

# KUMARA VINE

VOL. 67, DECEMBER 2019



COMMUNITY  
WAIKATO

*"Thriving Communities"*

Hapori Mauriora



## Season's Greetings!



### CE UPDATE

**This is our last Kumara Vine for 2019 and what an eventful year it has been for Community Waikato! We have employed two new staff members (Kiri and Jason), created our brand video, and hosted the Community Transport Symposium and the regional conference 'Strengthening through Stories. This is on top of business as usual.**

Some of you will have noticed we have been building our own storytelling skills and digital engagement. We have launched our Community Waikato Youtube channel (subscribe and get Community Waikato updates, advisor tips, training and recorded elements of our conference and symposium). We have started to use platforms such as Zoom to bring people from around the region into Hamilton-based meeting and forums, we are exploring webinars for delivery of professional development seminars and we have created the platform for a digital community hub. This hub will be a place where we can share resources and templates and co-create projects and drive other collaborative initiatives.

We expect 2020 will be just as eventful. We will be engaging various digital solutions to reduce isolation and encourage more collaboration. We are also in the planning stage of our 2020 roadshow, where our advisors will travel around the region to provide face-to-face workshops on a range of capacity building topics. We are keeping the themes flexible so let us know what you would like to learn about and we will shape our workshops to fit your local community needs.

Finally, I would like to thank you all for another year of your commitment and passion to the work that you all do. I hope you get a chance to take a break and rest up. I am looking forward to 2020 and the work that we will undertake together.

**Merry Christmas from the Community Waikato team**

# We're in it together



## FIND OUT MORE ABOUT WHO WE ARE!

The theme of the conference 'Strengthening through stories' was what made us at Community Waikato decide the time was right for us to come together as a team and really consider our own organisational story.

We worked alongside creative agency Curative who took us on a 12-week journey, discussing all aspects of who we are, what we do, and most importantly, why it is important.

We needed to refine our story and really get to the heart of our brand story, sharing our values through storytelling, so that people can feel more connected to us.

At conference we were proud to be able to launch our Community Waikato brand story video. This video will become part of a larger brand campaign, where we will add to the story with other messages that tell you a bit more about Community Waikato.

To find out more about who we are, subscribe to Community Waikato on You Tube and view our latest video at: <https://www.youtube.com/watch?v=YufZHgAix2A&t=2s>



## RAPID STORY TELLING EVENT – WHAT'S YOUR STORY?

Community Waikato found the experience of working alongside a creative agency to develop our brand story such a powerful one, that we decided we wanted to give several other organisations/ trust or marae in this sector the opportunity to work alongside Curative to learn how to craft their own brand stories.

