams could cover ongoing operational and development costs. However, as the parties have stated, a large and complex project such as this was never going to be self-sustaining financially. The Trust decided that it had to start building the fence to maintain the momentum of and community interest in the project. This meant that it started without securing all the funding, and, more importantly, without securing access rights across private land to maintain the fence.

The owners, by allowing a fence to be built on their land, had agreed to the existence of the fence and the inclusion of their private land in the restoration project, and to the Trust having access to their property to maintain the fence. However, these agreements were not formalised before the fence was built.

Landowners were made aware that they could apply to Waipa District Council for subdivision and development entitlements to recognise their contributions. Three criteria were developed to award these entitlements. These were:

- for allowing the fence to be built on their property (length of fence);
- for offering land to be included into the restoration project (area of land); and
- for providing public access (length of access).

Some of the landowners began to realise the negative aspects of having the sanctuary on their farm, such as the increase in traffic, people driving through their property, and other activity around their farms, including volunteers using poisons. There was also the question of who was liable for volunteers’ actions if an incident happened on private land.

These matters “highlighted the need for a formal type of agreement between the landowners and the Trust”. However, as one landowner pointed out, they could

not guarantee permanent or automatic access. Landowners needed to retain the right to ban people from their property as needed. Any new owners should also have the ability to renegotiate access rights. Initially, the Trust promoted the need to have a covenant over the fence that gave rights of access to maintain the fence. However, the landowners were concerned that including a right of access would mean losing control of the land, which in turn could decrease land values.

Another matter arose about the Trust carrying out commercial activities within the reserve (such as charging entrance fees and for guiding). Some of the owners within the Southern enclosure felt entitled to be paid if their land was being used to take paying customers to the reserve land. The misunderstandings about access rights and differing aspirations for economic opportunities have resulted in various court actions.

Because the access matters were not agreed before the fence was built, Waipa District Council has had to get involved with negotiations with landowners. It has taken a lot more council involvement than was expected. The Council is negotiating landowner covenant and access agreements that can be used to secure the fence on their land and to allow access for fence maintenance. This in turn will enable landowners to apply for subdivision entitlements.

Purpose

The vision for the Trust is “Kaitiakitanga – Protecting our past for the future”. The mission and purpose of the Trust is stated on its website as to “remove forever, or control, introduced mammalian pests and predators from Maungatautari and restore to the forest a healthy diversity of indigenous plants and animals”.

Composition of membership

In 2012, the trust deed was amended to give effect to a co-governance structure. Each of the three parties (mana whenua, landowners, and community members) can have up to five representatives on the board of trustees and the board is co-chaired by a mana whenua representative and a landowner representative.

For the purposes of clarity, the board has a co-governance structure, while the Trust effectively co-manages the scenic reserve with Waipa District Council.

Several people are uncertain what effect the Ngāti Koroki Kahukura Claims Settlement Act 2014 will have on the co-management arrangement. This Act transfers ownership of the Maungatautari Mountain Scenic Reserve to the communities of Maungatautari, represented by Te Hapori o Maungatautari. The

authorised representatives of Te Hāpori o Maungatautari are the Mayor of Waipa District Council and the chairpersons of:

- the Taumatawiwi Trust;
- the Ngāti Hauā Iwi Trust;
- the Raukawa Settlement Trust; and
- Te Arataura.

Waipa District Council remains the administering and management body for the reserve. The Council is working to bring the parties together to clarify their respective roles and responsibilities. The Settlement Act required the Council to review the Reserve Management Plan as required under the Reserves Act 1977. The parties maintained that the plan provides both the Council and the Trust with clear direction in terms of operational policy.

Accountability

The Trust reports to Waipa District Council under its contract for services agreement. It receives funding from the Council and Waikato Regional Council. The Trust reports on the expenditure to the Maungatautari Reserves Committee, which includes representatives of councils, the Department of Conservation, landowners, and iwi.

The regional council is seeking more rigorous reporting from the Trust on its activities, and a clear accountability framework. It is seeking to put into place a new reporting system where the regional council will get a direct report from the Trust.

