

AGENDA

RĀRANGI TAKE

**Kaipara Moana Remediation
Joint Committee
Monday 22 February 2021 at 09:30am**

Kaipara Moana Remediation Joint Committee Agenda

Meeting to be held in the NRC Council Chambers and via Zoom
on Monday 22 February 2021, commencing at 09:30am

Recommendations contained in the agenda are NOT decisions of the meeting. Please refer to minutes for resolutions.

NGĀ MANA WHAKAHAERE (MEMBERSHIP OF THE KAIPARA MOANA REMEDIATION JOINT COMMITTEE)

NRC Chair Penny Smart	NRC Councillor Joce Yeoman	NRC Councillor Amy Macdonald
Auckland Council Daniel Newman	Auckland Council Greg Sayers	Local Board Chair Phelan Pirrie
Te Uri o Hau Malcolm Welsh	Te Uri o Hau Willie Wright	Te Rūnanga o Ngāti Whātua Virginia Warriner
Te Rūnanga o Ngāti Whātua Tame Te Rangī	Ngā Maunga Whakahī o Kaipara, Cherie Povey	Ngā Maunga Whakahī o Kaipara, Jane Sherard

KARAKIA / WHAKATAU

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TITLE: Confirmation of Minutes - Kaipara Moana Remediation
Joint Committee meeting 04 December 2020

ID: A1411342

From: Leah Porter, PA/Administrator Environmental Services

**Authorised by
Group Manager:** Jonathan Gibbard, Group Manager - Environmental Services, on 12 February
2021

Recommendation

That the minutes of the Kaipara Moana Remediation Joint Committee meeting held on 04
December 2021 be confirmed as a true and correct record.

Attachments/Ngā tapirihanga

Attachment 1: Kaipara Moana Remediation Joint Committee meeting minutes 04 December 2021 [↓](#)



Kaipara Moana Remediation Joint Committee
4 December 2020

Ngā Takinga Kōrero

Kaipara Moana Remediation Joint Committee Minutes

Meeting held in the Wellsford Community Centre
on Friday 4 December 2020, commencing at 9:30am

Ngā Pou Tātaki (Members):

NRC Chair Penny Smart
NRC Councillor Joce Yeoman
NRC Councillor Amy Macdonald
Auckland Council Greg Sayers
Local Board Chair Phelan Pirrie
Te Uri o Hau Malcolm Welsh
Te Uri o Hau Willie Wright
Te Rūnanga o Ngāti Whātua Virginia Warriner
Te Rūnanga o Ngāti Whātua Tame Te Rangi
Ngā Maunga Whakahī o Kaipara, Cherie Povey
Ngā Maunga Whakahī o Kaipara, Jane Sherard

I Tae Mai (In Attendance):

Full Meeting
Malcolm Nicolson
Jonathan Gibbard
Penny Pirrit
Alan Wilcox
John Hutton
Leah Porter
Brenda Steele
Pani O'Keefe
Tim Rudsdale
Vicky Slater
Jonathan Rishworth
Wikitoria Wright
Leane Makey
Sesha Parkinson
Tuata Cruikshank
Jane McAlpine
Tyrone Ruamati
John Marsden

The Chair declared the meeting open at 9:36am

Karakia Timatanga and Whakatau

Kaipara Moana Remediation Joint Committee
4 December 2020

Ngā whakapahā/Apologies (Item 1.0)

Moved (Wright / Sayers)

That the apologies from Auckland Council representative Daniel Newman for non-attendance be received.

Carried

Secretarial Note: Members Allowance Policy Update supplementary report was tabled as replacement for agenda item 5.2

Nga whakapuakanga (Declarations of Conflicts of Interest)

It was advised that members should make declarations item-by-item as the meeting progressed.

Confirmation of Minutes - 16 November 2020 (Item 4.1)

ID: A1389979

Report from Leah Porter, PA/Administrator Environmental Services

Moved (Yeoman/Smart)

That the minutes of the Kaipara Moana Remediation Joint Committee meeting held on 16 November 2020 be confirmed as a true and correct record.

Carried

Kaipara Moana Remediation Joint Committee 2021 Meeting Schedule and Work Programme (Item 5.1)

ID: A1389829

Report from Penny Pirrit, Northland Regional Council Management Representative

Moved (Smart/Wright)

1. That the report 'Kaipara Moana Remediation Joint Committee 2021 Meeting Schedule and Work Programme' by Penny Pirrit, Northland Regional Council Management Representative and dated 25 November 2020, be received.
2. That the Joint Committee confirm the formal meeting and workshop dates for the first seven months of 2021 set out in *Table 1: Schedule of Formal Meetings and Workshops - First Seven Months 2021* of this report.
3. That the forward work programme for the Joint Committee set out in *Table 2: 2021 Joint Committee's First Quarter Forward Work Programme* of this report be approved and reviewed again in April 2021.
4. That the Joint Committee notes the frequency of meetings will be reviewed in April 2021 as per the Joint Committee's resolution of the 9th October 2020.

Moved (Macdonald/Sherard)

That recommendation 2 be amended to be:

2. That the Joint Committee confirm the formal meeting and workshop dates for the first seven months of 2021 set out in *Table 1: Schedule of Formal Meetings and Workshops -*

ID: A1392662

2

Kaipara Moana Remediation Joint Committee
4 December 2020

First Seven Months 2021 of this report, with the inclusion of 21st January 2021 and the amendment of the wording “workshop component” changed to “engagement session”.

Carried

Members Allowance Policy Update (Item 5.2)

ID: A1392009

Report from Penny Pirrit, Northland Regional Council Management Representative

Moved (Smart/Welsh)

1. That the report ‘Members Allowance Policy Update’ by Penny Pirrit, Northland Regional Council Management Representative and dated 2 December 2020, be received.
2. That the Kaipara Moana Remediation Joint Committee Members Allowance Policy attached to the report of 4 December 2020 be adopted
3. That the Kaipara Moana Remediation Joint Committee Members Allowance Policy be reviewed in April 2021

Objection (Povey)

Carried

Secretarial Note: After discussion, recommendation 3 was added, this was in the original report but not included in the agenda.

Secretarial Note: Request from Malcolm Walsh to minute the following:

“Kaipara Uri reps have considered the recommendations of the independent adviser on remuneration and acknowledge they will address some of the time and material costs of the representatives in the interim. However we think the criteria used for evaluation is more suited to policy and regulatory bodies at a central government level and does not assess considerable operational, financial and reputational risk and time that service on this Joint committee with this set of functions entails. As such we request that further consideration be given in March/April to more appropriate criteria and comparisons with more relevant organisations. Once this has been assessed we can collectively determine what that might mean for retrospective as well as ongoing remuneration of Uri representatives.”

Karakia Mutunga

Whakamutunga (Conclusion)

The meeting concluded at 11:11am.

TITLE: **Kaipara Moana Remediation Programme Operations Delivery Vehicle- Interim Report**

ID: A1408131

From: Penny Pirrit, Northland Regional Council Management Representative

Authorised by Group Manager: Jonathan Gibbard, Group Manager - Environmental Services, on 12 February 2021

He Rāpopoto hautū / Executive summary

One of the key functions of the Joint Committee is to make recommendations to the Member Parties on the best approach for establishing and running an operations vehicle to deliver the outcomes of the Kaipara Moana Remediation programme.

The Joint Committee has received briefing information on three main options for the structure of the operations vehicle and has provided informal guidance that it wishes the option of a business unit within one of the councils to be progressed further.

This report outlines some matters that should be considered in developing the business unit option with the aim of reporting back in detail on those matters at the March meeting.

To help inform the detailed work and to ensure that the establishment of the operations vehicle can occur as quickly as possible, this report recommends that the Joint Committee endorses in principle that the preferred operations vehicle for the Kaipara Moana Remediation Programme is a business unit with the Northland Regional Council being the 'home' council for it, and that the recruitment processes for the manager of the business unit be commenced. It also recommends that the Joint Committee delegates to a sub-committee the role of working with the Northland Regional Council Chief Executive on a number of matters, and that a senior officers oversight group be set up to provide management and operations guidance during the establishment phase.

