

The Māori Trustee submission on Northland Regional Council's Draft Freshwater Plan

March 2024



Northland Regional Council
Draft Freshwater Plan

Submission by the Māori Trustee on the Draft Freshwater Plan

31/03/2024



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Summary of Position

Background and Introduction

1. The Māori Trustee is appointed by the Minister for Māori Development under the Māori Trustee Act 1953 and administers nearly 82,000 hectares of Māori freehold land for approximately 100,000 individual Māori landowners. The Māori Trustee is the single largest trustee and agent of Māori land.
2. Te Tumu Paeroa, the Office of the Māori Trustee, is the organisation that supports the Māori Trustee to carry out her functions, roles and responsibilities. Further information regarding the Māori Trustee and Te Tumu Paeroa is contained in Appendix A and additional information is available on Te Tumu Paeroa's website, www.tetumupaeroa.co.nz.
3. Within Te Taitokerau, the Māori Trustee administers, as responsible trustee, 40 blocks (1,797 hectares) of Māori freehold land, representing 2,375 beneficial ownership interests in this whenua.
4. The views expressed in this submission on the Northland Draft Freshwater Plan (**Plan**) are those of the Māori Trustee.
5. Given the number of interests in the land that she administers, the Māori Trustee acknowledges that the views in her submission may not necessarily be shared by all beneficial owners of the land that she administers. Further, the Māori Trustee does not speak for iwi, hapū or individual owners of Māori land.

Challenges to use and development of Māori Freehold Land

6. Māori freehold land is a specific category of land that differs from general freehold land. Legislative and practical restrictions on Māori freehold land result in challenges to use and development of Māori freehold land.
7. Specifically, Māori freehold land often does not achieve an economic return for owners. This is due to factors such as:
 - a. Size and shape of Māori freehold land. Most parcels are less than 50 hectares and have been surveyed into irregular shapes and configurations.
 - b. Land class. Often, Māori freehold land is of a marginal land class.
 - c. Access. Many parcels of Māori freehold land are physically or legally landlocked, resulting in large areas of underdevelopment.
 - d. Lack of occupation and/or improvements on the land.
8. Further, with over 100 owners per parcel of Māori freehold land (on average), decision-making is more complex than for general freehold land, even where Trustees are appointed.
9. Accordingly, the land is often forced into passive leasing to neighbouring owners and the income is often insufficient to meet costs like rates, costs of regulatory compliance and the Māori Trustee's fees.



10. Access to third party capital is also highly constrained as lenders are generally unwilling to lend against Māori freehold land due to legislative restrictions on security over Māori freehold land, the poor economic viability of the land and the number of owners in each parcel.
11. Finally, Māori freehold land is often particularly vulnerable to climate change impacts due to its inherent location on, near or surrounding coastal or freshwater environments, topography, and remoteness. Increasingly, climate change is negatively impacting Māori freehold land and its owners.

Overview of Submission

12. Broadly, the Māori Trustee's submission on the Plan as it relates to proposals for stock exclusion is:
 - a. She recognises the potential benefits to water quality through implementing greater setbacks. However, she is unable to support the Council's draft proposal to increase the stock exclusion setback distance, to 5 or 10 metres from a waterway, on Māori freehold land. The unique characteristics, historical barriers, inability to change land use and the economic restrictions experienced by Māori freehold land and its owners, means that any setback increases will likely have a significant and disproportionate impact on whenua Māori. Therefore, Māori freehold land should only be subject to the current setback requirements under the Resource Management (Stock Exclusion) Regulations 2020. The Māori Trustee considers Freshwater Farm Plan are a more appropriate tool to identify instances where a greater setback is required on Māori freehold land for protecting and enhancing water quality.
 - b. She **does not** support rules to exclude stock from Highly Erodible Land 1 (HEL1) and Highly Erodible Land 2 (HEL2) on Māori freehold land. The Māori Trustee is concerned, given the unique characteristics¹ of whenua Māori, that the current mapping of HEL1 and HEL2, will disproportionately result in the reduction, or further reduction, of productive land on whenua Māori. This will be exacerbated if a practical fencing factor² is used when excluding stock rendering a significant number of Māori freehold land blocks uneconomic and/or unable to be utilised.
 - c. She considers that the unique characteristics, historical barriers, and the economic restrictions experienced by Māori freehold land and its owners needs to be accounted for when developing stock exclusion rules for wetlands in the hill country. Due to these challenges, the development of Māori freehold land has been constrained resulting in a disproportionate number of wetlands now being located on whenua Māori in comparison to general land. The Māori Trustee is not opposed to protecting these wetlands; however, a greater level of financial support will be required to acknowledge the disproportionate impact stock exclusion rules may have on whenua Māori and its owners.
 - d. She **does not** support an extension of stock exclusion regulations from waterways to apply to sheep on Māori freehold land. The financial implications on Māori freehold

¹ Refer to paragraph 7.

