

**TE
TUMU
PAEROA**

Office of the Māori Trustee



The Māori Trustee's submission on Managing our wetlands in the coastal marine area

September 2022

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Summary of Position

1. The Māori Trustee administers, as trustee or agent, nearly 90,000 hectares of Māori freehold land on behalf of approximately 100,000 individual Māori landowners. Te Tumu Paeroa is the organisation that supports the Māori Trustee to carry out her functions, roles and responsibilities. Detailed information regarding the Māori Trustee and Te Tumu Paeroa is set out in Appendix A. Additional information can be found on Te Tumu Paeroa's website, www.tetumupaeroa.co.nz.
2. The views expressed in this submission on the 'Managing our wetlands in the coastal marine area discussion document' (the Discussion Document) are those of the Māori Trustee as the single largest administrator of Māori land in Aotearoa. The sheer scale and varied nature of the Māori land the Māori Trustee administers, for approximately 100,000 beneficial owners, necessarily means the views of the Māori Trustee may not be shared by some owners of the land impacted by the proposed amendments to the National Environmental Standards for Freshwater (NES-F) described in the Discussion Document. Further, and to labour the point, the Māori Trustee does not speak for or otherwise represent iwi, hapū or other holders of Māori land, some of whom are likely to submit on the Discussion Document.
3. The completed Discussion Document table is set out in pages 6-10 below. It contains the Māori Trustee's specific responses to the questions posed on the Discussion Document.
4. In summary, the Māori Trustee agrees that the current application of the NES-F to the coastal marine area (CMA) requires amendment but does not support the Government's preferred option (option 2) of amending the NES-F wetland provisions to no longer apply to the CMA (the Government's preferred option) is an appropriate fix.
5. Rather, the Māori Trustee supports option 1, amending the NES-F to clarify where and how its wetlands provisions apply to the CMA. This is because this option:
 - Better align with the National Policy Statement for Freshwater Management 2020 (NPS-FM) through giving effect to Te Mana o te Wai and ki uta ki tai; and
 - Ensures appropriate protections for estuarine wetlands and coastal water bodies that are connected to or receiving environments of freshwater bodies continue to be provided for, where intended, in the NES-F and are not left vulnerable to damage.
6. Other key points made by the Māori Trustee in the response include that:
 - a. The Māori Trustee considers that continuing to set regulations for some wetlands within the CMA at a national level will provide consistency to their management across the country and will avoid 16 regional coastal plans having differing and, at times, insufficient provisions. This is key for organisations like Te Tumu Paeroa who administer landholdings in 15 of the 16 regions of Aotearoa. An example is provided at page 11.
 - b. The Māori Trustee considers that it is better to protect coastal wetlands within the CMA (that are intended to be protected through the NES-F) through a current national instrument than leave them unprotected until future policy is written.



- c. The Māori Trustee considers that in the case that option two (the Government's preferred option) is adopted, a sunset clause should be inserted within the NES-F to provide protection to wetlands (that are intended to be protected) within the CMA until a future policy is made operative.
 - d. The Māori Trustee considers further analysis needs to be completed by the Ministry for the Environment, prior to any decision being made, to ensure that any amendments made to the NES-F leaves appropriate protections for estuarine wetlands intact.
 - e. The Māori Trustee suggests that the Ministry for the Environment could also consider the following matters in addressing the issue:
 - Defining exactly what wetland types are intended to be protected by NES-F provisions. E.g. Estuaries, backwaters, etc;
 - Changing the activities that they seek to control through the NES-F for wetlands located within the CMA; and
 - Creating another stream of rules in the NES-F that directly relate to wetlands located in the CMA.
7. The Māori Trustee would welcome the opportunity to discuss her submission with staff from the Ministry for the Environment.