Ngā tūtohu / Recommendation(s)

1. That the report 'Kaipara Moana Remediation Programme Operations Delivery Vehicle- Interim Report' by Penny Pirrit, Northland Regional Council Management Representative and dated 2 February 2021, be received.
2. That the Joint Committee endorses in principle the option of the operations vehicle being a business unit within the Northland Regional Council.
3. That the Joint Committee agrees that the recruitment process for the manager of the operations business unit should commence.
4. That the Joint Committee establish a subcommittee consisting of the following two Kaipara Uri and two Council members and delegate to the subcommittee to work with the Chief Executive of Northland Regional Council to develop and approve the job description and interview process for the business unit manager, and to recommend to the Joint Committee a draft Statement of Service Requirements and a Chief Executive Responsibilities Agreement.
 - Kaipara Uri Member _____;
 - Kaipara Uri Member _____;
 - Council Member _____;
 - Council Member _____;

5. That the Joint Committee approves the establishment of a Senior Officer Oversight Group, made up of senior officers from the Member Parties, to provide guidance to the Chief Executive of the Northland Regional Council on the following management and operational matters of the establishment process:
 - a) the structure of the business unit.
 - b) recruitment processes for the business unit's core dedicated staff.
 - c) secondment and contractor processes.
 - d) shared service arrangements, including physical location of business unit.
 - e) the costs for establishing and running the business unit.
 - f) operational processes (e.g. procurement and insurances).
6. That a detailed report on the work of the sub-committee and the Senior Officers Oversight Group, and any other establishment matters, be provided for the March meeting of this Committee.

Horopaki / Context

The Kaipara Moana Remediation Programme Memorandum of Understanding indicates that one of the functions of the Kaipara Moana Remediation Joint Committee (the Joint Committee) is to:

“formulate the purpose, functions and structure of a vehicle or other arrangement to undertake operational activities required for the Kaipara Moana Remediation Programme and recommend to Member Parties any decisions or actions required to establish it”.

The Joint Committee's Terms of Reference (attached to the MOU) also indicates one of its purposes is:

“formulating and recommending to councils and Kaipara Uri the preferred Kaipara Moana Remediation operations vehicle to undertake operational works as directed by an approved long-term annual remediation budget and work-plan.”

At the 16th November and 4th December 2020 workshops the Joint Committee received high level briefing papers on potential operations vehicle options.

Potential Options for the Operations Vehicle

The three main options, previously discussed with the Joint Committee at workshops, are:

- A standalone Business Unit within either Auckland Council or Northland Regional Council - A Business Unit, solely dedicated to delivering the work plans of the Joint Committee, could be established within one or other of the councils. A service agreement would be drafted that articulates the relationship of the business unit to the Joint Committee and parent council organisation. As a business unit is within a council, the Chief Executive of that council would have overall management oversight of the business unit, including staff employment processes. Similarly, the Chief Executive of either option below would be responsible for management oversight.
- A Company –A company is a separate legal entity formed and owned by its shareholders and governed by a board of directors. Companies are incorporated and registered on the Companies Office Register. In most cases all liabilities incurred by the company remain with the company and cannot be levied against the shareholders and directors. A company could be formed for which Kaipara Uri entities have 50% of the shareholding and councils collectively have 50% of the shareholding. Because the company would be

50% owned by councils, under the Local Government Act 2002, the company would be considered a Council Controlled Organisation (CCO) and be subject to some of the same legislative obligations as a council. The Local Government Act 2002 would require councils to undertake public consultation to establish a CCO. The company's constitution would set out its purpose to provide operational services for the KMR programme.

- A Trust –A trust is a legally binding arrangement that appoints trustees and requires them to hold assets on trust for the benefit of persons or purposes named in the trust deed. It is important to note however, unlike a company, a trust is not a separate legal entity itself. The trust only operates and exists through its trustees. As such, and to simplify operational ownership and transactions, often a “corporate trustee” (ie: a separate company established for the sole purpose of being the trustee) is appointed as the trustee of a trust. This corporate trustee then has its own board etc. A trust could be established by way of a trust deed and the appointed trustees could then operate separate from councils and Kaipara Uri. The trustees would operate under the Trusts Act 2019, which comes into force from 30 January 2021. As with the Company option above, because councils collectively would have a 50% interest in the trust it would be considered a CCO under the Local Government Act 2002.

Further detail on these options and their pros and cons is set out in Attachment 1 to this report. The information in the attachment has been provided to the Joint Committee at workshops on this matter in late 2020.

As the workshops, at which the Joint Committee received information on the three options, were not formal committee meetings, no resolutions were passed on the preferred option. However, informal feedback from the Joint Committee indicated:

- the option it is most comfortable with is the business unit option as:
 - it does not create another layer of governance
 - there is an opportunity for sharing certain council support services that would be more cost efficient for KMR
 - the business unit can be run as a lean entity with opportunities for secondments and contracting
 - It is still possible to create own KMR identity and culture
- employment has to focus on Kaipara Uri at all levels
- the business unit is seen as a stepping-stone to something different once the statutory Kaipara Moana Body is in place, so needs to be able to evolve at a future date.

Considering the above comments, the Interim Management Team has focussed on developing in more detail what a business unit might look like, how it might operate and the process for setting one up.

The Interim Management Team, plus senior staff from Northland Regional Council and Auckland Council, met in late December and in January to discuss the business unit option. Those discussions concluded:

- The Kaipara Moana Remediation Programme's Memorandum of Understanding and the Deed of Funding are the two foundation documents which identify the objectives, outcomes, principles and outputs of the business unit.
- The business unit (BU) should initially be a small, core group of people who are dedicated full time to the Programme with additional resourcing provided through

secondments and contractors. There should be development opportunities for Kaipara Uri and council staff.

- Consideration needs to be given on how the BU would in the future transition to governance under the statutory Kaipara Moana Body.
- The BU requires its own identity/branding and should have a Te Reo Māori name and titles of staff should be in Te Reo Māori.
- It will be important that the partnership between councils and Kaipara Uri is reflected by a bi-cultural lens applied to staff and processes. The BU should operate in a manner that acknowledges Kaipara Uri tikanga.
- The manager role is a leadership role which will require great relationship skills, ability to operate in Te Ao Māori and local government environments, and become the trusted advisor to the Joint Committee.
- The Joint Committee should, together with the home council CE, determine the recruitment process for the BU manager including approving the job description and identification of the interview process.
- The BU should leverage off the existing strengths and skills of the councils and Kaipara Uri entities.
- As much as possible the core team should be physically located together or have 2-3 days of the week where physical proximity is expected.
- If possible, the BU should be housed in an existing council building to avoid an expensive lease (though it is recognised that a rent payment for office space would still be expected or seen as an in-kind contribution from the home council towards the programme).
- Back office services should be initially provided by shared service agreements with the home council (either a fee charged or in-kind contribution). As the programme ramps up this may need to be reconsidered.
- The home council should not be financially disadvantaged by hosting the BU – all costs such as access to shared services, premises, vehicles, etc., should be tracked, with the home council choosing to either charge the Programme or account for the costs as part of its in-kind contribution.

The discussions also identified the following work required to establish the BU as quickly as possible.

- Formal documentation of the Joint Committee's requirements and expectations on the service that the BU will provide to the Joint Committee and the Programme should be set out in a Statement of Service Requirements (including key performance measures, projects delivery, financial reporting requirements, expected culture/behaviours, delegations etc.).
- Formal agreement between the home CE and the Joint Committee on the role of the CE in the management oversight of the business unit so that the CE can fulfil obligations under the Local Government Act (CE's Responsibilities Agreement).
- Agreement on the BU structure and its core functions.
- Identification of cost of establishing and running the BU, including the cost of recruitment/secondments, shared services (IT, Finance, HR), and the lease of office space/equipment/vehicles. Determination of how those cost will be paid, i.e., whether as an in-kind contribution from a council or a charge to the Programme. (Note there is no budget in Year One to cover these costs).