² Refer Consultation document supplementary report "A costing of the options to support The draft Freshwater Plan Change: Have your say on stock exclusion report" pg.13.



landowners are likely to be high, as the cost of conventional fencing (post and batten 8-wire) to exclude sheep from waterways is significant³. This will likely make it cost prohibitive to farm sheep on Māori freehold land and could result in land use changes if that option exists.

- e. More information about the farming of sheep in Te Taitokerau is needed before stock exclusion rules are broadened to include them. It may be more appropriate to manage the stock exclusion of sheep from waterways through FWFP, particularly where there is clear evidence to suggest that sheep are having a significant impact on the waterway, rather than having an all-encompassing rule applied to the entire region.
- f. She considers that small Māori land blocks will likely struggle to adhere to any timeframe requirements set in the Plan given the unique characteristics, historical barriers, inability to change land use and the economic restrictions experienced by Māori land and its owners. Majority of our land trusts are already unable, or find it difficult, to meet base administration costs. Therefore, it is unlikely that our owners will be able to achieve the expected stock exclusion requirements within a timeframe that would be acceptable to the Council or an economic unit.

13. Broadly, the Māori Trustee's submission on the Plan as it relates to water quality and implementation is:

- a. She **strongly supports** a policy to set aside 20% of allocatable water⁴, as a minimum, to be used for environmental enhancement, marae and papakāinga, contributes to a Te Mana me te Mauri o te Wai fund, or Māori land development. The proposed policy is a step towards a more equitable and enabling system for the development of whenua Māori and providing an avenue for the preservation of the wai.
- b. She **strongly supports** the proposal that an assessment of effects on tāngata whenua values and practices is provided in relation to certain resource consent activities and their effects on Māori freshwater values.
- c. She **strongly supports** the Council's direction to eliminate or reduce discharges to freshwater to promote the restoration and health of waterways. The discharge of dairy effluent to freshwater, whether treated in holding facilities or not, is a practice that appears to be phased out by other regional councils. Therefore, measures should be undertaken to completely avoid the activity at the expiry of the consent and forgo granting a renewal to existing consents, including those for a term that ends before 1 January 2030.
- d. She **supports** measures to manage the potential for adverse effects from commercial forestry on waterways and indigenous biodiversity. However, it is very important that any publicly notified Plan implements standards or rules relating to exotic forests and stock exclusion at the same time. This is because the unintended consequences of the

³ Refer Consultation document supplementary report "A costing of the options to support The draft Freshwater Plan Change: Have your say on stock exclusion report" states on Page 4 "Notably, the material cost for a non-electric 8-wire fence is nearly twice as high as the material cost for an electric 4-wire".

⁴ Refer Consultation document report "Targeted Water allocation policy", pg. 4.



proposed stock exclusion regulations could result in large scale land use changes from farming to exotic forestry (production and permanent). Not synchronising the introduction of standards or rules for exotic forestry and stock exclusion will create uncertainty for primary producers, stakeholders, and investors as to which type of land use to support or develop within Te Taitokerau.

- e. She **supports** the existing actions identified in the *Draft Freshwater Action Plan* and the intention to implement and fund potential new actions 8 and 10.

Specific Submissions

14. The Māori Trustee's responses to the Draft Freshwater Plan questions/topics are set down in the table below.
15. The Māori Trustee looks forward to discussing this submission with the Northland Regional Council.
16. Please contact [REDACTED] to arrange a time for the Māori Trustee to speak to this submission. [REDACTED] can be contacted on [REDACTED]
[REDACTED]

