

THE “LG KNOWHOW” SEMINAR
WORKSHOPS:

MĀORI PROVISIONS OF THE LOCAL
GOVERNMENT ACT 2002

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CONTENTS PAGE

1. INTRODUCTION	1
2. BACKGROUND	1
3. ISSUES	2
3.1 Cross cutting themes	2
3.1.1 Talking to the right people	2
3.1.2 Raising the capability of local authority staff	4
3.1.3 Increasing trust in local government	5
3.1.4 Establishing effective relationships	6
3.1.5 Effective communications	6
3.2 Consultation with Māori	6
3.2.1 Capability	6
3.2.2 Costs to local government	7
3.2.3 Costs to Maori	7
3.2.4 Location and process	7
3.3 Participation of Māori in decision making processes	7
3.4 Rates on Māori freehold land	8
3.5 Māori wards and constituencies	8
4. CONCLUSION	8

1. INTRODUCTION

E ngā mana, e ngā reo, e ngā kārangarangatanga maha, tēnā koutou, tēnā tātou katoa.

The *LG KnowHow* workshops were designed to help local authorities and central government agencies to understand and implement the provisions of important legislation affecting local government. In addition to the general provisions of the legislation, there are four areas of particular relevance to Māori:

- Consultation with Māori
- Participation of Māori in decision making
- Postponement of rates on Māori freehold land
- Māori wards and constituencies.

These notes represent an overview of feedback from those who participated in the half-day workshops that focused specifically on Treaty of Waitangi issues and the Māori provisions. This is not formal advice from the Department of Internal Affairs. It is merely a sharing of information from the workshops as a record that can assist in the development of implementation strategies.

A number of cross cutting themes relevant to each of the four areas emerges, with issues specific to each, that local authority staff may wish to consider in developing their implementation plans such as the Long Term Council Community Plan (LTCCP). The seminar sponsors, Local Government New Zealand (LGNZ) and the Department of Internal Affairs (DIA), hope you find these notes useful. The LGNZ website is at <http://www.localgovtnz.co.nz/>

2. BACKGROUND

The Local Government Act 2002, the Local Government (Rating) Act 2002 and the Local Electoral Act 2001 introduced new provisions affecting local and central government in terms of what needs to be done and, to some extent, how.

LGNZ and DIA sponsored a series of *LG KnowHow* seminars held in Palmerston North, Auckland, Rotorua and Christchurch during October and November 2003. The workshops were designed to meet the needs of corporate planners, policy analysts, strategic planners and other local and central government officials

One half-day of each seminar focused on the provisions of the Local Government Act 2002 relating to the obligation on local authorities to ensure Māori have opportunities to take part in decision making processes

Representatives from Māori organisations were invited to participate in these sessions to help understand the provisions themselves and to suggest ways of implementing the new provisions. Delegates had the opportunity of interacting with presenters/each other and asking questions to help formulate 'best practise' exemplars for their workplaces.

3. ISSUES

3.1 Cross cutting themes

Participants acknowledged that current and past relationships between Māori and local authorities varied on a continuum from very good to very poor. Successful implementation of the Māori specific aspects of the Local Government Act 2002 require local authorities to consider a number of essential issues in their business planning processes:

- Who has the mandated voice for whānau, hapū, iwi and Māori?
- Are local authority staff capable of implementing the provisions?
- How would they build trust in local government?
- How could they establish effective relationships with whānau, hapū, iwi and Māori?
- What does effective communications involve?
- What is the role of information systems in facilitating these processes?

3.1.1 Talking to the right people

Māori accessing local authorities

Local authorities and Māori both experience difficulties in deciding who to talk to, in terms of the correct division or at the correct level of an organisation. For example, whether to talk to elected councillors or permanent employees. As a general rule of thumb, elected representatives should talk to elected representatives, CEOs to CEOs, employees to employees and so forth. However, it's more a matter of building relationships and getting to know the different parts of an organisation, what they do and who to contact. A one-stop-shop helpdesk concept might usefully be employed to help direct people to the right places.

