

12 September 2013

**Submission on the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Bill**

**To: Committee Secretariat  
Māori Affairs Committee**  
Parliament Buildings  
Wellington

**From: Friends of Maungawhau Inc.**  
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The Friends of Maungawhau request an opportunity to speak to the committee in person. We believe strongly that hearings should be held in Auckland.

**PREAMBLE**

Tēnā koutou, tēnā koutou, tēnā koutou katoa.

The Friends of Maungawhau is a volunteer community group formed to protect, preserve and enhance the natural and cultural environment of Maungawhau/Mt Eden. We are an incorporated society governed by a committee consisting of a chairperson, secretary, treasurer and six ordinary members. Our membership exceeds 200 people.

Since the 1980s we have strongly advocated for an inclusive and effective management model for the Auckland volcanic cones. For the past 15 years we have been actively engaged in ecological restoration work on Maungawhau/Mt Eden. Our annual traffic-free open day on Maungawhau, now in its eighth year, incorporates activities led by Ngāti Whātua o Ōrākei and attracts more than 2,000 visitors.

In preparing this submission, we consulted our membership and sought advice from supporters and environmental organisations.

We wish to participate in caring for the maunga as committed citizens who have a wealth of practical experience and expertise to contribute. We believe the Bill can be improved by greater recognition of the valuable source of knowledge held by the volunteer community.

## **SUMMARY OF SUBMISSION**

The Friends of Maungawhau support the stated intent of the Bill, which is to give effect to the 2012 collective deed recognising the mana of the iwi and hapū of Ngā Mana Whenua o Tāmaki Makaurau (the Tāmaki Collective) and providing shared redress for historical grievances. We welcome the transfer of ownership of the maunga to the Tāmaki Collective and provisions in the Bill for integrated management of the maunga. We believe that the Bill provides an opportunity for Auckland's cultural and natural heritage to be better managed under a co-governance relationship.

However, we are concerned about provisions in the Bill which may override the Reserves Act 1977 and omissions which may give rise to doubts or conflicts. While the Bill establishes co-governance, it provides little detail as to how co-governance might translate into co-management at the on-the-ground operational level. A key requirement is provision for building relationships with volunteers and NGOs who wish to work alongside iwi in the stewardship of the maunga.

In summary, we would like to see provision for:

- Greater transparency and accountability
- Greater consultation and representation
- Greater specification of procedures related to the development and availability of management plans and operational plans
- A professional front-line ranger service

## **DETAILED SUBMISSION**

The following addresses specific clauses with reference to our main areas of concern.

### ***Part 2, Clause 40: Maunga must remain as reserves vested in trustee***

1. We suggest that freedom of access to all maunga be explicitly guaranteed in the Bill by adding clause 40(4A) as follows (underlined):
  - (4) The reserve status of the maunga must not be revoked, but may be reclassified in accordance with the Reserves Act 1977.
  - (4A) To avoid doubt, the public shall have freedom of entry and access to the maunga.

### ***Part 2, Clause 57: Integrated management plan***

### ***Part 5, Clause 159: Existing management plans for maunga and administered lands to continue***

2. Clause 57 requires the Tūpuna Maunga o Tāmaki Makaurau Authority (Maunga Authority) to prepare and approve an integrated management plan under section

41 of the Reserves Act 1977. Other than providing for authorised cultural activities (clause 58), nothing in the Bill specifies the intent or content of this plan, which replaces existing management plans for all maunga (clause 159).

We have concerns as to whether this single integrated management plan can encompass all the maunga and all the competing values – historical, cultural, archaeological, geological and ecological – for which they are managed. We fear that the integrated management plan may be little more than a general summary and that useful material in existing management plans may be lost.

We believe that the integrated management plan should draw on the institutional knowledge held by volunteer conservation groups.

We are concerned that there is no mention of a *conservation plan*, prepared in accordance with the principles of the *ICOMOS New Zealand Charter 2010*, to establish the objectives and policies to be included in the management plan.

We are mindful that management plans for Maungawhau took several years to develop, and we recommend that a time frame be set for preparation and approval of the integrated management plan.