- Providing appropriate resources to enable individual Joint Committee members to brief their Member Party to keep them informed and ready for the final decision process.
- Recruitment of core staff – with a focus on recruiting the manager role first so that person can be involved in discussion on the above matters. Includes job descriptions, salary bands, interview processes.
- Finalising Shared service agreements with council providers.
- Finalising BU operational policies and processes, e.g., policy on secondments, procurement, health and safety, insurance.

Role of the Joint Committee in the establishment process for the Business Unit

The Memorandum of Understanding is clear that one of the Joint Committee's roles is to recommend to the Member Parties the most appropriate entity format for the operations vehicle, with the Member Parties making the final decision on that format. What is not clear is the role the Joint Committee (as governors) should take in addressing the matters identified above.

Usually when a council sets up a new business unit the process and decisions are largely management ones, with the council's governors (i.e., councillors) only being involved if there was a need to seek additional budget, or if the function of the proposed business unit was potentially controversial or subjects to considerable public scrutiny.

With the establishment of the Kaipara Moana Remediation Programme's operation vehicle, it is proposed that an approach is taken that reflects the unique partnership that is at the heart of the Programme and the requirements of the MOU.

This proposed approach would involve the Joint Committee members working with the Interim Management Team and the home council CE on a number of key matters, including input into the drafting of the Statement of Service Requirements, the CE's Responsibilities Agreement, and the job description and identification of a recruitment process for the manager of the BU.

Other decisions on matters such as the structure of the BU, recruitment and secondment processes of staff other than the manager roles, and shared services arrangements, is a management function and would benefit from the establishment of a Senior Officer Oversight Group, drawn from senior staff from across the Member Parties. This proposal is discussed in more detail later in the report.

A final report in March would detail the work undertaken and provide the Joint Committee with the key information it requires in order to get final approval from the Member Parties, including:

- The Statement of Service Requirements.
- The CE's Responsibilities Agreement.
- Identification of the cost of establishing and running the BU and the availability of the budget for those costs.

Interim Direction Required

In order to provide that detailed report in March direction is required by the Joint Committee on four key matters;

- a) The preferred option for the operations delivery vehicle.
- b) The 'home' council for the BU.
- c) The commencement of the recruitment process for the BU manager's role and delegation to a subcommittee of the Joint Committee to work on that process.

- d) Progressing all other matters required to establish the BU through a group of senior officers from the Member Parties.

The preferred option – a business unit within a council

An in-principle indication that the preferred option is a business unit within either Auckland Council or Northland Council is required, as this is the cornerstone for developing a statement of service requirements, the structure of the BU, shared service arrangements, and operational policies and costs.

It is recognised the Joint Committee and Member Parties will want some of this detail before making a final decision. However, it is a chicken and an egg situation, where without some formal direction on a preferred option, significant time and resources could be expended on unnecessary matters (i.e., the process steps required to establish a company or trust).

It is therefore recommended the Joint Committee endorse, in principle, that the Kaipara Moana Remediation Programme's operations vehicle is a business unit within one of the participating councils.

The 'home' council for the Business Unit

The second matter for which an in-principle decision is sought, is which council the BU will sit within. A decision on this will enable:

- the 'home' CE to be involved in discussions on several of the matters raised above, which should ensure the establishment of the BU will go as smoothly as possible.
- conversations regarding shared services, office space, etc., can commence. Such information is vital to understanding the cost of establishing and running the BU.

Previously the option of the Northland Regional Council being the 'home' council has been raised with the Joint Committee. There are two key reasons to support this:

- Geographical proximity – approximately 75% of the Kaipara Moana catchment is within Northland
- Relative ease of drawing on existing NRC back-office services and generally lower overhead costs.

Senior managers from Auckland Council and Northland Regional Council's CE have discussed this issue and have confirmed their view is the BU is best housed within the Northland Regional Council. Northland Regional Council's CE has also canvassed his politicians to gauge their reaction to such a proposal and the feedback was positive.

It is therefore recommended that the Joint Committee endorse, in principle, the Northland Regional Council as the 'home' council for the BU.

Commencing the Recruitment Process for the Business Unit's Manager

Getting the manager of the BU on board as soon as possible is important as ideally that person should be actively involved in addressing some of the matters identified, such the structure of the unit and recruitment of core people. The design of the business unit will benefit from the skills the manager brings and will build manager ownership of any decision and outcomes.

Before the manager role can be advertised the following steps need to occur:

- e) Drafting and approval of a job description

- f) Sizing of the role for salary range identification
- g) Agreement of the interview process – who is on the interview panel and how many interview stages
- h) Advertising the role
- i) Interviewing candidates
- j) Make offer to preferred candidate.

Completing these actions will take some time (2-3 months). It is recommended the first three steps in the process be delegated to a four member sub-committee of the Joint Committee and the 'home' council CE. That group would then recommend to the Joint Committee the best approach for the last three steps in the process. The group would also work on the content of the Statement of Service Requirements and CE's Responsibilities Agreement.

This report recommends that not only does the Joint Committee agree to the commencement of the recruitment process, but that it delegates to a subcommittee the power to:

- develop the job description for the BU manager and determine an interview process
- draft the Statement of Service Requirements
- draft the Chief Executive's Responsibilities Agreement.

With this being reported back to the Joint Committee at its March meeting.

Progressing all other matters required to establish the BU through a group of senior officers from the Member Parties.

The work to progress the other establishment matters identified in this report will require senior management oversight. The Programme's partnership arrangements suggest a good approach would be to invite the Member Parties to nominate a small number of senior officer to form a Senior Officer Oversight Group. This Group would provide guidance and decision making on operational matters such as:

- a) the structure of the business unit.
- b) recruitment processes for the business unit's core dedicated staff.
- c) secondment and contractor processes.
- d) shared service arrangements, including physical location of business unit.
- e) the costs for establishing and running the business unit.
- f) operational processes (e.g. procurement and insurances).

Having such a Group would enable these operational matters to be progressed and potential issues identified and resolved in a timely manner to inform the final report to the Joint Committee in March. It is therefore recommended that a Senior Officer Oversight Group is established with representatives from the Member Parties to provide guidance on the establishment matters relating to management and operational activities.

Considerations

1. Aromātai whāinga haumi mō te oranga / Wellbeing Investment objectives and assessment

The establishment of an operations vehicle for the Kaipara Moana Remediation Programme is a key step towards achieving the investment objectives of the Memorandum of Understanding. The operations vehicle will provide a focus and driving force for working in an integrated manner with

iwi, hāpu, marae, landowners and local communities to achieve both the vision and the objectives of the Programme.

2. Ngā ritenga take pūtea / Financial implications

The establishment and ongoing operation of a BU will require funding. Work is underway on determining these costs and will be reported to the Joint Committee in March 2021. The operating costs will include matters such as cost of recruitment/secondments; shared services; rent of equipment/offices/vehicles etc.

A key principle in determining these costs is to ensure that the host council is not financially disadvantaged as a result of hosting the BU. Costs incurred from providing office space and shared services such as IT and Financial support will need to be determined and then the home council will have to decide on whether it requires a payment for the costs from the Programme or if it will count the costs as part of its in-kind contribution to the Programme.

Currently there is no budget in the Year 1 work plan for establishing the operations vehicle other than funding for Administrator, the Māori Research and Engagement officer and the project co-ordinator.

If the Joint Committee wants to commence setting up the BU before the end of this financial year in June, then a review of the Year One budget will need to occur to determine whether any of the planned projects have/are going to be underspent; and whether the underspend can be transferred to the establishment process. This would not provide all the budget required for establishment but would likely enable the recruitment process for the BU manager to occur (i.e advertising, salary for this financial year).