Local authorities accessing Māori

Concerns were expressed by local authorities and Māori about the right people to consult. It's partly about knowing which definitions of *whānau*, *hapū*, *iwi* and Māori are relevant in particular situations, and partly about knowing the best people to contact within the organisation.

Although the terms *iwi*, *hapū* and *whānau* are often translated as tribe, sub-tribe and extended family, they are not precise concepts. The main opportunity is in building understanding and a knowledge base about modern Māori societies and about the various groups in any given region.

Today, Māori tend to be represented by a variety of organisations known as *rūnanga*, Māori authorities, tribal authorities and others. These tend to be modern legal constructs such as a Māori land incorporation created by order of the Māori Land Court, or a friendly society created by registration, or a Māori Trust Board created by statute, or a trust (charitable or otherwise). There are also informal groups without any legal status.

Whanau , hapū, iwi and Māori representation issues

An ongoing issue for local authorities was how to identify the appropriate iwi, hapū, whānau and Māori organisation and the right people to talk to on a particular matter. Māori is a broad term defined by the Māori Land Act as including any descendant of the Māori race of New Zealand, of whatever degree. Even when local authorities decide to consult, a huge issue identified by Māori was local authorities talking to the wrong people. It can become unclear as we get into disputed areas and unfamiliar terminology.

Today, concepts such as *tangata whenua*, *manawhenua* or *te ahikāroa* typically refer to the descendants of the inhabitants of a region as at 1840. Other Māori may be referred to as *manuhiri* or ‘visitors’. These include any of the large city-based organisations commonly known as Urban Māori Authorities providing a range of social services predominantly to Māori but also to non-Māori. Then there are groups that affiliate with iwi outside of the region known as *taura here* or ‘the rope that ties’ them back to their tribal homeland, or *matawaka*, a term alluding to a canoe of origin. A third significant group of organisations is based on a particular *kaupapa* (purpose) known as *pan-Māori* groups, often part of a national network such as the Māori Women’s Welfare League.

Controversy arises because more than one organisation or individual may claim to represent the same people. This may occur because of genuine splintering or because of exaggerated claims of having the mandate to represent a particular group - some investigations may be required. However, there may be no ready answers. For example, customs and traditions have changed considerably since the Treaty of Waitangi was signed and massive population migrations have occurred. So on the one hand, tangata whenua claim their manawhenua status is fixed from 1840 for all time. On the other, emerging groups say that Māori society was dynamic and subject to constant change. The latter will claim to have their own *mana* to exercise *tino rangatiratanga*, mandated by the beneficiaries they represent even in the distribution of Treaty-derived resources such as the Fisheries Settlement.

It is important as a matter of courtesy to always acknowledge manawhenua. It is also crucial to acknowledge customary usage of tribal lands. However, it is advisable in principle to be inclusive rather than to exclude anyone claiming to be Māori with an interest in the general business of local authorities. The decision of the Waitangi Tribunal in the *Waipareira* case is a clear lesson of the potentially costly risks involved in excluding such groups from consultation. Any decision must then take into account the different interests of different communities. It’s not so much whether it is right or wrong but that a reasonable effort was made to gather information and a reasonable process was followed to arrive at a balanced decision.

The key issue is who has the mandate or authority to speak. Having identified a group, there will sometimes be different people claiming to hold the mandate or legitimate exercising of authority on behalf of the group. The first principle is to talk to anyone claiming authority. The second is to make an effort to investigate by finding out who they claim to represent and the mandate process that was followed. Or simply see how many people each can gather together in one place and talk to them.

Māori land ownership issues

Having identified the various groups, a set of principles are required to help determine the right people in a particular situation. It depends on the circumstances. An important circumstance is where land is concerned, or closely related natural resources such as forests and waterways. If a proposal or decision affects a defined piece of Māori land, then the main principle to follow is to consult with the legal owners. If land is under the jurisdiction of the Māori Land Court or has a registered title, then a list of the current owners and sometimes addresses can be obtained. In many cases, legal representatives such as trustees or agents have been or may be appointed to act on behalf of the owners.

If customary land is involved, then there won't be a definitive list of owners but the Māori Land Court is probably the best source of information about the underlying beneficial ownership. The same principle would apply in the case of land which has been 'alienated' including anything from a mutually agreed sale to a compulsory confiscation. It will often necessitate a proper search of historical land records.