We suggest that the following requirements be included:

- The integrated management plan should be based on a conservation plan, prepared under the District Plan (or Unitary Plan if in force), Historic Places Act 1993, *ICOMOS New Zealand Charter 2010*, and the *New Zealand Biodiversity Strategy 2000*.
- Preparation of the integrated management plan should be based on a comprehensive review of existing conservation plans and reserve management plans for the maunga, including an assessment of their implementation and effectiveness, as provided by section 41(8) of the Reserves Act 1977.
- The integrated management plan should require adherence to recognised principles of volunteering such as the *Universal Declaration on Volunteering 2001*, *Volunteering New Zealand's Best Practice Guidelines for Volunteer-Involving Organisations 2012*, and Auckland Council's *Park Volunteer Charter* (now in the final stages of preparation).
- The integrated management plan should include provision of a ranger service for the maunga as a key strategy (see item 17 below).
- The Maunga Authority should initiate the review of existing reserve management plans at its first meeting.
- The Maunga Authority should complete and approve the integrated management plan within five years of the effective date of the Act, notwithstanding subsection 41(2) of the Reserves Act 1977 which allows for an extension of time.

3. We recommend that subclause 57(1)(c) be added as follows (underlined):
- (1) The Maunga Authority must prepare and approve an integrated management plan— ....
  - (c) that gives effect to the general purpose of the Reserves Act 1977.
4. We are mindful that the maunga may in future be nominated as UNESCO World Heritage sites, and that they must be managed for both their cultural and natural significance. Also, parts of Maungawhau, Maungarei, Maungakiekie, Ōwairaka and perhaps other maunga are expected to be newly classified as "significant ecological areas" under the Auckland Unitary Plan. For these reasons, we suggest that the integrated management plan should be approved at ministerial level to safeguard conservation values that are not sufficiently provided for by clauses 57(2) and 57(4). We submit that subclause 57(2) should be reworded to the following effect (underlined):
- (2) Despite subsection (1),—
    - (a) the part of the plan relating to any part of a maunga currently classified as a historic reserve, or which becomes a historic reserve as a result of re-classification, must also be approved by the Minister of Conservation.
    - (b) the Maunga Authority must make the entire plan available for inspection by the Minister whenever the Minister requires.
5. Subsection 57(3) uses the word "section" twice. It is unclear what this refers to. We recommend that "section" be changed to "clause" or "subpart", whichever is intended in each case.

Subsection 41(5A) of the Reserves Act 1977 allows an administering body to determine by resolution that "written suggestions on the proposed plan would not materially assist in its preparation." Such a resolution would be contrary to the interests of wide public consultation and engagement in preparing the integrated management plan.

We submit that subclause 57(3) should be amended to following effect (underlined):

- (3) Section 41 of the Reserves Act 1977 applies to a plan prepared under this clause/subpart—
  - (a) with the exception of subsection 41(5A) of that Act; and
  - (b) with any necessary modifications; but
  - (c) subject to this clause/subpart.

***Part 2, Clause 59: Annual operational plan***

6. Subclause 59(2) requires the annual operational plan to be included in the annual plan in summary form. We suggest that, in the interest of building good relationships with all parties, the annual operational plan should be made available to all active NGOs working on the maunga under a memorandum of understanding with the Maunga Authority. We recommend the addition of subsection 59(2)(d) as follows (underlined):

- (2) An annual operational plan must be—....  
(d) provided in its entirety and free of charge to all NGOs engaged in volunteer activities on the maunga under a memorandum of understanding with the Maunga Authority.

7. Subclause 59(4) lists the information to be included in the annual operational plan for each maunga and the administered lands. It provides for members of the Tāmaki Collective to carry out or participate in activities such as restoration work, maintenance and operational projects, management and maintenance contracts. The Friends of Maungawhau support opportunities for tāngata whenua to take active part in caring for the maunga, as is their right under collective redress to which this Bill gives effect. In the interest of sharing knowledge and working together, we recommend that volunteer NGOs already involved in caring for the maunga should also be given opportunities to participate. We note that one of the five strategic objectives stated in the *Operational Guidelines for the Implementation of the World Heritage Convention 2012* is "to enhance the role of **communities** in the implementation of the *World Heritage Convention*". The concept of community is inclusive.