Specific Submissions

Discussion document question table

Question	Answer	Reasons for answer
Do you agree that the current application of the NES-F to the CMA requires amendment?	Yes	<p>The Māori Trustee agrees that the current application of the NES-F to the CMA requires amendment. The extent to which the NES-F wetland provisions apply in the CMA is too broad and unintentionally constrains activities in and around some coastal wetlands that were not intended to be captured under these provisions.</p> <p>However, it is reasonable for the NES-F provisions to apply to certain types of wetlands in the CMA, particularly those that are connected to or receiving environments of freshwater bodies such as estuarine wetlands and backwaters.</p> <p>The Māori Trustee's preference is for amendments to be made to clarify where and how the NES-F applies to the CMA (option 1) rather than removing the NES-F's application to the CMA in its entirety (option 2).</p>
Do you agree with the proposal to amend the NES-F wetland provisions to no longer apply to the CMA?	No	<p>The Māori Trustee does not agree that amending the NES-F wetland provisions to no longer apply to the CMA is an appropriate option. The Māori Trustee considers that the NES-F should be consistent with the objective of the NPS-FM: Te Mana o te Wai. The NPS-FM requires regional councils to give effect to Te Mana o te Wai, including through adopting "an integrated approach, ki uta ki tai, to the management of freshwater"¹. Ki uta ki tai requires local authorities to "recognise the interconnectedness of the whole environment" and to manage "freshwater, land use and development in an integrated and sustainable way to avoid, remedy</p>

¹ NPS-FM 2020, 3.2(2)(e), p 12.



		<p>or mitigate effects, including cumulative effects, on the health and wellbeing of ... receiving environments”². The Māori Trustee therefore considers that national direction, in the form of the NES-F, needs to continue to provide protection, through regulations, for activities that effect coastal wetlands that are directly connected to or are receiving environments of freshwater bodies. This would better align with and give effect to Te Mana o te Wai and ki uta ki tai.</p> <p>Amending the NES-F wetland provisions so that they will no longer apply to the CMA will result in estuarine wetlands being left vulnerable to direct damage. Although regional councils will still be required to pursue an integrated approach in their planning instruments through requirements in the NPS-FM, there is no guarantee that estuaries and coastal wetlands within the CMA will have appropriate protections. It is therefore imperative that regulations are set at a national level (through the NES-F) to ensure that the protection of these coastal wetlands continues. Removing the NES-F wetland provisions so that they will no longer apply to the CMA will also mean that both the Government and the public will be heavily reliant on regional councils to update their existing or draft regional plans (through a plan change process) to create specific requirements to protect wetlands, such as estuaries, in the CMA.</p> <p>Continuing to set regulations for some wetlands within the CMA at a national level will provide consistency to their management across the country and will not result in 16 regional coastal plans having differing and, at times, insufficient provisions. This is key for organisations like Te Tumu Paeroa who administer landholdings in 15 of the 16 regions of Aotearoa.</p>
<p>Do you think the wording changes in the preferred option make it clear that the NES-F would no longer apply in the CMA?</p>	<p>Yes</p>	<p>Again, this is not the Māori Trustee’s preferred option as this approach will likely increase the vulnerability of coastal wetlands (such as estuaries and backwaters) that are intrinsically linked with freshwater systems and should be protected by provisions under the NES-F and will</p>

² NPS-FM 2020, 3.5, pp 13-14.



		<p>therefore not give effect to Te Mana o te Wai and ki uta ki tai. The Māori Trustee’s position is that option 1, amending the NES-F to clarify where and how its wetland provisions apply to the CMA, is the more appropriate option.</p> <p>The Māori Trustee also notes that amending the term ‘natural wetland’ to ‘natural inland wetland’ would not make sense for regulation 55(3)(a) and the term should remain ‘natural wetland’ if option 2 was to be implemented.</p> <p>Current wording:</p> <p>“(3) The general conditions relating to water quality and movement are as follows:</p> <p>(a) the activity must not result in the discharge of a contaminant if the receiving environment includes any natural wetland in which the contaminant, after reasonable mixing, causes, or may cause, 1 or more of the following effects:”</p> <p>Proposed wording:</p> <p>“(3) The general conditions relating to water quality and movement are as follows:</p> <p>(a) the activity must not result in the discharge of a contaminant if the receiving environment includes any natural inland wetland in which the contaminant, after reasonable mixing, causes, or may cause, 1 or more of the following effects:”</p>
<p>Are there any reasons to prefer other options?</p>	<p>Yes</p>	<p>The Māori Trustee supports ‘option one’ proposed in the discussion document because clearly defining where and how the NES-F wetland provisions apply in the CMA will give better effect to and align with Te Mana o te Wai and ki uta ki tai. However, further analysis by the Ministry for the Environment should be undertaken to ensure that the proposed ‘natural coastal wetland’ definition is fit for purpose. The Māori Trustee considers that point three of the definition’s criteria, that a natural coastal wetland ‘does not exceed a depth of six metres at low tide’, could be reassessed and narrowed to ensure that only the extent to which the NES-F is intended to</p>