3.1.2 Raising the capability of local authority staff

Local authorities should assess the strengths and shortcomings of their organisational capacity and their staff capability to engage with Māori. Training/recruitment strategies and programmes may be developed from these. Obtaining feedback or a formal evaluation form from staff who successfully complete training will provide a record of the quality of training providers. It is then a matter of monitoring uptake/completions etc and eventually reassessing the impact on the overall improvement of the organisation.

Māori knowledge of local authorities

Māori identified a lack of knowledge about the roles and responsibilities of local authorities, their structures, processes and the range and limits of their powers, as a barrier to developing good relationships. Māori, as with other community groups, would benefit by knowing what local authorities do and how they do it, particularly if they had a clear idea of the goals and outcomes as well as the benefits and risks of participating or not participating in the process. They might also need to be aware of the mandatory legal obligations on local authorities, the breadth of their discretion and the practical limits on what can be achieved. Better marketing is required to keep stakeholders informed. Local authorities need to listen, Māori need to ask questions and information needs to be made available inform decision making.

Local authority knowledge of Māori historical and contemporary issues

Some local authority staff had very little knowledge of historical and contemporary issues or were seen as indifferent. It is critical that historical perspectives and contemporary issues be discussed directly with the local Māori who were/are affected. In some cases it is sufficient to acknowledge the past and move on. Historical events are not all negative. Simply knowing the local stories can provide better insights, a better 'connection' with the land and the people and a demonstration of goodwill. Opportunities exist for local authorities to raise awareness and help promote the stories for example through community based programmes or delivery of the school curriculum.

Knowledge of te reo me ōna tikanga and the Treaty of Waitangi

A lack of knowledge about *te reo* (the Māori language), basic *tikanga* (customs, traditions, protocol) and the Treaty of Waitangi was identified as a barrier to establishing strong relationship and engaging in effective consultation. The lack of knowledge and skills is best addressed by training. This is dependent on the availability, costs and quality of training providers. In terms of resourcing, a deliberate decision needs to be made as to the level of commitment to addressing the barriers. Investment into research may be warranted. It may mean making inquiries in the community, or in tertiary institutions such the local Polytechnic, to locate available tutors or using existing programme providers. Local authorities should be aware of opportunities to attend seminars and participate in debates that mould opinions and impact upon strategic decision-making.

Systems and resourcing solutions

Databases can be useful in terms of providing guidelines on how to consult or information such as a glossary of simple greetings for use by staff. The provision of information, guidelines, support and resources (such as a glossary of common Māori terms and concepts, a Māori dictionary or a help desk) may be useful. It was suggested that better use be made of LISTSERV and other web-based information systems, and that LGNZ and DIA should lead such a project.

An alternative would be to hire people who are capable of providing cultural support and leadership, or to deliver training, or to develop training modules. Larger organisations may be able to create a position specifically for this purpose. Smaller organisations should identify shortcomings in terms of knowledge and skills and reflect them in job descriptions, job profiles and the like to emphasise that appropriate skills are recognised as being highly desirable.

Other examples of smart resourcing include investing in training and professional development so that staff and elected councillors have a better understanding of the dynamics of the Māori world and the basics about their language and customs. Investing in the development of information systems with comprehensive, accurate and easily accessible information about local Māori organisations with contact details is also likely to result in good returns.

3.1.3 Increasing trust in local government

A general lack of trust in central and local government was identified as a major barrier to consultation with Māori. If Māori do not trust government for whatever reason, it is unlikely that any meaningful relationship can develop. Mistrust will normally originate from previous dealings. This may range from unfair land dealings to a basic disregard of the things Māori hold as important. Insensitivity or indifference for example to cultural beliefs like the concept of *wāhi tapu* make Māori unwilling to co-operate and share knowledge. It may have to do with perceived genuineness, for example, of ‘consulting’ on a course of action that already seems to have been decided. It is often about perceptions, misconceptions and misunderstandings. A more difficult barrier exists where there is little or no buy-in of the provisions in the new legislation. Perceptions of what is genuine consultation impact upon the level of ‘trust’ Māori have in local government.

