

The Māori Trustee submission on the Resource Management (Freshwater and Other Matters) Amendment Bill

June 2024

30 June 2024

Primary Production Committee
Parliament Buildings
Wellington
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Tēnā koe

Submission on the Resource Management (Freshwater and Other Matters) Amendment Bill

Background on the Māori Trustee and the Office of the Māori Trustee

1. The Māori Trustee is established as a corporation sole by the Māori Trustee Act 1953, with the functions, roles and responsibilities of the Māori Trustee carried out by the individual statutory officer holding the office of the Māori Trustee.
2. The current Māori Trustee is Dr Charlotte Severne, who was appointed by the Minister for Māori Development for a three-year term in September 2018 and re-appointed for a five-year term in October 2021. The Māori Trustee's independence from the Crown is entrenched in the Māori Trustee Act.
3. Te Tumu Paeroa is the Office of the Māori Trustee, comprising employees who support the Māori Trustee to carry out her statutory and other legal responsibilities. Te Tumu Paeroa is partly funded by Crown funding through Vote Māori Development.
4. One of the principal roles of the Māori Trustee is to carry out appointments as trustee or agent administering whenua Māori and other client assets in compliance with the obligations of trusteeship and agency, and in accordance with legislation, with the objective of protecting and growing the assets of Māori landowners for their benefit.
5. The Māori Trustee administers, as trustee or agent, around 82,000 hectares of Māori freehold land, as well as general land and other interests and investments, on behalf of approximately 100,000 individual Māori landowners. The Māori Trustee is the largest single administrator of Māori land, providing 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 currently responsible for managing or supporting a number of Māori land-based enterprises, with a total asset base of over \$50 million (excluding land) and project manages capital improvement works and land remediation work (on land impacted by Cyclone Gabrielle and other extreme weather events) on land the Māori Trustee administers.



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- Given the scale and varied nature of the land assets within this portfolio, the views of the Māori Trustee may not always be shared by all owners of the whenua she administers.

Position

- The Māori Trustee does not support the proposed Resource Management (Freshwater and Other Matters) Amendment Bill (the Bill) in its current format.
- By way of general observation, the Māori Trustee does not consider that the accompanying Regulatory Impact Statements¹ (RIS) and the Supplementary Analysis Reports (SAR) reports² provide sufficient evidence³ to proceed with the Bill. Further, the Māori Trustee is concerned that there has been insufficient stakeholder engagement⁴ on the proposed amendments before introducing the Bill.

Matters the Māori Trustee supports

- The Māori Trustee supports the proposal to make amendments to streamline the process to prepare or amend national direction under the Resource Management Act 1991 (RMA). However, the Māori Trustee considers that limits to Ministerial discretion should be applied through specifying time periods, in the Bill, for consultation that are proportionate to the significance of the matter at issue⁵. This is necessary to ensure stakeholders, such as Māori landowners, have sufficient time and opportunity to make comments on changes that may affect them.

Matters the Māori Trustee does not support

Te Mana o te Wai's hierarchy of obligations

- The Māori Trustee does not support the proposal to exclude Te Mana o te Wai's hierarchy of obligations contained in the National Policy Statement for Freshwater Management 2020 (NPSFM 2020) from resource consent application and decision-making processes until the NPSFM 2020 is replaced.
 - The Māori Trustee is concerned that excluding Te Mana o te Wai's hierarchy of obligations⁶ will significantly weaken the ability of local authorities to give effect to the NPSFM 2020.

¹ [RIS: Excluding the hierarchy of obligations within the National Policy Statement for Freshwater Management from resource consenting](#) 3/04/2024; and [RIS: Amending the Stock Exclusion Regulations and Intensive Winter Grazing Regulations through the Resource Management Act Amendment Bill 2024](#) 26/05/2024.

² [SAR: Streamlining National Direction Processes](#) 14/05/2024; and [SAR: Amending the consenting pathway for coal mining in or around wetlands and significant natural areas](#) 13/05/2024.