Ngā manaakitanga,

Dr Charlotte Severne

Māori Trustee



Specific Submissions

Submission Table

Draft Freshwater Plan question/topic	Māori Trustee submission
<p>1. How far away from waterways should stock be kept?</p>	<p>The Māori Trustee considers that the current setback requirements under the Resource Management (Stock Exclusion) Regulations 2020 are adequate.</p> <p>The Māori Trustee recognises the potential benefits to water quality through implementing greater setbacks. However, she is unable to support the Council’s draft proposal to increase the stock exclusion setback distance, to 5 or 10 metres from a waterway, on Māori freehold land. The unique characteristics, historical barriers, inability to change land use and the economic restrictions experienced by Māori freehold land and its owners, as highlighted in paragraphs 6-11, means that any setback increases will likely have a significant and disproportionate impact on whenua Māori.</p> <p>At present, the projected compliance costs estimated by the Council⁵ for the current regulation (3m) setback is unaffordable for most Māori freehold landowners. Therefore, any additional costs associated with the increased setback⁶ would further adversely affect the viability of Māori freehold land. This will also likely make marginal Māori freehold land blocks appear uneconomic and unattractive to current or prospective lessees.</p> <p>The Māori Trustee therefore considers that Māori freehold land should only be subject to the current setback requirements under the Resource Management (Stock Exclusion) Regulations 2020.</p>

⁵ Refer to Consultation document supplementary report “A costing of the options to support The draft Freshwater Plan Change: Have your say on stock exclusion report”. For a non-dairy farm; stock exclusion: \$5,500 – \$8,200 (page 10, Table 8); and riparian planting: \$1,400 – \$2,100(page 12, Table 9).

⁶ fencing, water reticulation, riparian planting, and opportunity cost of lost use. Refer to Consultation document pg. 6 Table, and supplementary report “A costing of the options...” pg. 10, Tables 7 and 8.



	<p>The Māori Trustee considers a FWFP is a more appropriate tool to identify instances where a greater setback is required on Māori freehold land for protecting and enhancing water quality.</p>
<p>2. Should stock exclusion rules apply to highly erodible land?</p>	<p>While the Māori Trustee can understand the need to reduce sediment runoff into waterways and increase the regions resilience to slips, she does not support a proposal for rules to exclude stock from HE1 and HEL2 on Māori freehold land.</p> <p>The Māori Trustee administers 1,797 hectares of Māori freehold land in Te Taitokerau, of which, 58% is covered in natural forest while only 32% is covered in grassland/cropland. The Māori Trustee is concerned, given the unique characteristics⁷ of whenua Māori, that the current mapping of HEL1 and HEL2, will disproportionately result in the reduction, or further reduction, of productive land on whenua Māori.</p> <p>Furthermore, if a practical fencing factor⁸ is used when excluding stock, the area that stock need to be excluded from could increase, resulting in additional productive land lost. As a result, this could render a significant number of Māori freehold land blocks unutilised and uneconomic. Currently, 90% of the Māori freehold land blocks administered by the Māori Trustee in Te Taitokerau generate less than \$10,000 per annum and 73% generate less than \$5,000. Approximately 57.5% of these blocks already cannot meet in whole or part trust administration costs.</p> <p>The Māori Trustee is also concerned that applying the HEL1 and HEL2 overlay to Māori freehold land could unintentionally drive inappropriate land use changes from farming livestock towards exotic forestry. This could have a profound impact on the community, particularly if there is a decrease in economic activity and sustainable job opportunities within the rural communities.</p> <p>Additionally, the overlay of HEL1 and HEL2 may also have the effect of further restricting, the already limited, land use opportunities for small Māori freehold land blocks. This may result in further alienation of</p>

⁷ Refer to paragraph 7.

⁸ Refer to Consultation document supplementary report “A costing of the options to support The draft Freshwater Plan Change: Have your say on stock exclusion report” pg.13.



	<p>Māori freehold land, as it is forced into a reverting state, deriving no income for its current owners or future generations.</p> <p>The Māori Trustee therefore considers the following matters should be addressed before stock exclusion rules for highly erodible land are included in any Plan that is publicly notified:</p> <ul style="list-style-type: none"> • Mapping data should be refined to focus on identifying larger clusters of HEL1 or HEL2 within areas that are predominantly grass rather than forest to create more cohesive areas for stock exclusion. • Investigate the use of FWFP to temporarily exclude stock from HEL 1 or HEL2 land during winter months, rather than completely excluding stock all year around. • Māori freehold land is excluded from any rules relating to stock exclusion from HEL1 and HEL2.
<p>3. What should the rules be for excluding stock from wetlands?</p>	<p>The Māori Trustee considers that the unique characteristics, historical barriers, and the economic restrictions experienced by Māori freehold land and its owners needs to be accounted for when developing stock exclusion rules for wetlands in the hill country. Due to these challenges, the development of Māori freehold land has been constrained resulting in a disproportionate number of wetlands now being located on whenua Māori in comparison to general land.</p> <p>The Māori Trustee is not opposed to protecting these wetlands; however, a greater level of financial support will be required to acknowledge the disproportionate impact stock exclusion rules may have on whenua Māori and its owners.</p> <p>The Council should consider the following matters when developing stock exclusion rules for wetlands in the hill country:</p> <ul style="list-style-type: none"> • Identifying and establishing regional wetland protection priorities. • Identifying and providing for effective livestock management approaches that are not solely focused on the use of permanent fencing⁹. • Ensuring that the alignment of fencing around a wetland does not unintentionally exclude considerable areas of productive land.