3.1.4 Establishing effective relationships

An example of smart resourcing is to invest in the development of amicable ongoing relationships with Māori organisations. This is better than engaging with Māori only about specific issues, if and when they arise, or only during the consultation phases of the various planning processes. Establishing genuine relationships is likely to reduce conflicts in the long run and make consultation more efficient, both of which help to lower costs. To protect the continuity of the relationship, local authorities should develop succession planning strategies. Some Māori groups reported that a good relationship may have existed with a particular local government key person, but this was lost when the person moved on. Two suggestions were made to address the issue of relationship continuity. One is having at least two people involved in any relationship. The other is to ensure the whole organisation is briefed, or to develop a formal Memorandum of Understanding (MOU) so that the relationship continues when key people move on.

Treaty-based relationships

Some people have difficulty in moving forward without looking back and at least acknowledging their view of past events. If Māori claim there were historical grievances, they would expect local authorities to at least be aware of the nature of the claims and understand the impact these may have had. Government should appreciate and acknowledge the depth of feeling of those claiming to be adversely affected. If there are claims before the Waitangi Tribunal affecting local Māori claimants, become familiar with the issues. If there are settled claims, read the reports. Good relationships make it possible to negotiate compromises, such as providing travel assistance in return for staff training sessions run by Māori experts at little or no cost.

3.1.5 Effective communications

Māori have identified the “language of government” as a communications barrier. Communications tend to use acronyms and jargon with little meaning for anyone outside of government. Government agencies and local authorities need to be clear when referring to concepts or projects that their audience is not necessarily familiar with. Remember too that formal, lengthy or academically rigorous papers do not make easy reading for the majority of the population. Target your audience ensuring that simple phrases are used without losing the message. Avoid jargon and use acronyms sparingly, always setting out the full name when first used in a paper. Formal papers may need to be re-written as a plain language summary to replace/complement the paper. Consider the use of Māori language in communications. This includes simple greetings, proverbs, headings or entire passages in Māori. Consider using different media for getting messages to Māori by finding out what is more effective for them.

3.2 Consultation with Māori

3.2.1 Capability

The recruitment, retention and development of skilled staff was seldom easy but it ought to be addressed. Some local authorities had limited capacity and capability in terms of the availability of staff with appropriate knowledge and skills to consult

effectively with Māori. Training and professional development can be a high resource undertaking so it should be planned for.

3.2.2 Costs to local government

Local authorities identified limited resources as a key barrier to consultation with Māori. For example the lack of time and funds required for local authority staff to engage directly with Māori. Indirect and associated costs such as advertising, the development and provision of information and the use of consultants were significant. The reality is there is seldom enough time or money and we need to prioritise. It is important to make a carefully considered decision about resourcing. A key task of management is to make the most out of available resources. Whatever resources are available, a conscious decision can be made as to the amount to be allocated to implementing the Māori provisions of the legislation. Making a decision about the amount of resources to be expended within a specified time-frame will help overcome the concern of endlessly consulting, also identified as an issue by some local authorities.

3.2.3 Costs to Maori

Limited resourcing was also identified as a barrier to consultation for Māori organisations, where travel costs for example might be a factor. Local authority decisions about resources include decisions about whether to help Māori participate in the consultation process. Resourcing decisions are an indication to Māori and central government of the relative value local authorities place on consultation

3.2.4 Location and process

The nature and location of the venue will influence how effective the consultation process is likely to be with Maori. A one-size-fits-all process may be a barrier for those who have different preferences when it comes to consultation. For example, local authorities may advertise in the local newspaper and convene a public meeting at a community hall. Opportunities for improvement include holding meetings at marae, or conducting meetings according to ‘tikanga Māori’ eg. ‘kanohi ki te kanohi’ or face to face - many local authorities already do this.