To avoid doubt and potential conflict, we recommend that clause 59(4) be amended as follows (underlined):

- (4) The matters referred to in subsection (3)(a) are—....  
(j) Ngā Mana Whenua o Tāmaki Makaurau programmes, including iwi or hapū programmes:  
(k) volunteering, partnership and community engagement programmes:  
(l) opportunities for members of Ngā Mana Whenua o Tāmaki Makaurau to carry out or participate in any of the activities described in paragraphs (b) to (k):  
(m) opportunities for volunteer NGOs to carry out or participate in any of the activities described in paragraphs (b) to (k) that they are authorised to perform under a memorandum of understanding with the Maunga Authority.

***Part 2, Clause 60: Auckland Council responsible for routine management***

***Part 2, Clause 61: Auckland Council responsible for costs***

***Part 2, Clause 62: Financial management, financial reporting, and operational accountability***

8. Clause 60(2) requires Auckland Council to carry out its responsibility for routine management of the maunga "under the direction of the Maunga Authority and in accordance with the current annual operational plan and any standard operating procedures agreed between the Maunga Authority and the Council."

This clause is not sufficiently prescriptive. Routine management must adhere to the objectives and strategies of management plans, and should have regard to any activities undertaken by an approved NGO. We recommend that clause 60(2) be amended as follows (underlined):

- (2) The council must carry out this responsibility—....
- (b) in accordance with—....
- (i) the objectives and policies of the current management plan or integrated management plan; and
  - (ii) the current annual operational plan; and
  - (iii) any standard operating procedures agreed between the Maunga Authority and the Council; and
  - (iv) any delegations made to the Council under section 112; and
  - (v) any agreement or memorandum of understanding agreed between the Maunga Authority and an NGO engaged in volunteer activities on the maunga.

9. Clause 62(4) requires the Council to provide an annual operational report to the Maunga Authority. In the interest of transparency, the Friends of Maungawhau believe that the annual operational report should be made public. We propose that clause 62(4) be amended as follows (underlined):

- (4) In each financial year, the Auckland Council must provide to the Maunga Authority an annual operational report on the maunga and the administered lands for the year. The operational report must be made available—
- (a) for inspection free of charge at the offices of the Auckland Council; and
  - (b) free of charge on an Internet site maintained by or on behalf of the Authority or the Council.

***Part 3, Clause 106: Membership***

***Schedule 4: Tūpuna Maunga o Tāmaki Makaurau Authority Membership***

10. Clause 106 and Schedule 4(1) include qualifications for appointment to the Maunga Authority. We suggest that qualifications for members appointed by

Auckland Council be specified by amending subclause 106(1)(d) as follows (underlined):

- (1) The Maunga Authority comprises—....
- (d) 6 members appointed by the Auckland Council, at least three of whom must be persons holding recognised formal qualifications in natural and cultural heritage management.

***Part 3, Clause 108: Functions and powers***

11. The Friends of Maungawhau recommend that a subclause (2)(c) be added to clause 108, as follows (underlined):

- (2) In exercising its powers and carrying out its functions in relation to the maunga, the Maunga Authority must have regard to—...
- (c) the general purpose and specific provisions of the Reserves Act 1977.

***Part 5, Clause 157: First meeting of Maunga Authority***

12. Consistent with our suggested amendment to clause 57, the Friends of Maungawhau recommend that a further paragraph (2)(f) be added to clause 157, as follows (underlined):

- (2) At the meeting the Maunga Authority must—.....
- (f) initiate a review of existing conservation plans and reserve management plans in preparation for forming an integrated management plan.

***Part 5, Clause 164: Local Government Official Information and Meetings Act 1987 amended***

13. A major concern is how the directives of the Maunga Authority will be conveyed to Auckland Council. Safeguards are needed to ensure that top-level decisions and policies are implemented as intended. This has not happened in the past, resulting in poor management and a waste of public money. The Bill gives little indication of how the co-governance model will work in practice at the co-management level. We make the following recommendations in regard to **transparency and accountability**.

Clause 164 establishes that the Maunga Authority is a local authority for the purposes of the Local Government Official Information and Meetings Act 1987, which states that meetings must be publicly notified and that agendas, reports and minutes must be made available to the public. For the sake of clarity, we suggest that the following subclause (underlined) be added to clause 164:



- (3) To avoid doubt, the Maunga Authority is subject to all provisions of the Local Government Official Information and Meetings Act 1987.

