

TE TUMU KAITUNA 14 TRUST

PANUI April 2017



Kia ora Tatou

Consultation Update

A well-attended hui of 157 Owners was held at Tamatekapua on Saturday 4th March 2017. Presentations were made on the development opportunity and the business case to move forward. The outcome of the hui was that due to the level of information presented more time should be allowed for owners to understand the proposals and consult more widely with whanau. It was therefore agreed that the presentations be made available and that a further hui be held in 3 months to discuss the development proposals and the Trust order variations.

Due to the volume of information and the cost of distributing this we have decided to publish the presentations on the Trust's website which is located at www.rotorua.deloitte.co.nz. Please take the time to look at this important information and become familiar with the opportunity we have and the proposed way forward.

The next hui will be held at Tamatekapua, Ohinemutu on Saturday 17th June 2017 at 10am. Because of the wider involvement of adjoining land Trusts we are also extending an invitation to the owners of 7B, 8B1 and 11B2 blocks through their Trustees. Although as this is a meeting of Te Tumu Kaituna 14 owners voting will be reserved for block 14 owners.

In the meantime we are setting out in this panui some comments on the key questions regarding the development opportunity and the Trust order variation that came out of the hui.

A resolution that was passed at the hui was that the Trust implement rotation of Trustees. We are happy to progress this which will require a variation of the Trust Order. Some owners expressed concern at the loss of experienced Trustees and we should therefore implement this over a period of time. We have looked at some rotation models and set out later in this Panui our recommendations on an appropriate rotation model for the Trust.

Finally, as the hui represents a small number of the 3718 owners on the register and the 1385 that we have direct postal contact with it was suggested that we seek views of the wider ownership of the Trust. We have therefore included in this Panui a survey form for owners to indicate their preferences on various matters and provide feedback to the Trustees. This is **not** a voting process but an opportunity for owners that cannot attend a hui to express their views.

As always we welcome your participation in these important matters that will drive the future of the Trust.

Nga mihi

**Malcolm Short ONZM
CHAIRMAN**

The past

In the late 1990's the plan was to joint venture with other parties to develop our lands. A company was formed for this purpose and a lease of the land for 120 years was signed up. This company was Te Tumu Kaituna Lands Limited and provided for 7B, 8B1 and 11B2 blocks to be part of the development by including their lands. Those proposals never proceeded and the company and lease have remained dormant. The company stills exists but has not been used.

Since those days the strategy has changed. As landowners we now want to be the sole developer of our lands and retain the benefits for our owners and our descendants. Our dilemma is that we have no cash to meet the costs of preparing the land for development. There is a considerable amount of work needed in planning and negotiations to get our land to the point where developments can occur. Te Tumu development is a large scale development that requires a lot of costly planning on infrastructure before we can generate financial returns.

We are therefore thinking outside the box on how we can fund our development and retain full control of what happens on our land.

The scale of development and the numbers involved are huge but are not insurmountable with the right approach.

The key to this is forming a team that has the capability, experience and commitment to see it through with full support of our owners.

Converting land to General Land.

Retention of our lands has always been at the forefront of our thinking. We are all aware of the past injustices that saw land lost and we all share the same passion to preserve and protect our lands.

Nevertheless there are times when we need to look pragmatically at what we have and what we need to do to reach our goals. This is one of those times. Access to development funding is essential to participate in the Te Tumu development. The status of our land under Te Ture Whenua Act is an impediment to securing development funding. As general land it will give us greater access to the funding we need. This is a two step process.

Step one is to convert approximately 50 Hectares of land to general land so that the bank has an acceptable security to grant us access to the funding we need. With this funding we can participate in the development of infrastructure (roading, water, power, sewerage) and start commercial developments on the land that we will own. It does not mean that we will be automatically selling this land. The final area will depend on survey plans for infrastructure requirements and best land use in conjunction with the overall Te Tumu planning process.

Step two is the possible subdivision of this land into residential lots that could be leased or sold if that is agreed to. Our priority would be to offer such lots to our owners, many of whom have already expressed a desire to access trust land to build their own homes. We have a number of ways to deal with this and will look at leasing, shared equity, affordable housing options but we can't do any of this unless we get the development underway.

Conversion of land from Maori Freehold land to General land is not new. It has been done before in appropriate circumstances. The mechanism to do this is section 135 and 137 of Te Ture Whenua Maori Act 1993 which provide:

135 Change from Maori land to General land by status order

(1) The Maori Land Court shall have jurisdiction to make, in accordance with [section 136](#) or [section 137](#), a status order declaring that any land shall cease to be Maori customary land or Maori freehold land and shall become General land.