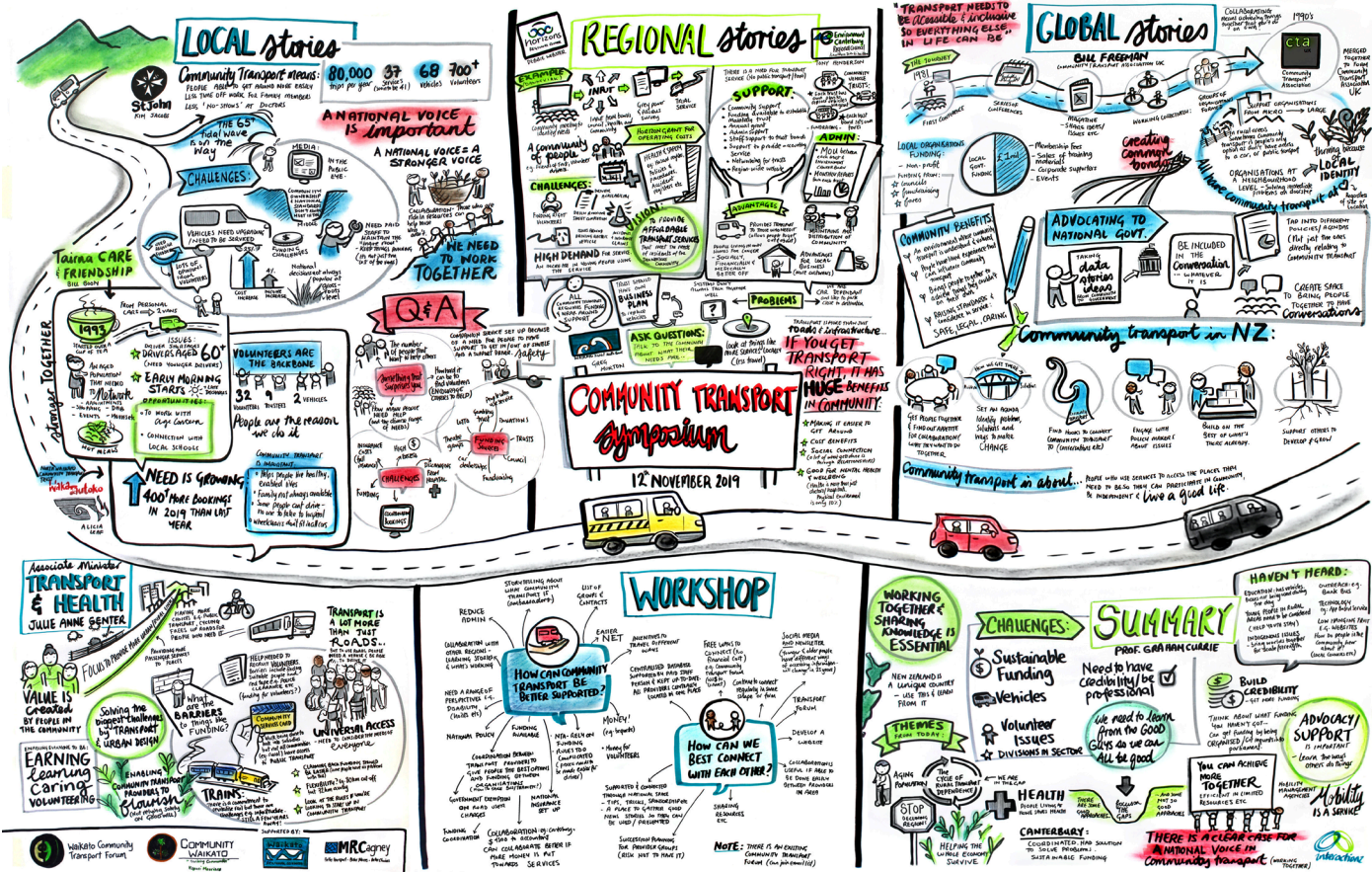
So, earlier in the year we funded an exciting opportunity called 'What's your story?'. We received almost 50 applications, from which 5 groups were chosen to participate.

Congratulations to the following groups:

- Loving Arms
- Maniapoto Family Violence Intervention Network
- Oomaero Paa
- Shama
- Whaingaroa Environment Centre

These groups spent the 2 days of conference in an intensive workshop with the Curative team, where they each developed their own brand videos. The results were amazing, and we look forward to being able to share the completed videos when they are available.





# COMMUNITY TRANSPORT SYMPOSIUM

Community Transport describes volunteer-based transport services, operated by local people to meet local needs for transport. On 12th November 2019, the Waikato Community Transport Forum hosted a half-day symposium with local, national, and international guests.

## Why a symposium?

We met to share our stories about Community Transport. We wanted to know whether there is appetite for more united 'voice' for community transport in Aotearoa.

## Who:

Over 100 people attended, including representatives from 30 different community providers across the Waikato region organisations. They heard from: fellow local providers, St John NZ, Waikato DHB, regional councils who support community transport with resource – Horizons and Canterbury, the Chief Executive of UK Community Transport Association and the Honorable Associate Minister for both Transport and Health Julie Anne Genter.

## What next?

As a group, we agreed that we want to meet again, for two main reasons:

- 1) To support each other, in our work to help community transport thrive
- 2) To gather more support for Community Transport from local, regional, and central government

## What would 'more support from government' look like?

- 1) More funding: we would like the NZ Transport agency and Regional Councils to agree a consistent, effective funding methods to support and grow community transport in Aotearoa.

# Are you keen to bring more capacity strengthening to your community in 2020?

In 2020 Community Waikato will be prioritising capacity strengthening support in local communities. We recognise that each community is different and has various priorities and needs. We would like to be more responsive to the specific areas of development identified in each community.

Some of the areas we have historically provided learning and assistance with include governance and management, planning, funding & finances, project management, dealing with challenging situations, Health & Safety and working in teams. There is potential for other topics to be covered as identified by your community.

We believe that initiatives that are driven from within communities are more likely to meet the priorities of that community; we are seeking local groups or organisations who are willing to work with us to bring capacity strengthening opportunities to their area.

If you are keen to support this to happen for your community please indicate your interest by making contact with Anne Douglas [anne@communitywaikato.org.nz](mailto:anne@communitywaikato.org.nz) or phone 07 282 0697 by 20 December 2019.

- 2) More government appreciation for community transport: we would like government to understand, appreciate, and evaluate the benefits of community transport as a valued contribution to the sustainability and vitality of New Zealand communities.