An alternative approach is not to incur any establishment cost until Year 2, and to ensure that funds are identified in the Year 2 budget which the Joint Committee will be discussing over March and April. This latter approach may extend the time it takes to establish the BU and recruit the manager and other core staff beyond July.

The report in March will provide more detail on the costs and on the two options identified above.

This interim report is recommending that work commence on the recruitment process for the BU manager. Prior to the March meeting work will focus on developing the Job Description and the Interview process which will not incur external costs rather the time of Joint Committee members and the Interim Management Team which can be covered by existing budgets.

3. Ngā tūraru me ngā mauru / Risks and mitigation

The key risk of asking the Joint Committee to endorse in principle that the preferred operations vehicle for this stage of the Kaipara Moana Remediation Programme is a business unit hosted by the Northland Regional Council; and that work can commence on the recruitment process for the BU manager, is that until the Member Parties themselves resolve to adopt that option (late March/early April) there is no certainty of outcome. To avoid that risk an information pack will be provided to the Joint Committee that can be shared with each Member Party during March so that any concerns/issues which may lead to a negative response can be identified and where possible resolved as soon as possible. This risk is further mitigated through the establishment of the Senior Officer Oversight Group which should provide early insight into Member Party perspectives and enable these to be proactively addressed.

4. Ngāhiranga me ngāhononga/Significance and engagement

In relation to section 79 of the Local Government Act 2002, the decisions (i.e. endorsing in principle that the operations business unit sits within Northland Regional Council, and to commence the recruitment process for the business unit manager) arising from this report are considered to be of low significance when assessed against Northland Regional Council's significance and engagement policy. This does not mean that these matters are not of significance to tangata whenua and/or

individual communities, but that the Joint Committee is able to make these decisions without undertaking further consultation or engagement.

Ngā whāinga mō āmuri / Next steps If the Joint Committee adopts the recommendations in this report the Interim Management Team will work with the Joint Committee subcommittee, Senior Officer Oversight Group and Northland Regional Council CE to progress the matters outlined in the report with the intention of reporting back on the detail at the March Joint Committee meeting for a formal recommendation to Member Parties on the delivery vehicle for KMR.

Attachments/Ngā tapirihanga

Attachment 1: Kaipara Moana Remediation Programme Operations Vehicle Options [↓](#) 

Attachment A: Kaipara Moana Remediation Programme Operations Vehicle Options

Option 1: Business Unit within a council

A Business Unit, solely dedicated to delivering the work plans of the Joint Committee, could be established within one or other of the councils.

A service agreement could be drafted that articulates the relationship of the business unit to the Joint Committee and parent council organisation. As a business unit is within a council, the Chief Executive of that council would have overall management oversight of the business unit, including staff employment processes.

However, a service agreement between the Joint Committee and the council could be detailed, setting out expectations of outcomes, principles of partnership, performance indicators, principles around staff employment, and the capabilities and skills required. The service agreement could also outline a process where the Joint Committee and Chief Executive interview and appoint the General Manager of the Business Unit.

Within the parameters of the service agreement, the General Manager of the Business Unit could employ staff.

Advantages

- Lower overhead cost than setting up an independent legal entity, e.g., company or trust
- Can be actioned quickly
- No separate legal and compliance costs
- Joint Committee could be involved in appointment of business unit manager
- Ease of access to shared council services through a service agreement (these would be charged back to the KMR programme or count towards council's in-kind contribution to the programme, but would not need to be established afresh)
- Can employ staff and make secondment arrangements with councils easily
- Can be branded separately

Disadvantages

- May not be seen as sufficiently independent (potentially mitigated by separate branding and processes)
- Requires formal agreement between Joint Committee and council on matters such as recruitment, service levels from shared services
- Agreement also likely required to develop separate processes and policies
- Will still need to sit within the overall compliance and audit regime of the parent organisation.

While not necessarily an advantage or disadvantage, a business unit within council would still be subject to Local Government Act and other relevant legislative requirements for local authorities.

Option 2: Company (as a 'Council Controlled Organisation')

A company is a separate legal entity formed and owned by its shareholders and governed and managed by its directors. Companies are incorporated and registered on the Companies Office Register. In most cases all liabilities incurred by the company remain with the company and cannot be levied against the shareholders and directors.

A company could be formed for which Kaipara Uri entities have 50% of the shareholding and councils collectively have 50% of the shareholding. The company's constitution would set out its purpose to provide operational services for the KMR programme.

The company would operate under the Companies Act 1993, the company's constitution and a shareholder's agreement, which together provide for registration; rules for directors and officers; shareholders; disclosure requirements; restructuring and insolvency rules, and other matters.

Because councils would be involved, a company would also operate under the Local Government Act 2002. This would require the company to be either a 'Council Controlled Organisation' (CCO) or a Council Organisation (CO). The distinction depends on decision-making arrangements. If council(s) have 50% or more of decision-making responsibilities, the company will be a CCO. If decision-making is less than 50% it will be a CO. There are certain exceptions to this rule, such as electricity companies or port authorities.

It is likely the partnership approach of the Joint Committee, with equal decision-making between councils and Kaipara Uri, would be preferred, and thus incorporating a company reflecting this 'equal-decision making' (ie: equal shareholding) would mean it becomes a CCO. The language used in the Local Government Act – 'council controlled' – is not helpful when councils have committed to working in partnership with Kaipara Uri through the Kaipara Moana Remediation MOU.

Under the Local Government Act, the principle underpinning a CCO company is that the shareholders set strategic outcomes (and the envelope of funding) and a monitoring framework through a Statement of Intent, while the CCO's board has operational control over how to achieve those outcomes.

For a council to establish a CCO company a special consultative process must be undertaken with the community (most likely through an annual plan or long-term plan process).

To support the partnership approach of the Kaipara Moana Remediation MOU, Auckland Council and the Northland Regional Council could delegate to the Joint Committee the appointment of the CCO board and oversight of the CCO, and its Statement of Intent process. With such delegations in place, the Joint Committee would set direction to the CCO board through the Statement of Intent, which includes performance indicators on financial outputs, and the like.

As councils' policies prohibit elected members from being on CCO boards, the Joint Committee would need to remain as it is, and the CCO board could not include the elected members. The staff of the CCO company would report to its executive and board.

Advantages

As a company, is more suited to entering into contractual relationships with third parties

Easier to brand as separate from councils with their regulatory functions

Ability for shareholders to agree and set a constitution (although this is relative – a business unit may be more flexible)

Can draw on councils' services, systems process and policies (but likely higher overhead costs)

The Joint Committee, through delegation, could appoint company Board and determine Statement of Intent

Could be established with charitable status

Councils have policies they expect CCO companies to comply with – however, it would be a matter of policy whether a new CCO company had to comply with them.

Disadvantages

- Additional layer of governance – operational staff would report to the CCO Board, who in turn report to the Joint Committee, which may lead to overlap or confusion between the CCO company and the Joint Committee
- Substantial setup costs (Long Term Plan consultation, develop constitution, statement of intent, shareholders agreement, appoint establishment board) and ongoing monitoring costs
- Likely higher overhead costs, although able to draw on council services, systems and policies
- Significant time to establish, including public consultation
- AC and NRC policy does not allow elected members to be on CCO Boards
- CCOs which are companies pay tax, while local authorities do not (this could be mitigated if the company is given charitable status).

It should be noted that a company could also be established as a 'Council Organisation' (CO), if councils agreed to appoint less than half of the board of directors. This would provide lighter reporting and monitoring obligations, but other benefits are unclear. The deed of funding with the Crown has reporting obligations that will need to be met irrespective of legal form of a remediation vehicle.