(2) *The court shall not make a status order under subsection (1) unless it is satisfied that the order may be made in accordance with [section 136](#) or [section 137](#).*

(3) *A status order under subsection (1) may be made conditional upon the registration of any instrument, order, or notice effecting a conveyance of the fee simple estate in the land to any person or persons specified in the order.*

137 Power to change status of Maori land

(1) *The Maori Land Court may make a status order under section 135(1) where it is satisfied that—*

(a) the legal estate in fee simple in the land is vested in a Maori incorporation or the trustees of a trust constituted under Part 12; and

(b) the title to the land is registered under the Land Transfer Act 1952 or is capable of being so registered; and

(c) the alienation of the land is clearly desirable for the purpose of a rationalisation of the land base or of any commercial operation of the Maori incorporation in which or the trustees in whom the legal estate in fee simple in the land is vested; and

(d) the rationalisation referred to in paragraph (c) will involve the acquisition of other land by the Maori incorporation in which or the trustees in whom the legal estate in fee simple in the land is vested; and

(e) the quorum and voting requirements imposed by regulations made under this Act in relation to the resolution necessary to authorise the alienation referred to in paragraph (c) are impractical.

(2) *Where the Maori Land Court makes, in accordance with subsection (1), a status order under section 135(1), the status order may be made conditional on the net proceeds of the alienation of the land—*

(a) being applied towards—

(i) the purchase of a specified piece of land; or

(ii) the improvement of any specified piece of land owned or to be purchased by the Maori incorporation or the trustees; or

(iii) both; or

(b) being held in trust for the purposes of the acquisition of other land pursuant to a land acquisition plan approved by the court or for the purposes of the improvement of land pursuant to a land improvement plan approved by the court; or

(c) both.

If the owners support this approach we will prepare the full business case that shows the alienation "is clearly desirable for the purpose of rationalisation of the landbase" for consideration by the Court.

Development Entity

There are a range of issues that need to be covered in our development – legal, taxation, management, liability, continuity, financial, social and cultural. The Trust is an Ahu Whenua Trust under Te Ture Whenua Act 1993 and for various reasons this is not ideal for progressing the development. We would therefore look to a separate entity to hold the development lands. The exact form of that entity will depend on legal and taxation advice which will be obtained in the next steps.

The social benefits to owners would be made through a separate charitable Trust that would be formed once we have made further progress. Proposed distribution policies will be brought back to owners for discussion.

Accessibility to the Land

A number of owners have expressed concern that they are unable to access the lands for traditional purposes of gathering and distributing kai. For health and safety reasons access through the Trust lands is not currently available. However once we can progress our development then access will be available to the ocean, river and wetlands through roads, cycleways and walkways that will be established.

The sooner we progress the development the sooner access will be available for owners to enjoy the wonderful opportunities that will be created and reconnect with their land.

Rotation of Trustees

In 1990 12 Trustees were appointed for life. We are now down to 7 and the reality is that new Trustees will be required to take the Trust forward in the coming decades. It is important that we attract motivated and capable Trustees from within our ownership that will ensure a stable and competent team to drive our developments and grow the trust. We therefore propose the following amendment to our Trust order for rotation of Trustees:

- The number of Trustees will be 7.
- Trustees are appointed for 5 year terms.
- Trustee elections will be held every 2 years.
- The first election will be in 2018.
- Current Trustees will retire on the following basis – 2 at each of the next 3 elections and the 7th at the 3rd election. Retiring Trustees may stand for re-election.
- Trustees will be elected by postal vote by shares.
- Nominees for Trustee positions must have :
 - (a) 7 years experience in Maori Land governance, or administration, or law, commerce or management or
 - (b) an NZQA approved tertiary qualification in Maori land administration or business administration or management.
- Trustees are appointed/removed by the Maori Land Court
- Any vacancies will be filled at the next election date.

This proposal will be discussed at the next hui along with the other Trust order variations and review of Trustee Fees.

The Maori Land Court will need to approve proposals for Trustees rotation and voting and Trust Order variations as well as Trustees Fees.

Survey

We have a number of important decisions to make. Inevitably there will be a cross section of views amongst owners. The best way to get a wide coverage of views is to seek comments from owners directly and this is your opportunity to have a say. Please take the time to complete the survey included with this Panui and let us have your feedback. The questions we have put may not be the only relevant questions so now is the time to tell us your thoughts, for or against these proposals.

The survey is not binding and does not represent a formal vote on any issue.

A separate agenda notice will be issued for the owners hui on 17th June.
Nga mihi

The Trustees
Te Tumu Kaituna 14 Trust