

The Māori Trustee's submission on Our future resource management system - Developing the next stages

April 2023

23 April 2023

Ministry for the Environment
Environment House
23 Kate Sheppard Place, Wellington 6011
Aotearoa New Zealand

Tēnā koe

Feedback on Discussion Document “Our future resource management system - Developing the next stages”

1. This letter sets out the Māori Trustee’s feedback on the Discussion Document “Our future resource management system - Developing the next stages”. The current Māori Trustee is Dr. Charlotte Severne. She has held this role since September 2018.
2. The Māori Trustee administers, as trustee or agent, approximately 88,000 hectares of Māori freehold land on behalf of around 100,000 individual Māori landowners. Te Tumu Paeroa, the Office of the Māori Trustee, 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 to this letter. Additional information can be found on Te Tumu Paeroa’s website, www.tetumupaeroa.co.nz.
3. The views expressed in this letter represent the Māori Trustee’s position as the single largest trustee and agent of Māori land. However, given the sheer scale and varied nature of the land assets within the Māori Trustee’s portfolio, the Māori Trustee’s views may not always be shared by all owners of lands she administers.
4. The Māori Trustee would welcome the opportunity to discuss her feedback with Ministry for the Environment officials.

Responses to Questions

Do you have any feedback on the suggested approach to decision making and conflict resolution?

5. The Māori Trustee believes that directions on these matters is insufficient and that regulations to the Natural and Built Environment Act should clearly set out a framework for decision making and conflict resolution.

Do you have any feedback on the suggested direction on engagement?

6. The Māori Trustee agrees that a one-size-fits-all approach to engagement with Māori will not be appropriate and appreciates that this consideration has been acknowledged as part of the suggested direction on engagement. However, she prefers that any direction to engage with Māori should use inclusive terminology, such as “mana whakahaere”, to ensure that the rights, interests and responsibilities that all Māori (iwi, hapū, ahi kā/Māori landowners) hold are recognised, understood and reflected in engagement and policy making. Further, she suggests



that the NPF should direct the creation of a mana whakahaere register at both a national and a regional level, to ensure that central and local governments can better understand the separate and overlapping interests of all Māori rights holders and ensure they engage appropriately.

7. This will also assist in ensuring that the appropriate Māori groups are identified in engagement agreements with RPCs.
8. The Māori Trustee also considers that decision-makers should be directed to undertake education and training to ensure that they understand local kawa, tikanga, mātauranga Māori and whenua Māori administration and their complexities to enable effective and meaningful engagement. And that these requirements should be codified in regulations.

Do you have any feedback on the suggested approach to monitoring?

9. The Māori Trustee supports Māori being involved in the monitoring of environmental limits and targets. However, it is currently unclear what Māori can actually do if they find anything while monitoring their natural resources. The NBE Bill and NPF need to ensure Māori can actively and meaningfully participate in the new resource management system. This would require enabling Māori to participate, if they wished to, in the monitoring, *reporting and enforcement* of environmental limits and targets, not just monitoring.

Do you have any feedback on the proposed changes to the Resource Management Act 1991 national direction to ensure it is fit for purpose in the new system?

10. The Māori Trustee has concerns that the consolidation of national direction instruments created under the RMA 1991, that were written without an environmental limits and targets purview, will not be compatible with the NBE Bill without significant amendment. The haste in which the NPF is being developed, without the NBE Bill being finalised, raises a number of concerns about whether or not the intention of national direction carried over from the RMA 1991 will be fit for purpose.
11. The Māori Trustee understands that the first NPF proposal will have constraints with regards to the setting of limits and targets due to the tight timeframe. This is not ideal considering that the NPF will be operative for at least 9 years and the environment will be potentially subject to an incomplete set of limits and targets.

Do you think any other changes are needed to Resource Management Act 1991 national direction when it is redrafted into the National Planning Framework to ensure it aligns with the Natural and Built Environment Bill? This includes giving effect to the principles of te Tiriti o Waitangi.

12. Further engagement and consultation is necessary to ensure Te Tiriti o Waitangi is given effect to.

Do you have any suggested climate change mitigation content for the first National Planning Framework?

13. The Māori Trustee considers that climate mitigation strategies in the first NPF need to take in account the nuances of whenua Māori. The majority of Māori freehold land blocks are small in size with marginal land classes that generally makes them not economically viable in their own



right; the blocks are often undeveloped, leased into Pākeha farming units, and generate very modest rentals; there are complexities which arise due to the land having multiple ownership interests; the cultural, spiritual and whakapapa connections Māori landowners have with their whenua is unique. These unique characteristics of whenua Māori are likely to hinder the ability of Māori landowners to implement climate mitigation strategies in comparison to the owners of general land. As such, the Māori Trustee considers that direction for climate mitigation strategies with regards to whenua Māori, that will filter through to natural and built environment plans and regional spatial strategies, needs to be set at a national level to ensure consistency is applied at regional levels when plans are developed and implemented.