Option 3: Trust (as a 'Council Controlled Organisation')

A trust is a legally binding arrangement that appoints trustees and requires them to hold assets on trust for the benefit of persons or purposes named in the trust deed. It is important to note however, unlike a company, a trust is not separate legal entity itself. The trust only operates and exists through its trustees. As such, and to simplify operational ownership and transactions, often a "corporate trustee" (ie: a separate company established for the sole purpose of being the trustee) is appointed as the trustee of a trust. This corporate trustee then has its own board etc.

A trust could be established by way of a trust deed and the appointed trustees could then operate separate from councils and Kaipara Uri. The trustees would operate under the Trusts Act 2019, which comes into force from 30 January 2021.

As with the company option described above, because councils would be involved in the trust, it would fall under the Local Government Act 2002. This means a trust (and its trustee if a company) would be either a 'Council Controlled Organisation' (CCO) or a Council Organisation (CO), the distinction depending on decision-making arrangements.

Most likely the partnership approach of equal decision-making between councils and Kaipara Uri would be preferred – establishing a trust reflecting this 'equal-decision making' (i.e., the ability to appoint equal trustees or members on a corporate trustee board), hence a trust would become a CCO. As above, the language used in the Local Government Act 2002 is unhelpful in expressing a partnership-based approach.

A trust would require a trust deed to be agreed between councils and Kaipara Uri, with an agreed appointments process for trustees. Councils could delegate to the Joint Committee to agree a trust deed.

As the trust is not a legal entity in of itself the trustees are required to hold all assets and enter into all arrangements in their own name. This can be challenging if there are numerous individuals appointed as trustees. Therefore, in order to simplify transactional and business-like arrangements (i.e., contracting for services), a corporate trustee (i.e., a separate company established for the sole purpose of being the trustee) would also likely need to be established.

Unlike interests in a company (i.e. shares), which can easily be transferred between parties and is relatively easy for the shareholders to agree changes to a company constitution, for a trust the trustees are obliged to achieve the purpose of the trust and act for the benefit of the beneficiaries or purpose for which the trust was established.

To support the partnership approach of the Kaipara Moana Remediation MOU, Auckland Council and the Northland Regional Council could delegate to the Joint Committee the drafting of a trust deed and appointment of trustees (but councils would likely wish to approve its establishment, as would Kaipara Uri entities).

Councils' policies prohibit elected members from being on Council Organisations or CCOs, and a trust would therefore need to have trustees other than elected members. Staff employed by the trust would be responsible to its trustees.

Advantages

- Easier to brand as a partnership, and separate from councils and their regulatory functions
- Can draw on councils' services, systems process and policies (but likely higher overhead costs)
- The Joint Committee, through delegation, could draft a deed of trust and appoint trustees (if agreed to by councils and Kaipara Uri entities)
- Councils have policies they expect CCOs to comply with – however, it would be a matter of policy whether a new CCO had to comply with them
- Could be established with charitable status.

Disadvantages

- Additional layer of governance – operational staff would report to the trustees, who report to the Joint Committee
- Setup costs (develop trust deed, appoint trustees or a corporate trustee) and ongoing monitoring costs
- Likely higher overhead costs, although able to draw on council services, systems and policies
- Significant time to establish, including public consultation if a CCO
- AC and NRC policy does not allow elected members to be trustees on a CCO and CO
- CCOs which are trusts pay tax, while local authorities do not (as with companies, this could be mitigated by charitable status)
- Transfer of governance from Joint Committee to future statutory Kaipara Moana Body likely to be complex.

As for a company, a trust could also be established as a 'Council Organisation' (CO), if councils agreed to appoint less than half the trustees. This would provide lighter reporting and monitoring obligations, but other benefits are unclear.

The above trust arrangements could be slightly simplified if the trust were set up for charitable purposes. The trustees can apply for the trust to be classified as a Charitable Trust under the

Charitable Trust Act and as such, the trust can be a separate legal entity and the trustees a board. This does come with an additional layer of accounting, audit and reporting requirements.

TITLE: Progress Report on Year 1 Work Programme
ID: A1411303
From: John Hutton, Auckland Council Management Representative
Authorised by Jonathan Gibbard, Group Manager - Environmental Services, on 12 February
Group Manager: 2021

He Rāpopoto hautū / Executive summary

This report provides an update on the progress of projects under the Kaipara Moana Remediation Year 1 Work Programme, as agreed by the Kaipara Moana Remediation Joint Committee (KMR Joint Committee) on 16 November 2020.

The Year 1 Work Programme comprises projects to meet the programme's investment objectives, plus budget for administrative and governance functions.

Good progress has been made on many of the Year 1 projects, in particular key strategies for engagement and communications, nurseries and workforce, and in projects providing grant funding to landowners in north Kaipara and progressing grant funding through arrangements with a third party in south Kaipara.

Some delays to project start dates have taken place due mainly to limitations on staff resource and the challenge of commencing all projects at largely the same time. External factors have also been relevant, particularly where a project involves engagement with third parties.

The KMR Joint Committee will begin considering a Year 2 Work Programme in March, with the aim of providing the Ministry for the Environment a draft work programme at the end of April, and final approval by the Joint Committee made in June 2020. A number of the Year 1 projects will run also under the anticipated Year 2 Work Programme. In the development of a Year 2 Work Programme, budgets and project objectives for these multi-year projects can be reassessed and adjusted as necessary.

An update on the procedures the KMR Joint Committee follow for marae-based meetings is also provided, including a proposed change to give the hau kainga opportunity to present to the KMR Joint Committee immediately after morning tea, which has been assessed as more suitable than waiting until after lunch-time. An associated Tākoha/Koha Policy is also provided for KMR Joint Committee consideration and, subject to any amendments, adoption.

Ngā tūtohu / Recommendation(s)

1. That the report 'Progress Report on Year 1 Work Programme' by John Hutton, Auckland Council Management Representative and dated 11 February 2021, be received.
 2. That the Tākoha / Koha Policy in Attachment 1 to the main report be adopted.
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Horopaki / Context

This report provides an update on the progress of projects under the Kaipara Moana Remediation Year 1 Work Programme since the 16 November 2020, when the work programme was agreed by the Kaipara Moana Remediation Joint Committee (KMR Joint Committee).

The Year 1 Work Programme comprises projects to meet the programme's investment objectives, plus budget for administrative and governance functions. It assumes the first 18 months of the Kaipara Moana Remediation programme needs to achieve both early wins for environmental

remediation on the ground, with associated job creation outcomes, while establishing systems and processes to ensure the successful delivery of the programme over a 10 year period.

Tātari me ngā tūtohu / Analysis and advice

Overall, good progress has been made on many of the Year 1 Work Programme projects, approved by the KMR Joint Committee on 16 November 2020.

Strategy-focussed projects on engagement and communications, nurseries, and workforce are well progressed and will be reported back to the KMR Joint Committee in March and April 2021. These strategies have been prioritised as they will help inform discussion on the Year 2 Work Programme which will take place over the same period.

Good progress has been made to provide grant funding to landowners in the north Kaipara, and to progress grant funding through arrangements with a third party in the south Kaipara.

Good progress has also been made on some of the Maturanga Māori / Science focussed projects (i.e., Te Paiaka – Native Root Project), and work is underway on the Digital tools – design, preparation and procurement project, with regular reporting to the KMR Joint Committee being planned.

Work has also been undertaken on projects where insufficient detail was available on 16 November and therefore budgets were approved by the KMR Joint Committee on a provisional basis, with further KMR Joint Committee decision making required before those projects can proceed. Two of these – the Fonterra Tiaki Partnership and progressing a Kaipara-wide landowner grants programme – will be reported to the KMR Joint Committee in March 2021 and decisions sought.

Some delays to project start dates have nevertheless taken place. This is mainly due to limitations on project staff resource and the challenge of commencing all projects at largely the same time. In some instances external factors have been relevant, particularly where a project involves engagement with third parties.