3.3 Participation of Māori in decision making processes

Current structures, procedures and processes are not necessarily conducive to participation by Māori in the democratic process. An example of effective structures and procedures are those that include Māori in the decision-making process or engage Māori in an advisory capacity. A Māori standing committee has served this purpose well in some regions. It’s as much about power-sharing as it is about information-sharing, both of which are prerequisites to genuine partnership. Ask Māori how they prefer to be consulted and always ask who else ought to be consulted. Use Māori networks to disseminate information. Demonstrate integrity by consulting during the earlier phases of policy development such as the problem definition phase, rather than when it’s too late to suggest changes.

In the same way as central government is advocating a “Whole of Government approach” toward more holistic solutions, a “Whole of community approach” was advocated at the local and regional levels. Simplicity (the “KISS” principle) was seen as a virtue. The development, publication and dissemination of guidelines and

examples of best practice, including lessons learnt from the past, was advocated for use in other regions. This was seen as a task for Local Government New Zealand and the Department of Internal Affairs. It relies however on local authorities putting together and submitting real case studies for consideration and learning from the experiences of others.

3.4 Rates on Māori freehold land

The new legislation requires local authorities to adopt a policy on the remission and postponement of rates on Māori freehold land. For example, this requires consideration of the desirability and importance within the district of recognising wāhi tapu, avoiding further alienation of land, using land for economic development, and the relationship of Māori culture and traditions with their ancestral lands. Local authorities must use special consultative procedures in developing a policy on the remission and postponement of rates on Māori freehold land. In such case, the barriers and opportunities set out above will be highly relevant for local authorities considering the issues involved in implementing these provisions.

3.5 Māori wards and constituencies

Under s.19Z of the Local Electoral Act 2001, any territorial authority may resolve that the district be divided into 1 or more Maori wards for electoral purposes and any regional council may resolve that the region be divided into one or more Maori constituencies for electoral purposes. The Act outlines the process a council or community needs to go through when choosing to adopt Māori seats. A council resolution and public notification. Māori need to place themselves strategically and keep up with the play. This may occur through representation on council boards, influencing standing committees through liaison officers and coordination during local body elections so that for example Māori candidates aren't standing against each other and splitting the Māori vote

4. CONCLUSION

The Government has signalled through the Local Government Act 2002 that the social, cultural and economic development of Māori is of particular importance. It stresses the need to consult with Māori and the *LG KnowHow* Seminars tended to focus on this aspect. Workshops were quick to identify the lack of knowledge and lack of resources to implement the new provisions of the Act. Given that many of the provisions are mandatory, the real question is not whether but how to build knowledge, and how to resource what needs to be done.

The foregoing is a collection of ideas. It is neither possible nor necessarily desirable for any local authority to follow every suggestion. In the end, local authorities need to make the hard decisions and develop implementation plans. There are some major challenges such as figuring out who to talk to, but the ideas collated and set out above comprise a menu of practical suggestions from which local authorities can draw assistance to suit their particular circumstances.

There was a broad commitment to sharing information and developing efficient information systems. Even more important than improving knowledge and efficient resourcing is the matter of building trust. The strong message that came through was the overwhelming need to develop and maintain genuine lasting relationships. Part of

the process of building bridges is simply to sit down and listen to the stories Māori have to tell of their history from their point view. And Māori should listen to local authorities and appreciate the enormous tasks required of them.

<p>Hutia te rito o te harakeke Kei whea te kōmako e ko? Whakatairangitia rere ki uta rere ki tai Ui mai ki āu he aha te mea nui o tēnei ao Māku e ki atu, he tangata, he tangata, he tangata</p>	<p>Pull out the heart of the flax bush And where would the bell-bird sing? It would fly around aimlessly Ask what is most important in this world And I would respond, it is people, it is people, it is people</p>
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People need to feel empowered to achieve a good quality of life and the environment must be able to sustain the ongoing development of communities. Recognising Māori language and culture will go a long way to improving the ability of local authorities to consult and engage with Māori but, to be effective, engagement must be genuine. This is not just about ticking off boxes and complying with minimum legal requirements. It's about mind-sets and attitudes willing to and capable of looking beyond mere compliance standards to help build safe, strong communities. *Mā tou rourou mā tōku rourou ka ora ai te iwi.* (Your food basket together with my food basket will help sustain the people.) It's about working together to maximise sustainable outcomes for all communities.