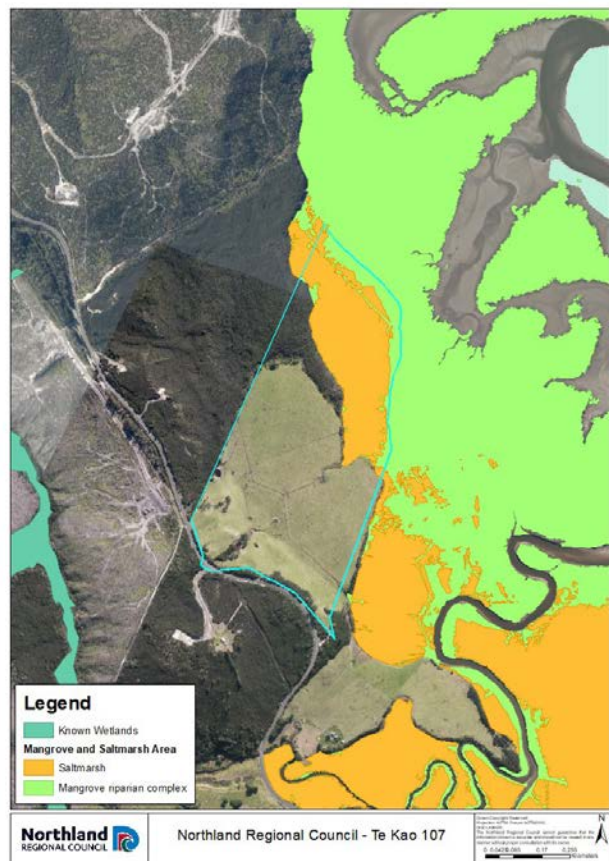


		<p>provide for is captured within the definition. Once a fit-for-purpose definition has been identified, the NES-F can be amended to provide exceptions for a 'natural coastal wetland' for regulations where their application is inappropriate or problematic.</p> <p>The Discussion Document also states that the Ministry for the Environment has a separate "work programme focussed on providing better outcomes for estuaries". As this work programme is currently only in the planning stage, there is no guarantee on what its scope will be or when it will come into effect. The Māori Trustee's believes that it is better to protect coastal wetlands within the CMA (intended to be protected) through a current national instrument than to leave them unprotected until future policy is written.</p> <p>The Māori Trustee also considers that if option two (the Government's preferred option) is adopted, a sunset clause should be inserted within the NES-F to provide protection to wetlands (intended to be protected) within the CMA until a future policy becomes operative.</p>
<p>Is there any additional relevant information that you think the Ministry should consider?</p>	<p>Yes</p>	<p>The Māori Trustee considers further analysis needs to be completed by the Ministry for the Environment, prior to any decision being made, to ensure that any amendments made to the NES-F leaves appropriate protections for estuarine wetlands intact.</p> <p>The Māori Trustee suggests that the Ministry for the Environment could also consider the following matters in addressing the issue:</p> <ul style="list-style-type: none"> • Defining exactly what wetland types are intended to be protected by NES-F provisions. E.g. Estuaries, backwaters, etc; • Changing the activities that they seek to control through the NES-F for wetlands located within the CMA; and • Creating another stream of rules in the NES-F that directly relate to wetlands located in the CMA.



Example

Te Kao 107



8. The Māori Trustee's understanding is that if option 2 is adopted by the Government, the saltmarsh located on Te Kao 107 will be left vulnerable to damage if the relevant coastal plan does not have appropriate provisions to protect it.
9. Checking a singular coastal plan to identify the planning rules and protections in place for one property would not likely overly onerous however the Māori Trustee administers at least 61 land blocks that have an identified wetland within 1 kilometre of the coastline³ across 11 different regional councils.
10. Understanding and ensuring that appropriate provisions exist across each regional coastal plan for every individual wetland we have located within the CMA across our extensive portfolio would be significantly onerous. Continuing to set regulations for some wetlands within the CMA

³ This information is indicative only. It derives from superimposing the LUCAS GIS layer over the Māori Trustee's land portfolio and measuring how many wetlands are within 1 kilometre of the coastline (coastal edge). It only captures known wetlands notated under the LUCAS GIS layer and may not include all individually identified wetlands in council plans or through kōrero with tangata whenua. Measuring from the coastline (coastal edge) is also unlikely to capture all wetlands that are considered within the CMA.



at a national level will provide consistency to their management across the country avoiding the prospect of 16 regional coastal plans having differing and, at times, insufficient provisions.