Information related to management of the maunga may be held by the Department of Conservation or other government department. We therefore recommend that the following additional subclause (underlined) be added to clause 164:

- (4) Despite subclauses (1) to (3), the Maunga Authority is subject to the Official Information Act 1982 and must be listed in the *Directory of Official Information* of the Ministry of Justice.

#### ***Schedule 4: Accountability***

14. In the interests of transparent decision making, as promoted in Auckland Council's *Draft Parks and Open Spaces Strategic Action Plan* (May 2013), we recommend that the following clause 28 (underlined) be added to Schedule 4 (*Accountability*):

#### **28 Transparency**

- (1) The Maunga Authority must perform its powers and functions in accordance with—  
 (i) the principles of good governance, including transparency; and  
 (ii) the provisions in subclauses 164(3) and 164(4).

#### ***Schedule 4, Clause 6: Meetings of Maunga Authority***

#### ***Schedule 4, Clause 11: Membership of committees and subcommittees***

#### ***Schedule 4, Clause 14: Ability to delegate***

15. It is our hope that the Bill will pave the way for a true co-management model, one that establishes communication mechanisms among all parties who care for the maunga and that allows for representation by community groups as well as iwi. True co-management can only be achieved by taking a courageous, visionary approach.

Clauses 6, 11 and 14 of Schedule 4 together provide wide scope for persons outside the Maunga Authority to advise and influence decision making at the discretion of the Maunga Authority. However, there is no provision in the Bill for third parties to be heard at their own request. We recommend the addition of the following subclause (underlined) after subclause 6(3) and before subclause 6(4):

- (3A) Provision must be made and time set aside for any person wishing to speak to the Maunga Authority on any matter relevant to co-management of the maunga and administered lands.



***Provision for consultative participation***

16. The Friends of Maungawhau have participated in two advisory groups: the Maungawhau Advisory Group (MAG), set up in 2000 by the Eden-Albert Community Board to begin implementation of the 1986 *Management Plan for Maungawhau*; and the Maungawhau Stakeholders Group which superseded MAG in 2008 and continued until late 2012. Although these advisory groups had limited power to effect change, they allowed our views to be heard and were a useful means of developing relationships and identifying issues.

We advocate that a similar mechanism for consultative participation by volunteer NGOs should be provided in the Bill. We suggest that consideration be given to adding a subclause to Schedule 4, to the following effect:

**Consultative participation by NGOs**

The Maunga Authority must establish a committee, under clause 10 of this schedule and under section 9 (Committees) of the Reserves Act 1977, whose members may be appointed by any NGO with which the Maunga Authority has an agreement or memorandum of understanding. The responsibilities of this committee may include but are not limited to—

- (1) providing information and feedback to the Maunga Authority; and
- (2) advising the Maunga Authority of issues of concern; and
- (3) participating in decision making under the direction of the Maunga Authority.

***Provision for a professional front-line ranger service***

17. Through this Bill, the Māori Affairs Committee has a unique opportunity to provide the foundation for a co-management model based on cooperative and inclusive relationships. The Friends of Maungawhau believe that practical co-management can be promoted, not by the extensive powers of delegation provided by clauses 60 and 112, but by legislating in this Bill for a professional ranger service for the maunga.

Provision of a full-time ranger was recommended in the 1986 *Management Plan for Maungawhau*, and has been a key issue that we have campaigned on for over 20 years. In its 2009 report, the Royal Commission, in response to submissions by the Friends of Maungawhau, recommended that Auckland Council "appoint a park ranger with responsibility for volcanic cones" (recommendation 8D(c)).

Rangers provide links between local communities, protected areas and area administration. They enable a flexible, practical and cost-effective management model. A dedicated ranger service for the maunga would fit well with the idea of communal responsibility and would help to build the skills base needed for remedial work on the maunga.

We ask that the Māori Affairs Committee consider provision of a clause to the following effect:

**Establishment of a ranger service**

A professional ranger service must be established for the maunga.  
The Maunga Authority shall be responsible for specifying the  
service specifications. Provision of a ranger service must be  
incorporated as a key strategy in the integrated management plan.  
The functions and role of rangers must be included in operational  
plans.

**CONCLUSION**

Thank you for the opportunity to make submissions on this Bill. Our informational brochure is attached. We are able to present other detailed evidence to support our submissions and assist the Māori Affairs Committee in its deliberations.

We look forward to speaking to the committee and to being an active participant in co-management of the maunga.