We will be delivering our summary report and recommendations to local, regional, and national government representatives. If you'd like to stay involved, join the Waikato Community Transport forum email list by emailing [sarah@communitywaikato.org.nz](mailto:sarah@communitywaikato.org.nz)

# Strengthening

# through

# stories

Community Waikato Conference  
13-14 November 2019

Storytelling is a powerful tool we can all use to strengthen our organisations. It is through story telling that we can connect with people's emotions, giving people a better sense of engagement and understanding of who we are. 'Strengthening through stories' was the theme of this year's conference. What an amazing 2 days we had, with many highlights including thought provoking keynote speakers; informative workshops; the amazing brand videos created by the 5 organisations who took part in the Rapid Storytelling event; networking; connections made; laughing yoga; fun and learning!





# Do you have a trust? If you do, what do you need to know about the new Trusts Act 2019?

By Matthew Peplow

After over a decade of review, New Zealand's law of trusts has been significantly updated with the passing of the Trusts Act 2019 (the Act). If you are a trustee or beneficiary of a family trust or charitable trust, you need to know how the Act will affect you. The purpose of this article is to provide a brief and general overview of the Act for you to consider.

The Act will apply, from 31 January 2021, to all family trusts, estates and charitable trusts, including those created before the Act takes effect.

All trustees must (regardless of what the trust documents provide):

1. know the terms of their trust deed
2. act in accordance with the terms of the documents creating their trust;
3. act honestly and in good faith;
4. act for the benefit of beneficiaries or the trust's purpose; and
5. exercise their powers for a proper purpose.

All trustees must also, unless otherwise provided in their trust documents:

1. exercise reasonable skill and care;
2. invest prudently;
3. not exercise power for own benefit;
4. consider actively and regularly whether the trustee should be exercising one or more of the trustee's powers;
5. not bind trustees to a future exercise of discretion;
6. avoid conflicts of interest;
7. act impartially;
8. not profit from their position;
9. not act for reward; and
10. act unanimously.

If a beneficiary makes a claim against trustees for breach of the trustees' duty to invest prudently, the court may take into account whether investments were diversified and whether the investment was made in accordance with any "investment strategy". It will therefore be more important for trustees to diversify when appropriate and to have an investment strategy in place.

All trusts established after the Act takes effect will have a default lifespan of 125 years (the maximum period that can currently be specified is 80 years). Existing trusts may be able to extend their lifespan to 125 years by way of variation.

Trustees will have a duty to hold copies of the trust deed, variations, trustee minutes, accounts and other important trust documents. These documents need to be held by at least one trustee but all trustees must hold at least a copy of the trust deed and any variations.

Trustees will have a duty to actively consider what information they will give to beneficiaries on the basis that:

1. all beneficiaries should be told that they are beneficiaries, be given trustee contact details (updated as trustees change) and be advised that they have rights to request information; and
2. trustees should provide trust information to beneficiaries on request.

Trustees can decide not to provide information to beneficiaries, but they must have good reasons for that. The Act includes a list of 13 things for trustees to consider before deciding whether to withhold information, such as the nature of beneficiary interests, beneficiary ages, any confidentiality obligations and the effect of release on family relations.



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**Matthew leads Harkness Henry's private client team, which provides legal advice and assistance to individuals, families, small businesses and not-for-profit organisations. He is an experienced lawyer with particular expertise in the law of trusts, relationship property and not-for-profit organisations.**

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A trustee who wants to retire will need to seek a discharge in writing from the person with the power to remove trustees (unless the trust deed provides otherwise). Consequently, unless authorised by the trust deed a trustee will not be discharged from liability simply by notifying the other trustees of their retirement.

The Act includes a specific power for Courts to review trustee decisions, on the application of a beneficiary who claims that the trustee's decision was "not reasonably open to the trustee in the circumstances". If the beneficiary can establish a "genuine and substantial dispute", the onus is on the trustee to establish that the trustee's act was reasonably open to the trustee in the circumstances.

The overall effect of the Act is to increase the compliance requirements for trustees. If you are a trustee, you should prepare for the Act taking effect by:

1. reviewing the terms of your trust to ensure your trust deed will comply with the requirements of the Act (particularly in relation to default and mandatory trustee duties);
2. ensuring that you and your co-trustees keep appropriate trust records;
3. actively considering what information should be supplied to beneficiaries;
4. ensuring that you have an investment strategy;
5. having regular trustee meetings to consider trustee investments and the provision of information; and
6. considering whether the trust is still an appropriate and cost-effective ownership structure given the new compliance requirements.