⁹ Refer to the Otago Regional Council website [Alternative approach to protect unique Taieri River scroll plains - ORC | Otago Regional Council](#)



	<ul style="list-style-type: none"> • Providing a definition for ‘Hill country’ within the Plan¹⁰. • Undertaking case studies to test the workability of the policy on small Māori freehold land blocks.
<p>4. Should stock exclusion be extended to apply to other animals?</p>	<p>The Māori Trustee does not support an extension of stock exclusion regulations from waterways to apply to sheep on Māori freehold land. This is because, in Te Taitokerau, the comparative livestock density of sheep to dairy cattle and beef cattle is low¹¹. In general sheep are more profitable as livestock than beef cattle therefore the financial implications for Māori landowners are high. The cost of conventional fencing (post and batten 8-wire) to exclude sheep from waterways is significant¹² and will disproportionately affect small, fragmented Māori land blocks, given they are often forced into passive leases to neighbouring owners for minimal yields¹³. Therefore, extending the rules to include sheep will likely make it cost prohibitive to farm sheep in the region, particularly on whenua Māori, and could result in land use changes.</p> <p>Consequently, the ability for Māori freehold land blocks to pivot land use is limited and could, in many cases, result in the land reverting where pest and weed management issues will arise while the land remains unproductive.</p> <p>The Māori Trustee considers that more information about the farming of sheep in Northland is needed before stock exclusion rules are broadened to include them. However, it may be appropriate to manage the stock exclusion of sheep from waterways through FWFP, particularly where there is clear evidence to suggest that sheep are having a significant impact on the waterway, rather than having an all-encompassing rule applied to the entire region.</p>

¹⁰ Refer to D. Cameron “Sustaining the productivity of New Zealand's hill country – A land manager’s view” in Hill Country – Grassland Research and Practice Series 16: 151-156 (2016)

¹¹ Refer Figure 4 of Turnball J. *New Zealand Number and density of livestock in New Zealand* (Factsheet 2023) Massey University / Environmental Health Intelligence [Livestock-numbers-and-density-merged.pdf \(ehinz.ac.nz\)](https://ehinz.ac.nz/Livestock-numbers-and-density-merged.pdf).

¹² Refer Consultation document supplementary report “A costing of the options to support: The draft Freshwater Plan Change: Have your say on stock exclusion report” states on Page 4 “Notably, the material cost for a non-electric 8-wire fence is nearly twice as high as the material cost for an electric 4-wire”.

¹³ 90% of blocks administered by the Māori Trustee’s in Te Taitokerau generate less than \$10,000 per annum and 73% generate less than \$5,000. For approximately 57.5% of these entities, meeting base trustee and administration costs is already entirely or partially unachievable and this number will only increase to meet compliance costs for new local government regulations.



<p>5. What timeframes are feasible for any new stock exclusion rules?</p>	<p>The Māori Trustee considers that due to the unique characteristics, historical barriers, inability to change land use and the economic restrictions experienced by Māori land and its owners, small Māori land blocks will likely struggle to adhere to any timeframe requirements set in the Plan. As highlighted in paragraphs 6-11, majority of our land trusts are already unable, or find it difficult, to meet base administration costs. Therefore, it is unlikely that our owners will be able to achieve the expected stock exclusion requirements within a timeframe that would be acceptable to the Council or an economic unit.</p> <p>The Māori Trustee expects that additional financial support will need to be made available to Māori freehold landowners once timeframes are established.</p>
<p>6. Managing water allocation</p>	<p>The Māori Trustee strongly supports a policy to set aside 20% of allocatable water¹⁴, as a minimum, to be used for environmental enhancement, marae and papakāinga, the use of water provided it contributes to a Te Mana me te Mauri o te Wai fund, or Māori land development.</p> <p>The ‘first-in, first served’ principle currently used for allocating water has historically disadvantaged Māori freehold landowners, particularly given that access to third party capital is highly constrained and by the time owners have accrued enough funds, the allocation is exhausted. This proposed policy is a step towards a more equitable and enabling system for the development of whenua Māori and providing an avenue for the preservation of the wai.</p>
<p>7. Enabling tāngata whenua to practice as kaitiaki for wai</p>	<p>The Māori Trustee strongly supports the proposal that an assessment of effects on tāngata whenua values and practices is provided in relation to certain resource consent activities and their effects on Māori freshwater values.</p> <p>However, adequate funding for the implementation of the proposed Draft Action Plan¹⁵ is key to meeting NRC’s obligation under the National Policy Statement for Freshwater Management (NPS-FM) 2020 to involve tāngata whenua in freshwater management.</p>

