



Epidemic Preparedness (COVID-19—Te Awa Tupua (Whanganui River Claims Settlement) Act 2017—Term of Appointments to Te Pou Tupua) Immediate Modification Order 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 24th day of August 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

This order is made under section 15 of the Epidemic Preparedness Act 2006—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Māori Crown Relations: Te Ara-whiti made after being satisfied of the matters required by section 15(2)(b) of that Act and after receiving from the chief executive of the Ministry of Justice a written recommendation stating the matters required by section 15(2)(a) of that Act.

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Order

1 Title

This order is the Epidemic Preparedness (COVID-19—Te Awa Tupua (Whanganui River Claims Settlement) Act 2017—Term of Appointments to Te Pou Tupua) Immediate Modification Order 2020.

2 Commencement

This order comes into force on 28 August 2020.

3 Enactment to which modifications made

This order modifies a restriction imposed by the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (the **Act**).

4 Restriction on term of appointment to Te Pou Tupua is modified for first appointees

Clause 1 of Schedule 3 of the Act has effect as if the following were inserted after clause 1(1) of that schedule:

(1A) However, the term of the first persons appointed to Te Pou Tupua ends at the close of 3 June 2021.

5 Revocation

This order is revoked on 10 June 2021.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order is made under the Epidemic Preparedness Act 2006. It comes into force on 28 August 2020 and is revoked on 10 June 2021. It modifies a restriction imposed by the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (the **Act**) that may be impossible or impracticable to comply with during an epidemic.

Clause 1 states the Title of the order.

Clause 2 states that the order comes into force on 28 August 2020.

Clause 3 states that the order modifies a restriction imposed by the Act.

Clause 4 modifies the term of appointment for the first appointees to Te Pou Tupua so that the term ends on 3 June 2021. The effect of the modification is that those appointees are appointed for 3 years and 9 months, instead of the usual 3 years.

Statement of reasons

The Minister for Māori Crown Relations: Te Arawhiti is satisfied of the matters required by section 15(2)(b) of the Epidemic Preparedness Act 2006 for the reasons that follow.

Effects are, or are likely to be, such that requirement or restriction is impossible or impracticable to comply (or comply fully) with

Te Pou Tupua is the legal representative of Te Awa Tupua, which is the legal person comprising the Whanganui River recognised under the Act. It is important for Te Pou Tupua to continue to make decisions as the legal representative of Te Awa Tupua.

The term of office of the existing appointees (who are the first appointees) to Te Pou Tupua ends on 3 September 2020. There is no provision in the Act that enables the present members of Te Pou Tupua to continue to act beyond 3 September 2020.

The nomination and joint appointment process for Te Pou Tupua, which involves the Crown and the 8 iwi with interests in the Whanganui River, requires approximately 6 months to complete.

It is impossible for the Crown and iwi to nominate and jointly appoint Te Pou Tupua before the term of the existing appointees ends on 3 September 2020.

The effects of COVID-19 meant that initial meetings were not held and the iwi and the Crown could not get their internal processes underway in March 2020. Hui were not possible during the period when contact with others and travel were restricted. In addition, both the Crown and iwi were focused on more immediate priorities relating to the COVID-19 response, with few, if any, resources to commit to the nomination and appointment process for Te Pou Tupua.

Modification goes no further than is, or is likely to be, reasonably necessary

The modification is a narrow modification to the Act to address this specific situation by providing for the first appointees to have a term of 3 years and 9 months, instead of 3 years.

A 9-month extension is considered reasonable and appropriate to allow for both the general election (which ensures that a government is formed and a Minister warranted) and a subsequent 6-month process for appointment. This time frame has been confirmed with Ngā Tāngata Tiaki o Whanganui (on behalf of Whanganui Iwi) and is supported by the other 7 iwi with interests in the Whanganui River who are involved in the nomination and appointment process.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 27 August 2020.

This order is administered by the Ministry of Justice.