Conclusion

11. The Māori Trustee looks forward to discussing this submission with Ministry for the Environment officials.
12. Please contact [REDACTED]

Dr Charlotte Severne
Māori Trustee



Appendices

Appendix A – The Māori Trustee and Te Tumu Paeroa

Who We Are

13. The Māori Trustee is appointed by the Minister for Māori Development under the Māori Trustee Act 1953. The role of the Māori Trustee, is to provide accurate and timely administration and management of whenua and other client assets in compliance with the principles and obligations of trusteeship and agency, and in accordance with the Māori Trustee Act 1953, Trusts Act 2019, Te Ture Whenua Māori Act 1993 and other legislation. The current Māori Trustee, Dr Charlotte Severne, was appointed for a three-year term in September 2018 and was re-appointed for a five-year term in October 2021.
14. Te Tumu Paeroa is the organisation that supports the Māori Trustee to undertake her functions, duties and responsibilities.
15. The Māori Trustee administers around 88,000 hectares of Māori freehold land, as well as general land and other interests and investments, on behalf of approximately 100,000 Māori Land owners.
16. A primary objective of The Māori Trustee, is to protect, utilise and grow the assets of our Māori land owners. The organisation provides land administration and professional trustee and agency services to one third of all Māori land trusts (over 1,700 trusts), as well as targeted development and sector-specific expertise. The organisation is involved in the management of a number of Māori enterprises and development projects.
17. The Māori Trustee currently employs 124 staff across five offices throughout New Zealand, with the Māori Trustee located in Te Whanganui-a-Tara. Our organisation is made up of, but not limited to, trust and property management, law, client services, and other specialist teams. Our employees are focussed on protecting and enhancing the whenua Māori that we have the privilege to administer on behalf of its landowners and their tipuna.
18. Te Tumu Paeroa is unique, in that it is the only nation-wide organisation that manages significant tranches of Māori land and assets on behalf of Māori landowners.

Our Vision and Priorities

19. Our vision is: *Ko Te Tumu Paeroa tēnei, te tauawhi nei, te taunaki nei, te tiaki nei ngā whenua Māori mō naianeī, mō āpōpō hoki. Ensuring Māori land is protected and enhanced, now and for generations to come.*



Our vision requires a careful balance between protection of the whenua and taiao and enhancement of the whenua through a range of pathways, including commercial development.

20. Our purpose is to be a dedicated professional trustee service for Māori.

21. Our strategic priorities assist us to deliver on our vision and purpose:
 - a. Ensuring consistent delivery of professional trustee services.
 - b. Building trust and confidence across all of our engagements.
 - c. Demonstrating leadership in meeting new challenges to governance and administration of whenua Māori.

22. Our responsibility as trustee in the context of the 'Managing our wetlands in the coastal marine area' discussion document, is to ensure that the voices of the whenua that we are responsible for, and those landowners who whakapapa to that whenua, are heard and understood.

Our Portfolio

23. Our portfolio currently⁴ consists of the following:
 - a. Number of trusts and other entities under administration – 1,746.
 - b. Number of hectares under management – 88,000.
 - c. Number of owner accounts maintained – 102,502.
 - d. Number of ownership interests – 258,469.
 - e. Number of leases administered – 1,732.
 - f. Client funds under management (market value) – \$ 130.1 million.
 - g. Māori Trustee equity – \$ 170.7 million.

Our Mahi

24. The Māori Trustee has the responsibility to ensure that the best interests and outcomes for Māori land owners are advanced by Te Tumu Paeroa's mahi.

25. Our core services are:
 - a. Administering trusts as responsible trustee, custodian trustee, and agent
 - b. Convening, running and recording proceedings of meetings of beneficial owners
 - c. Responding to requests for information
 - d. Consulting with advisory trustees and owners
 - e. Leasing property on behalf of owners and administering leases

⁴ The Māori Trustee Annual Report 2022



- f. Collecting rent and managing arrears and bad debts
- g. Managing contracts for service entered into by trusts
- h. Managing and investing cash assets in the Common Fund
- i. Reporting to beneficial owners
- j. Acquiring and paying for goods and services
- k. Preparing financial statements and annual tax returns
- l. Keeping records for trusts we administer
- m. Making trust distributions to owners
- n. Administering grants and scholarships
- o. Making applications to the Māori Land Court
- p. Reviewing land use and considering, where appropriate, alternative land use options
- q. Developing and enhancing property and land management including Asset Management and Farm Environment Plans
- r. Managing and providing support services for the General Purposes Fund

- End of Document -