Do you have any feedback on the suggested natural hazards content for the first NPF?

14. The Māori Trustee supports a consistent approach to establish a foundation of direction on natural hazards, although this should be sense-checked. She considers that a mechanism should be developed that allows landowners to create and submit their own risk management plans when council's hazard planning/mapping does not reflect what happens on the whenua. This will enable Māori landowners to increase their ability to remain/become climate resilient without unreasonable restrictions limiting their sustainable land use and development opportunities.

How can adding complexity to planning decisions be avoided?

15. If the primary legislation's purpose is clear, hierarchical, and explicit then decision-making should be simple. The Māori Trustee therefore repeats her submissions made on the Natural and Built Environment Bill in that the purpose of this legislation should be re-written or amended to:
 - set a clear hierarchy of obligations, through the concept of te Oranga o te Taiao, that prioritises protecting and sustaining the life supporting capacity and intrinsic values of the natural environment;
 - state that use and development is provided for subject to the protection and sustainment of the life supporting capacity and intrinsic values of the natural environment being secured;
 - support and provide for intergenerational equity; and
 - give effect to te Oranga o te Taiao.

How can the intrinsic relationship between iwi and hapū and te taiao be expressed?

16. While iwi and hapū have rights and responsibilities in relation to te taiao, so too do ahi kā/Māori landowners. As noted above the Māori Trustee prefers that inclusive terminology such as "mana whakahaere" is used to refer to the intrinsic relationship, rights, interests and responsibilities that all Māori (iwi, hapū, ahi kā/Māori landowners) have with te taiao. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all Māori rights holders to be recognised. Mana whakahaere better acknowledges the existing rights, responsibilities, and interests held by Māori through its inclusion of iwi, hapū, whānau and ahi kā (landowners).

How can the interconnectedness of all parts of te taiao be provided for?

17. To ensure the interconnectedness of all parts of te taiao are expressed, a clear hierarchy of obligations within Te Oranga o te Taiao should be set similar to the NPS-FM's Te Mana o te Wai.



This clearly prioritises protecting and sustaining the life supporting capacity and intrinsic values of the natural environment before providing for the health needs of people and their social, economic and cultural well-being.

How do we enable mātauranga Māori at place, including monitoring from a mātauranga Māori perspective, to measure how te taiao is improving?

18. The Māori Trustee considers that to enable mātauranga Māori at place there needs to be a consistent approach undertaken by all RPC's, that is directed by the NPF and written in conjunction with Māori, to ensure appropriate levels of education and training of local kawa, tikanga, mātauranga Māori and whenua Māori administration and their complexities are understood by decision-makers. Through educating, socialising and normalising the use of mātauranga Māori, Māori will be enabled to make meaningful and valid contributions in the monitoring of their natural resources.
19. However, the Māori Trustee consider that it is currently unclear on what Māori can actually do, if they find anything while monitoring their natural resources. The NBE Bill and NPF needs to ensure that Māori can actively and meaningfully participate in the new resource management system. This would require enabling Māori to participate, if they wished to, in the monitoring, *reporting and enforcement* of environmental limits and targets not just monitoring.

How would your iwi/hapū like to be involved in developing limits and targets content for the NPF and how might we support you to do this?

20. As stated in paragraph 6 above, the Māori Trustee prefers that the inclusive term “mana whakahaere” is used to ensure that the rights, interests and responsibilities that all Māori (iwi, hapū, ahi kā/Māori landowners) hold are recognised, understood and reflected in engagement and policy making. The Māori Trustee also considers that the NPF should direct the creation of a mana whakahaere register at both a national and a regional level to ensure that central and local governments can better understand the separate and overlapping interests of all Māori rights holders and ensure they engage appropriately.
21. A mana whakahaere register is an appropriate mechanism to utilise in developing limits and targets content for the NPF. An appropriate level of funding will need to be provided for this to be developed and for Māori to actively engage in the process.

How would you like us to work with you going forward?

22. The Māori Trustee's portfolio provides a good cross-sectional reference of whenua Māori and the impacts that Māori land and Māori landowners directly experience through policy change. The Māori Trustee sees direct engagement with her office prior to public notification of the NPF as beneficial to both parties and will hopefully ensure that the NPF is fit-for-purpose from a whenua Māori perspective. The Māori Trustee welcomes Ministry for the Environment policy-makers to pilot their policy on her portfolio.

How can we best support you as you consider implementation of the new system in your rohe?

23. The Māori Trustee considers that the NPF should direct the creation of a mana whakahaere register at both a national and a regional level to ensure that central and local governments can



better understand the separate and overlapping interests of all Māori rights holders and ensure they engage and provide support appropriately.

How can we enable and support you as you consider implementation of the new system in your rohe?

24. This reform presents a once-in-a-generation opportunity to overhaul elements within the current resource management system that are defective or sub-optimal. This process is significant and warrants a thorough process. However, the timeframe to make submissions and provide feedback have been unreasonably short. The Māori Trustee considers that the Government needs to employ the mindset of “do it once, do it right” to ensure the implementation of the new system is successful.