One risk during these early months of the KMR programme has been uncertainty on the finalisation of the deed of funding negotiations with the Crown. Through the period since the signing of the Kaipara Moana Remediation Memorandum of Understanding on 9 October 2020, the KMR programme has been supported principally through council cash and in-kind contributions. With the deed of funding now signed and, as of writing, receipt of Crown grant funding being imminent, this risk has passed. Crown grant funding will allow some of the higher budgeted projects to proceed with confidence.

Brief summarise are provided below on progress for each of the Year 1 Work Programme projects. Project descriptions for each can be found in the Agenda for the KMR Joint Committee's 16 November meeting (or for the early-start projects, in the Agenda for the 30 October meeting). Further project details were also provided to the KMR Joint Committee, under a separate report, post 16 November KMR Joint Committee meeting.

An update is provided below on how the KMR Joint Committee orders matters at marae-based meetings, and a Tākoha / Koha Policy for the KMR Joint Committee is provided for comment and, subject to any amendments, adoption. (see below under 'Governance, Management and Administration').

A financial update on the KMR Programme spend to the end of January 2021 will be provided to the KMR Joint Committee at its meeting on 22 February.

REMIEDIATION IMPLEMENTATION PROJECTS

NRC North Kaipara Grants Funding

All contracts to participating landowners (42 properties) have been mailed out and the KMR project team are presently receiving signed contracts back. Funding support of \$327,665 has been allocated through these contracts on a 50-50 funding basis, meaning \$655,330 of remediation works will be undertaken on these properties in the 2021 calendar year. The project team will be following up with landowners periodically to confirm they understand their contract, to checking on progress, and to answer any queries that may arise.

It is anticipated this project will be limited to the 2021 calendar year, with a Kaipara Moana catchment-wide grants scheme being developed that includes provision for south Kaipara landowners (see below under 'Implementation of Engagement and Communications Strategy' project summary, and noting that the workshop discussion scheduled for 22 February about a potential Kaipara Moana wide grants programme).

Fonterra Tiaki Partnership

Engagement since November 2020 between the KMR project team and Fonterra has been constructive, with broad agreement reached on key elements of a proposed partnership approach to deliver Farm Environment Plans and remediation outcomes on Fonterra supplier farms over an 18 month period (to June 2022). A report will be provided to the KMR Joint Committee for the 22 March meeting seeking decisions confirming proposed project arrangements. The report will include terms and conditions for funding and criteria for remediation works implementation. Contractual arrangements with Fonterra can be finalised soon afterwards to allow work to commence.

Decision making on this project will overlap and help inform Year 2 Work Programme planning by the KMR Joint Committee in March and April. Fonterra is aware of the vision of the KMR programme and the importance of engaging with Kaipara Uri entities and Māori landowners, with a need to foster social and economic outcomes in the Kaipara catchment.

Waiotū Catchment Care Group

Engagement is progressing with Waiotū catchment landowners via a steering group including mana whenua and industry representatives, to design an implementation plan for Year 1 of the anticipated 4 year project. Matters to resolve include a funding application process for landowners and employment of a project manager. Fonterra have indicated they are keen to front-fund dairy farms involved in the project and provide administrative support for implementation of remediation works. (Equivalent support for drystock landowners will be required in the first phase, and may have to be managed by NRC-based KMR project staff in the interim, but this is yet to be determined). Meetings with landowners to discuss the programme are anticipated in March.

Engagement is being undertaken with the local Akerama Marae nursery to discuss opportunities for the nursery to support the tree production needs of the project.

Waterway Wetland Remediation – Forest Bridge Trust

Contractual arrangements between the KMR programme and the Forest Bridge Trust for the 2021 calendar year have been concluded and landowner engagement in the project area is underway. An initial funding instalment of \$120,000 has been paid to the Trust (out of a budget of \$620,000, noting this is the first year of an anticipated four-year project). The Trust have employed a fencing coordinator and project coordinator, who are being trained up and familiarised with the project vision and project area, and who will progress the implementation of remediation works. The Trust has engaged with Ngā Maunga Whakahii o Kaipara and Ngāti Manuhiri (who have interests in the Hoteo catchment) to provide updates on the project and discuss how to support each other.

While remediation work of up to \$1 million has been budgeted for (with the KMR contributing 50% co-funding), the first year is also designed as a pilot to identify roadblocks in landowner engagement and difficulties accessing materials and resources for fencing and alternate water supply. It should

also highlight if there are other barriers for landowners to meet anticipated contributions. Regular reports will be provided by the Trust on these matters allowing budgets to be reassessed if required.

KMR Grants Programme

The KMR Joint Committee provided provisional approval of \$1 million to implement 'Catchment Group Project Support'. Further KMR Joint Committee approval is required prior to this programme proceeding. A separate memorandum, outlining a potential KMR grants programme to support landowner, mana whenua and catchment group uptake of remediation works, will be provided for discussion at the workshop component of the KMR Joint Committee's 22 February meeting. Subject to KMR Joint Committee feedback, a decision-making report on the grants programme can be considered by the KMR Joint Committee at its business meeting scheduled for 22 March.

CAPABILITY & WORKFORCE PROJECTS

Kaipara Tree Nurseries – Stage 1 – Nursery Strategy

A team of three contractors has been formed to undertake this project, supported by KMR project staff. Twenty-one nurseries have been identified that service the Kaipara catchment, ranging from large commercial operations to non-profit marae-based / community nurseries. The project team has written to the nurseries, introducing the KMR programme and providing a questionnaire for nursery managers, covering topics such as current capacity, workforce capability, and future aspirations for Kaipara Moana and their business. In-person interviews with most of the nurseries have been scheduled and are underway. Engagement has also taken place with Te Roroa and Te Uri o Hau; Ngā Maunga Whakahii o Kaipara have been approached and interviews set up to progress further discussions. Information from the questionnaires and interviews will be collated and analysed, and a completed strategy document with recommendations, and drawing on assumptions about KMR planting needs, will be produced in late March 2021.

Note this project is closely associated with the Workforce Strategy project, which together will help clarify business opportunities to grow the on-the-ground support the KMR programme requires, including opportunities for marae and hapū, and Kaipara Uri entities.

Workforce Strategy

A project team has been formed comprising six (part time) contractors and KMR project staff. Engagement is underway with agricultural sector agencies, Kaipara Uri entities, hapū and marae, and key government departments including MSD. The KMR Joint Committee will be briefed on preliminary findings of the strategy in March, with the strategy document finalised in April. This work is closely associated with the Nursery Strategy, and the Advisor Training and Accreditation projects, and will help inform KMR Year 2 Work Programme planning in March and April.

Advisor Training and Accreditation

Discussions have commenced with Northtec on developing training and accreditation for farm environment advisors. Discussion is also underway with MPI Sustainable Land Use staff on support and alignment from MPI. Further work in February and March is required to extend engagement with other tertiary institutions and agricultural sector organisations to identify human resources, education, training and development supply options. Progress on the closely related 'Workforce Strategy' project will help inform consideration of training programme requirements.

It is anticipated a report will be provided to the KMR Joint Committee in April seeking decisions to further progress this project, including through FY2021-22 as part of the Year 2 Work Programme.

Nursery Partnerships – plant propagation and supply

This project will implement recommendations made in the Kaipara Nursery Strategy. As noted, work on that strategy is well underway and, when complete, a report will be provided to the KMR Joint

Committee outlining findings and seeking decisions to progress this project. It is anticipated the KMR Joint Committee will consider this in April, with likely alignment to planning and decision-making on the KMR Year 2 Work Programme.

Soil Conservation Nursery – Stage 1 – Strategy and Scoping

Limited progress has been made on this project and the project team is looking at ways to speed up delivery. Discussion has been undertaken with Ag First consultants for historic views on soil conservation with poplars and poplar nurseries. Discussion has also begun on the provision of data on the extent of poplars in the Kaipara Moana catchment, with the aim of mapping by using machine learning from obliques. The strategy will look at all forms of soil conservation, including afforestation in native, afforestation in exotics, the potential of companion planting natives with poplars, and other approaches of soil conservation.