Regional council staff told us that they are also helping the Trust to prepare a strategic plan to ensure that it remains viable.

The Trust provides:

- newsletters (digital since December 2011);
- biodiversity and pest reports; and
- annual reports (from 2011/12 on the website) that include financial reporting and key results achieved.

Achievements

The Maungatautari project is the largest fenced “mainland island” in New Zealand. The parties described it as an “ambitious community project that has demonstrated community commitment and resolve to protect a very significant and valued asset.” They maintain that it is “an example of a functioning and

successful co-governance structure that has endured criticism and a Treaty settlement process". They also see it as "a very significant contributor to the protection and restoration of [a] natural heritage".

Since the completion of the pest-proof fence in 2006, 14 pest mammals have been eradicated from the sanctuary. A total of 270 kilometres of tracking lines have been laid to create a network of 2700 monitoring tunnels, which are regularly inspected by volunteers to check the status of the eradication programme.

Pests that have been eradicated include hedgehogs, cats, Norway rats, ship rats, stoats, ferrets, weasels, rabbits, hares, possums, deer, pigs, and goats.

A range of species has been successfully reintroduced to the mountain, including Western Waikato kiwi, North Island kaka, takahe, hihi (stitchbird), tieke (saddleback), tuatara, and endangered native fish species such as giant and banded kokopu. Kiwi are likely to become numerous enough to provide stock to other areas.

Because of the eradication of mammalian pests, many native plants are flourishing on the maunga, providing a valuable food source for re-introduced species. One survey found that the number of native beetles in the Southern enclosure had increased by at least 300% in the first two years since the area was enclosed and completely cleared of pests.

In 2009, the Global Restoration Network judged the Maungatautari Ecological Island to be one of Australasia's Top 25 ecological restoration projects. The Sanctuary Mountain website states that it is known as a project of international significance and has received recognition from many leading botanists and researchers.

The Trust has set up a "learning experiences" outside the classroom programme funded by the Ministry of Education at the sanctuary. It has been described as successful.

Glossary

Most of the Māori words used in this report are in common use in New Zealand. We provide this glossary for the benefit of our overseas readers.

Hapū – Kinship group – section of a large kinship group and the primary political unit in traditional Māori society. A number of related hapū usually shared adjacent territories forming a looser tribal federation (iwi).

Hui – Gathering, meeting, assembly, seminar, conference.

Iwi – Extended kinship group, tribe – often refers to a large group of people descended from a common ancestor and associated with a distinct territory.

Kaitiaki – Guardian, steward.

Kaitiakitanga – Guardianship, stewardship.

Karakia – To recite ritual chants, say grace, recite a prayer.

Kaumātua – Elder, elderly man, elderly woman, a person of status.

Koha – Gift, present, offering, donation, contribution.

Koura – Freshwater and salt-water species of crayfish.

Mahinga kai – Garden, cultivation, food-gathering place.

Mana – Prestige, authority, control, power, influence, status.

Mana whenua – Authority over land or territory – also refers to the people who exercise that authority.

Manaakitanga – Hospitality, kindness, generosity, support – showing respect and care for others.

Marae – The open area in front of the whareniui (meeting house) where formal greetings and discussions take place. Often also used to include all the buildings around the marae.

Maunga – Mountain, mount, peak.

Mauri – Life principle, vital essence – the essential quality and vitality of a being or entity. Also used for a physical object, individual, ecosystem, or social group in which this essence is located.

Pākehā – English, foreign, European. Used to describe a New Zealander of European descent.

Rangatiratanga – Chieftainship, right to exercise authority, chiefly autonomy, chiefly authority, ownership, leadership of a social group.

Raupatu – Conquest, confiscation.

Rōpū – Group, party of people, company, organisation.

Rūnanga – Tribal council.

Tangata whenua – Local people, people of the land.

Taonga – Treasure, anything prized.

Tapu – Sacred, prohibited, restricted, set apart, forbidden.

Tikanga – Custom, way, values, and practices.

Waka – Canoe.

Whānau – Family group.