Based on your community’s goals, how could the NZ ETS support you to achieve emissions reduction?

25. It timely to explore additional options within the NZ ETS that would make it more suitable for Māori land. The current regulations are already extremely complex and the penalties so severe, that any participant within the ETS cannot realistically be expected to perform basic compliance tasks without the assistance of a consultant. Emissions reduction should not be limited for those who are only able to afford to participate. Other options need to be explored to achieve emissions reductions within communities e.g. creating a new category for Māori land.
26. The Māori Trustee considers the ETS was designed under a western framework and is suited for large-scale forest owners. The deforestation contingent liabilities associated with joining the ETS make it a risky proposition for smaller Māori land blocks. Deforestation costs are based on whatever the price of Carbon is at the time deforestation occurs, so it is likely to be cost prohibitive to change land use, especially if NZU prices are rising. It is most likely that once a block joins the ETS voluntarily it will never have the financial ability to get out. A large portion of the whenua the Māori Trustee administers, would require the entire land area to be planted to realise carbon benefits, therefore no alternative income can be obtained. The income stream from carbon will run out after a period, leaving no income for the next generation, however the next generation will wear all the contingent liabilities of deforestation and the real liabilities of maintenance. The complexities and long-term liabilities associated with entering Māori land into the ETS is further complicated by ownership structures and required permissions.

What land-use aspirations do you have for your whenua?

27. The Māori Trustee’s vision is to ensure that Māori land is protected and enhanced, now and for generations to come. This includes ensuring that whenua Māori can be productive and utilised in a way that prioritises the needs of the whenua first so it can support the many land-use aspirations of our owners. Ka ora te whenua, ka ora te tangata – When the land is well, the people are well. The reformed system and the NPF will need to support and provide for the sustainable development of whenua Māori and equip Māori landowners with digestible information and data to make informed decisions about their land presently and into the future.



28. Should you have any questions or queries, please feel free to contact the Māori Trustee's

[Redacted contact information]

Ngā manaakitanga,

Greg Shaw

Deputy Māori Trustee

For and on behalf of the Māori Trustee

Acting for the Māori Trustee pursuant to section 6C of the Māori Trustee Act 1953



Appendix A – The Māori Trustee and Te Tumu Paeroa

Who We Are

The Māori Trustee is appointed by the Minister for Māori Development under the Māori Trustee Act 1953. One of the principal roles of the Māori Trustee is to administer as trustee or agent whenua Māori and other client assets in accordance with the principles and obligations of trusteeship and agency, and relevant legislation including the Māori Trustee Act 1953, Trusts Act 2019 and Te Ture Whenua Māori Act 1993. 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.

Te Tumu Paeroa is the organisation that supports the Māori Trustee to undertake her statutory and other legal functions, duties and responsibilities.

The Māori Trustee administers approximately 88,000 hectares of Māori freehold land, as well as general land and other interests and investments, on behalf of over 100,000 Māori Land owners.

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 services to one third of all Māori land trusts (over 1700 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.

The Māori Trustee currently employs approximately 124 staff across five offices throughout New Zealand, with the Māori Trustee based in Te Whanganui-a-Tara

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

Our vision is: Ko Te Tumu Paeroa tēnei, te tauawhi nei, te taunaki nei, te tiaki nei ngā whenua Māori mō naianei, 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.

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

Our strategic priorities assist us to deliver on our vision and purpose:

- a. Enhancing operational excellence.
- b. Growing an inclusive culturally competent organisation committed to a greater understanding of Te Ao Māori.
- c. Contributing to growth, development and future leadership in whenua Māori administration and governance.
- d. Increasing the resilience and sustainability of the assets and whenua we administer.



Our responsibility as trustee in the context of the [Subject], 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

Our portfolio currently¹ consists of the following:

- a. Number of trusts and other entities under administration – 1746.
- 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

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.

Our core services are:

- h. Administration of trusts where the Māori Trustee is the responsible trustee.
- i. Agreed trustee services where the Māori trustee is an agent or custodian trustee.
- j. Keeping records for trusts we administer.
- k. Managing finances and preparing financial statements.
- l. Consulting with and convening meetings for advisory trustees.
- m. Consulting with and convening meetings for beneficial owners.
- n. Reporting to responsible trustees, advisory trustees and beneficial owners.
- o. Administering trust distributions.
- p. Filing applications with the Māori Land Court and attending associated hearings.
- q. Property management, including leases and asset maintenance.
- r. Reviewing land use and considering, where appropriate, alternative land use options.
- s. Developing and enhancing land and assets; including the production and maintenance of Asset Management Plans and Farm Environment Plans.
- t. Responding to requests for information.

¹ The Māori Trustee Annual Report 2022



-
- u. Managing and investing cash assets in the Common Fund.
 - v. Managing and providing support services for the General Purposes Fund.
 - w. Acquiring and paying for goods and services.