ENGAGEMENT & COMMUNICATIONS PROJECTS

Engagement & Communications Strategy

Contracts have been entered into with engagement and communication consultants and work is under way, including the KMR Joint Committee workshop of 21 January. The draft engagement component of the strategy will be discussed at a workshop following the 22 February committee meeting, and feedback received will be used to refine it. Work on the communications component can commence after that workshop. The engagement component of the project will be completed by late March, with draft communications guidance and material to be developed concurrently in March and April. The consultant working on the engagement component has sought advice from the Kaipara Uri members of the Joint Committee on how the KMR programme might best engage with marae, hāpu and iwi. Conversations with agricultural sector and other stakeholders are also underway.

Implementation of Engagement and Communications Strategy

The KMR Year 1 Work Programme, approved by the KMR Joint Committee on 16 November 2020, approved a budget for E&C Strategy implementation of \$500,000. This project will implement recommendations made in the Engagement and Communications Strategy once approved by the KMR Joint Committee. It is likely much of this work will be undertaken under KMR's Year 2 Work Programme.

MATAURANGA / SCIENCE & MONITORING PROJECTS

Te Paiaka – Native Root Project

Contracts have been entered into for field-based data collection and for expert assistance for analysis and reporting. Data collection is now well underway and continuing regularly, with data analysis beginning soon. Timeframes for project completion by June 2021 are on track, with the ability to provide early advice on preferred species to help inform the Nursery Strategy. Regular communication on the project with the IKHMG, and with Ngā Maunga Whakahii o Kaipara and Te Uri o Hau has occurred, provided for input on plant species and approach, and findings will be reported back to the KMR Joint Committee.

Mātauranga Māori Strategy

A project team has been formed that draws on a range of experience and skills, including a senior advisor from Manaaki Whenua / Landcare Research and the IKHMG's Mātauranga Māori specialist. A project steering group of Kaipara Uri representatives has been formed to help guide the project. Although discussions have been undertaken on scope and focus, the project proper has been slow to

start due to time pressures, including advancing work on the Nursery Strategy and Workforce Strategy. It is anticipated work on the project will speed up from March.

South Kaipara Streams Project - Stage 1

Contract arrangements are being finalised with contractors to undertake this first stage, a desktop exercise, with work commencing soon. This is behind schedule by around two and a half months, but completion by mid-2021 can be achieved with progress reports available before then. It is anticipated the KMR Joint Committee will consider proposals for stages 2 and 3 of the project as part Year 2 Work Programme. If approved, stage 2 (fieldwork assessments) can be undertaken through summer 2021-22 (fieldwork is seasonally dependant and cannot be undertaken earlier).

Eroding Land Features – Mapping, Delineation and Prioritisation

Contract for initial phase of survey and oblique photography has been approved and work is underway. Methodology for terrain roughness discussed and finetuned and procurement discussed with contractors. Contracts yet to be finalised for second phase to build data sets with heat-map capability to identify and prioritise highly erodible land. Clarity on timeframes for project completion will be achieved when contracts are finalised with GIS specialists in March.

Wetland Features Wetland Features – Mapping, Delineation and Prioritisation

Contract for initial phase of wetland survey and oblique photography (same as for Eroding Land Features above) has been approved and work is underway. Methodology for collecting and categorising wetland features in the Kaipara Moana catchment is a test case of a new, locally developed methodology, the details of which will be worked on through the second phase. Delivery of built data sets with heat-map and feature interactivity is anticipated in the third quarter of 2021. As for the Eroding Land Features project, clarity on project timeframes will be achieved when contracts are finalised with GIS specialists in March.

DIGITAL SYSTEMS & TOOLS PROJECTS

Digital tools – design, preparation and procurement

Senior specialist to lead this project has been contracted and work is underway with support from KMR project staff. The first stage of the project is an assessment of KMR farm planning digital tool needs against national conversation for an Integrated National Farm Data Platform, with a paper to be provided to the KMR Joint Committee in March outlining a pragmatic process for procuring digital services. This work will help inform consideration of projects for the KMR Year 2 Work Programme by the Joint Committee, with regular reporting to and appropriate decision-making steps by the Joint Committee to June 2021.

FEP Accounting Framework Fresh Water Management Tool

Delay to project commencement as project team heavily loaded for completion of existing projects and programme needs. Discussions are presently underway with contractors to advance project, although there will likely be a shift of timeframes for project completion from June 2021 to later in 2021. The KMR Joint Committee will be updated on progress in March.

GOVERNANCE, MANAGEMENT AND ADMINISTRATION

Budget for governance, management, accounting, audit and other administration costs was approved as part of the Year 1 Work Programme. This budget is presently assessed as sufficient to support the KMR Programme. However, pressure on it may arise by the end of FY2020-21 – if that transpires, a decision will be sought for a budget variation.

Joint Committee Meetings and Workshops – Tākoha/Koha Policy

Since 9 October 2020, when the Memorandum of Understanding was signed, the KMR Joint Committee has held four formal meetings: 9 October, 30 October, 15 November and 4 December 2020), and four informal workshops (30 October, 15 November, 4 December 2020 and 21 January 2021). Three of the formal meetings were held on marae.

At each marae-based meeting a session was held for the hau kainga to talk with the Joint Committee on any matters the hau kainga considers will inform or are important to the remediation programme. This session allows the hau kainga to ask questions about the remediation programme and showcase any remediation work the marae or associated groups may be undertaking. The session usually starts with the Joint Committee providing some context about its work in a high-level presentation.

Initially, marae-based meetings of the Joint Committee had the informal workshop occurring straight after the powhiri and morning tea, with the hau kainga session after lunch. This meant any of the hau kainga who wished to talk with the Joint Committee had to wait until early afternoon – which was not always practical when people have other commitments.

In 2021 we wish to trail a change to the order of the day, with the hau kainga session following morning tea, after which the Joint Committee can begin its formal meeting. If there are any matters requiring an informal discussion by the Joint Committee at a workshop, this can occur after the formal meeting, if the agenda allows. For significant matters such as the Year 2 Work Plan, there will be separate, confidential workshops held in a central non-marae venue.

To provide information to the hau kainga about attendee numbers, meeting set up and payment processes, an information sheet has been developed and approved by the Chair of the Joint Committee. This will be sent out to the marae contact well in advance of when the meeting is to occur.

We have also developed a Tākoha/Koha Policy (Attachment 1) to guide staff on the protocols and process for giving tākoha/koha at marae.

The proposed policy has been based on the Northland Regional Council's koha policy, and amended to reflect the Kaipara Moana Remediation Programme.

Two key differences are that a letter is handed to the hau kainga indicating that the tākoha/koha will be paid directly into a bank account (rather than providing cash in an envelope); and the value of the tākoha/koha, which has been set at \$400 to reflect the number of visitors usually attending each marae-based meeting.

As the policy incurs expenditure on behalf of the joint committee it needs to be formally adopted by the joint committee. A recommendation for this is included in this report.

Considerations

1. Aromātai whāinga haumi mō te oranga / Wellbeing Investment objectives and assessment

Projects within the Year 1 Budget and Work Programme have been assessed as meeting the wellbeing investment objectives of the remediation programme. Budget for governance, management and administrative support is required to run the remediation programme to meet these objectives.

2. Ngā ritenga take pūtea / Financial implications

A financial update on the KMR Programme spend to the end of January 2021 will be provided to the KMR Joint Committee at its meeting on 22 February.

3. Ngā tūraru me ngā mauru / Significance, risk and mitigation

Risks and mitigations for the projects have been identified and mitigations built into the project plans. Ongoing risk identification and management will be required.