¹⁴ Refer Consultation document report “Targeted Water allocation policy”, pg. 4.

¹⁵ Potential action 10: Supporting tāngata whenua involvement in freshwater management and decision-making.



<p>8. Eliminate or reduce discharges</p>	<p>The Māori Trustee strongly supports the Council’s direction to eliminate or reduce discharges to freshwater to promote the restoration and health of waterways.</p> <p>The discharge of dairy effluent to freshwater, whether treated in holding facilities or not, is a practice that appears to be phased out by other regional councils, including the Waikato Regional Council and Horizons Regional Council. Therefore, the Northland Regional Council should undertake measures to completely avoid the activity at the expiry of the consent and forgo granting a renewal to existing consents, including those for a term that ends before 1 January 2030.</p>
<p>9. Managing exotic forests</p>	<p>The Māori Trustee supports measures to manage the potential for adverse effects from commercial forestry on waterways and indigenous biodiversity.</p> <p>However, the Māori Trustee considers it is imperative that any publicly notified Plan implements standards or rules relating to exotic forests and stock exclusion at the same time. This is because the unintended consequences of the proposed stock exclusion regulations could result in large scale land use changes from farming to exotic forestry (production and permanent). Therefore, not synchronising the introduction of standards or rules for exotic forestry and stock exclusion will create uncertainty for primary producers, stakeholders, and investors as to which type of land use to support or develop within Te Taitokerau.</p>
<p>10. Draft action plan</p>	<p>The Māori Trustee supports the requirement under the NPS-FM 2020 that NRC has a Freshwater Action Plan.</p> <p>The Māori Trustee supports the existing actions identified in the Action Plan and the intention to implement and fund potential new actions, particularly Potential actions 8 and 10.</p> <p>The Māori Trustee considers that Council needs to provide further analysis and discussion in relation to <i>“Potential action 8: Funding to support stock exclusion, riparian planting and restoring wetlands”</i>. The potential action should include specific targeted funding to support the owners of small (less than 50 Ha) Māori freehold land blocks to meet stock exclusion requirements.</p>



Appendix A

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, the Office of the Māori Trustee, is the organisation that supports the Māori Trustee to undertake her statutory and other legal functions, duties and responsibilities.

The Māori Trustee administers approximately 82,000 hectares of Māori freehold land, as well as general land and other interests and investments, on behalf of over 100,000 Māori landowners.

A primary objective of The Māori Trustee, is to protect, utilise and grow the assets of our Māori landowners. 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 166 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:

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



Our Portfolio

Our portfolio currently¹⁶ consists of the following:

- Number of trusts and other entities under administration – 1746.
- Total hectares administered by Māori Trustee – 82,161.
- Number of owner accounts maintained – 104,049.
- Number of ownership interests – 263,233.
- Number of leases under management – 1,704.
- Client funds held (market value) - \$ 133 million.
- Māori Trustee equity - \$ 165 million.

Our Mahi

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

Our core services are:

- Administration of trusts where the Māori Trustee is the responsible trustee.
- Agreed trustee services where the Māori trustee is an agent or custodian trustee.
- Keeping records for trusts we administer.
- Managing finances and preparing financial statements.
- Consulting with and convening meetings for advisory trustees.
- Consulting with and convening meetings for beneficial owners.
- Reporting to responsible trustees, advisory trustees and beneficial owners.
- Administering trust distributions.
- Filing applications with the Māori Land Court and attending associated hearings.
- Property management, including leases and asset maintenance.
- Reviewing land use and considering, where appropriate, alternative land use options.
- Developing and enhancing land and assets; including the production and maintenance of Asset Management Plans and Farm Environment Plans.
- Responding to requests for information.
- Managing and investing cash assets in the Common Fund.
- Managing and providing support services for the General Purposes Fund.

- End of Document -

¹⁶ [The Māori Trustee Annual Report 2023.](#)