Harkness Henry offers a trust review service to help trustees review their trust in light of the new Trusts Act. Please contact one of our trust management experts if you would like us to review your trust with you. We can help you develop a plan for ensuring that your trust continues to meet your needs.

This article is current as at the date of publication and is only intended to provide general comments about the law. Harkness Henry accepts no responsibility for reliance by any person or organisation on the content of the article. Please contact the author of the article if you require specific advice about how the law applies to you.



## CONTRACTS - WHAT TO BE CAREFUL OF

By Holly Snape



Some advice feels so intuitive, it hardly seems worth sharing. This is that kind of advice. But the reason I am sharing it is because we didn't listen to our own intuition, and it led us down a long, frustrating and expensive path. I am keen to make sure none of you make the mistakes that we did. Please forgive the vagueness of the details, but I am sure you will not need those details to take on the broader message.

Several years ago Community Waikato entered into a service contract with a large company. We were purchasing a basic service and signed a 5 year lease contract. A few years later we were approached to upgrade our equipment. A verbal conversation had us agree to the upgrade, with the understanding that our contract details would not vary. We were given another contract to sign and when we queried why the date and price were not already populated, we were informed it is their policy to have their finance department sort this after the contract has been signed. Understandably this should set off alarm bells, but we had a good relationship with our service provider and it had been made clear to us that there would be no change to our agreement. Upon reading the small print of the document, the company certainly did reserve the right to populate the data after the customer had signed. Once we saw the new agreement, we realised the charges had increased and the lease period had restarted, meaning we were now under a new 5 year lease (we had been only months away from the leased period finishing) at a higher rate. We disputed this and after some period, and pressure from our side, we met with the sales representative to discuss repayment of the additional amount we had been paying and a return to our original lease period. We were required to sign another form that would authorise that repayment and guess what happened – The lease period was further extended and we did not

receive a reimbursement. To make this long story short, Community Waikato then contacted a lawyer to act on our behalf. After a few firmly worded letters it was agreed we would get a partial reimbursement (not the full amount owing) and the lease contract would return to the original date. We have now engaged a new service provider and have taken away some very important learning from this experience.

- 1. Do not sign a document without all the details** (including length of contract and price) populated. It sounds obvious, but we found there was a lot of pressure to sign and their policies all confirm this is their practice. Of course, that does not have to be your practice and I would encourage you to be very prudent in signing paperwork.
- 2. Keep a copy of all correspondence**, especially if you feel you might be heading towards a dispute. Ensure that all of this includes times and dates. Make sure that your emails have obvious subject lines so they are easy to locate should you need to search back in your database. We were able to negotiate a successful outcome because we had a lot of evidence supporting our position.
- 3. Follow up every conversation with an email outlining** your conversation and any specific outcomes or agreements from those conversations. We became better at this as we started doubting the ethical nature of the company we were engaging.

It can be easy to trust others, and especially those big corporations with good reputations, smooth sales reps and huge client bases. It is hard to imagine they benefit much from manipulating small NGO's. I hope that our experience gives you the opportunity to avoid making a similar mistake.



## COMMUNITY WAIKATO 2020 PROFESSIONAL DEVELOPMENT WORKSHOPS:

Our 2020 workshop calendar development is underway and will be available at [www.communitywaikato.org.nz](http://www.communitywaikato.org.nz) soon. Here is an outline of what will be available.

### Governance and Leadership

- Dr Maureen Marra and the InLeadership series
- Governance and stewardship

### Culture, Diversity and Teams

- Collaborative performance management
- Resolving differences
- Dealing with challenging situations
- Te Tiriti o Waitangi

### Operations and Management

- Evaluation
- Social impact monitoring
- Effective communication
- Facebook
- Marketing
- Self-Care workshops
- Bicultural supervision
- Project management
- Managing a community organisation

### Financial literacy and Funding

- Funding
- Budgets
- Xero

One hour or lunchtime sessions will include topics or speakers in areas including How to Mobilise our MP's to make Positive Change, Understanding Changes to the Trusts Act 2019, Understanding Funder Priorities and Charities Services.

We would appreciate any suggestions or requests for our 2020 professional development workshop calendar. Please contact [sally@communitywaikato.org.nz](mailto:sally@communitywaikato.org.nz) to discuss.

Our full day workshops generally cost around \$120 and the half day \$70. Lunch, tea, coffee and snacks for breaks are provided with full day workshops, snacks and drinks with half day. General rule of thumb is that non- community agencies pay twice the community rate. Our short or lunchtime sessions are generally free.

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