4. Significance and Engagement

In relation to section 79 of the Local Government Act 2002, the decisions arising from this report are considered to be of low significance when assessed against Northland Regional Council's significance and engagement policy. This does not mean that this matter is not of significance to tangata whenua and/or individual communities, but that the joint committee is able to make these decisions without undertaking further consultation or engagement.¹

5. Ngā whāinga mō āmuri / Next steps

The KMR Joint Committee will receive further updates on progress of the Year 1 Work Programme at meetings throughout 2020-21 financial year. Decision-making reports to confirm budget and work plans for some projects (i.e., Fonterra Tiaki Partnership), will be provided to the KMR Joint Committee in March. Workshops and later decision-making on the Year 2 Work Programme are scheduled to take place in March and April.

Attachments/Ngā tapirihanga

Attachment 1: Koha Policy [↓](#) 

¹ This joint committee operating under the Local Government Act which requires a significance and engagement policy (which identifies when matters require special consultation with tangata whenua and the community) and to have regard to that policy when making decisions. As the administrative support for the joint committee is provided by the Northland Regional Council, it's that councils Significant and Engagement Policy that will apply to joint committee decision making.

Tākoha / Koha Policy

In terms of the Kaipara Moana Remediation Joint Committee [KMR JC] it is imperative that the Kaipara Uri [KU] sets the context. There is an absolute agreement of aligning this Tākoha/Koha Policy with compliance issues incumbent upon us all as the KMR JC. The following comments are thus set within the KU context.

Preamble – Tikanga (Lore)

The application of tākoha / koha is a practice of reciprocity in bestowing a gift and is a significant underlying tikanga principle in the context of Kaipara Uri; it recognises and honours the manaaki that the haukāinga have bestowed on manuhiri (visitors) and contributes to the provision of the environment and occasion.

Interface with Council Practices (Law)

The Northland Regional Council, whose policies currently administer the JC, must ensure that it conducts its business in accordance with appropriate financial practices. The Council must ensure that any tākoha / koha gifted to a KU marae as a third party is done so in a transparent manner and subject to appropriate scrutiny. Tākoha / koha are subject to the same internal controls and external reviews (audit) as any other financial transaction.

Purpose

This policy has been developed to clarify the circumstance in which the application of tākoha / koha is appropriate and to explain the procedures that apply. The word tākoha / koha is often used loosely to describe various types of financial and material gifts. However, this policy defines tākoha / koha as an unconditional gift within the context of the New Zealand taxation system. Any payment which incurs tax should not be called tākoha / koha.

Objective

The JC will ensure that appropriate tākoha / koha is given in the appropriate circumstances and the act of giving tākoha / koha is transparent and accountable and fosters the tikanga / practice of aroha.

Legal Definition

For this policy, tākoha / koha means an unconditional gift which complies with the following IRD definition:

“An unconditional gift is defined as a donation made to a no-profit body, where the giver (or any relative) does not receive any goods or services in return for the donation. This carries with it no obligations to account for tax.”

Principle: When should tākoha / koha be given?

Within the spirit and practice of tikanga of KU, tākoha / koha is given when haukāinga are invited to participate in support of the KMR JC in events or activities where no set fee or payment is expected. Based on general attendance levels, the provision of tākoha/koha is set at a value of \$400.

The value of tākoha/koha should reflect the significance of the event and the mana of those attending. Accordingly, the general guidance on tākoha/koha value should be considered against that context on a case by case basis.

As Manuhiri (visitors) JC staff should give tākoha / koha when visiting or staying / visiting a marae regardless of length of duration of stay.

Tākoha / koha should also be given when the JC representatives attend or are involved in occasions where a formal pōwhiri ceremony, formalised gatherings or other ceremonies are held.

Examples:

- Visit to Marae (this is not to be confused as payment for venue hire and catering);
- Assistance with traditional welcomes, blessings and other rituals (e.g. blessing of a new ventures / buildings / installations); and,
- Attendance to Hui Mate / Tangihanga.

In the event that staff are attending one on one or very small and informal meetings a tākoha / koha is not normally required. As an option, staff could consider taking some kai / food for morning / afternoon tea as a goodwill gesture.

Tākoha / koha is not normally paid when KU come as manuhiri (visitors) to the JC, however, staff should consider following appropriate kawa (protocol) during such meetings.

Giving of tākoha / koha

In a KU context the final concluding speaker at the pōwhiri or commencement of proceedings is the appropriate person to physically hand-over the tākoha / koha to an individual's hand from the haukāinga on behalf of the JC.

Tākoha / koha given on behalf of the JC will come from the JC's own funds. Individual representatives or staff should not be expected to pay koha from their personal monies on behalf of or while representing the JC. However, individuals who wish to give a personal tākoha / koha may do so as they feel it appropriate.

In the case of a group or collective of JC representatives, only one tākoha / koha should be given which represents the JC.

JC staff should be aware when visiting marae, that there are varying tikanga (rules) as to the appropriate way, time and person who presents the tākoha / koha. and to whom. For example, some marae consider it a challenge to place the tākoha / koha on the ground in front of the taumata, others, an insult to Kaumātua who have to pick the tākoha / koha up, where, for others this, would be appropriate. At times like this it is okay to ask for guidance from the Kaumātua on the taumata (the speakers who welcome the visitors).

Appropriateness of tākoha / koha

The amount of tākoha / koha should reflect the occasion, the mana and the prestige of the representatives in attendance. For example, if the Chairman, members or CEO are in attendance then the tākoha / koha should reflect their status.

Likewise, the tākoha / koha should also reflect the occasion, mana and prestige of the event being attended.

Tākoha / koha should not be confused with other payments made such as:

- venue hire

- catering

These costs should be respectfully and quietly confirmed with the appropriate person (such as a Marae Committee secretary) prior to meeting.

Once agreed upon an internal invoice should be raised and submitted to the finance department for payment in accordance with appropriate financial procedures.

Tākoha / koha should be allocated through appropriate activity / department budgets. Generally, a letter is provided that outlines the tākoha / koha to be paid into the bank account of the appropriate body (marae or other). On occasions cash can be obtained through internal processes and deposited in an envelope.

All requests for tākoha / koha must be pre-approved by one of the IMT members; a form will be developed to ensure sufficient records are maintained, including time, date, method of payment and reason.

Tax Issues in relation to tākoha / koha

GST

Tākoha / koha is similar to a donation and is not a charge for service. In most cases Council will not receive a tax invoice and will therefore not claim (or add) GST in relation to the payment.

Withholding Tax

Tākoha / koha is not a payment for goods or service, so when it takes the form of cash, there must be no fixed amount state or expected. Consequently, a payment of tākoha / koha is not subject to withholding tax.

Administration Procedure

- a) Read the tākoha / koha policy to determine:
 - i. if a tākoha / koha is appropriate and
 - ii. the value of tākoha / koha is \$400.00.
- b) Check with an IMT Manager
- c) Contact appropriate person at the Marae (such as the Marae Secretary) to get bank details for direct credit of takoha/koha payment.
- d) Fill in a Request for an Internal Invoice Form. Use appropriate cost centre and job numbers from the Kaipara Moana Remediation Programme budget noting the following:
 - i. A tākoha / koha is GST exclusive,
 - ii. Allow enough time for Invoice processing.
- e) Draft a letter (see Appendix One as an example) and place in envelope for delivery by the appropriate representative.

Attachment 1

Takoha/Koha letter template

Date

Chair and Trustees

.....Marae

c/- name of Marae contact and email address

Tena koutou, tena koutou katoa!

Tākoha/Koha

It is with great pleasure that we respond to your invitation to use the Marae for the meeting of the Joint Committee for the Kaipara Moana Remuneration.

This gives us the privilege of meeting directly with Hau kainga and engaging with those that the remediation of our Moana is designed to serve, as the Moana has served succeeding generations of our tupuna.

We wish to inform you that on by the 20th day of the following month after the meeting putea will be deposited in your bank account as a Tākoha/Koha - in response to your generosity and manaaki!

We look forward to a productive and uplifting day at your marae!

Nga mihinui a koutou!

Tame Te Rangi
Chair
Kaipara Moana Remediation Joint Committee