³ RIS 3/04/2024, p.16 paragraphs 71-74.

⁴ SAR 13/05/2024, pp.4-5.

⁵ This could be achieved by including a public notification timeframe under s46A(4)(b) of the RMA or a schedule that specifies a timeframe for each national direction document, including the New Zealand Coastal Policy Statement.

⁶ NPSFM 2020, clause 1.3(5) and Objective 2.1.



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- b. Further, the proposed amendment will likely impede the ability of regional councils to carry out their functions and duties to achieve integrated management of natural and physical resources within their rohe⁷.
 - c. Without Te Mana o te Wai's hierarchy of obligations providing guidance, resource consent applicants and decision makers will have greater difficulty and less certainty in relation to determining whether activities affecting water quality and/or allocation are consistent with integrated management.
 - d. The Māori Trustee considers that rather than excluding the hierarchy of obligations, further support should be provided to regional authorities to help articulate the hierarchy to applicants.
 - e. Finally, the Māori Trustee is not convinced that the proposed amendment will reduce costs for applicants.

Consenting pathway for coal mining with other mineral extraction

- 11. The Māori Trustee does not support the proposal to align the consenting pathway for coal mining with other mineral extraction activities across the NPSFM 2020, National Policy Statement for Indigenous Biodiversity 2023 (the NPSIB 2023) and Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).
 - a. The Māori Trustee considers that the proposed amendment is likely to cause further environmental degradation to significant natural areas (SNA's) and wetlands. This is due to new or existing coal mines being able to use the 'gateway' tests provided under both the NPSFM 2020 and NPSIB 2023 as a consent pathway⁸.
 - b. The Māori Trustee is also concerned that this amendment will not give effect to Te Mana o te Wai or allow for Māori to carry out their kaitiaki responsibilities.

Extending local authority timeframes under the NPSIB 2023

- 12. The Māori Trustee is unable to support the proposal to extend local authority timeframes under the NPSIB 2023 without a clear implementation plan for protecting unidentified SNAs. It is essential that any implementation plan recognises the 'public good' contribution that Māori freehold land provides to maintain indigenous biodiversity.

⁷ s30(1)(a), RMA 1991.

⁸ Currently the gateways are: under the NPSIB 2023 clause 3.11(1)(a)(ii) *significant national public benefit that could not otherwise be achieved using resources within New Zealand*, and under the NPS FM 2020 clauses 3.22(1)(e)(ii) *will provide significant national or regional benefits* and 3.22(1)(e)(iii) *...a functional need for the activity to be done in that location*.



Removal of the low slope mapping

13. The Māori Trustee acknowledges that there are issues with the current low slope mapping under the Resource Management (Stock Exclusion) Regulations 2020. However, the Māori Trustee believes that the removal of the map is a blunt and inequitable approach. It would be her preference that the map was retained as a guidance tool. The Māori Trustee considers that relying on Freshwater Farm Plans (FWFP) to exclude stock from waterways without the support of a national map of low slope land (as guidance), will unduly put the onus on FWFP as a tool which is not yet fully developed and implemented⁹.

Repeal of activity regulations for IWG

14. The Māori Trustee does not support the proposal to repeal the permitted and restricted discretionary activity regulations and associated conditions for intensive winter grazing (IWG) from the NES-F. The Māori Trustee is concerned that repealing the permitted and restricted discretionary activity regulations and associated conditions for IWG from the NES-F creates unnecessary reliance on FWFP's, which have yet to be developed and implemented across all regions.

In closing

15. The Māori Trustee thanks the Primary Production Committee for the opportunity to submit.
16. The Māori Trustee would welcome the opportunity to discuss her submission during the Select Committee hearing process.

Ngā manaakitanga,

Dr Charlotte Severne

Māori Trustee

⁹ At this time FWFP's are in a staged process of being implemented across 5 Regional Councils— Southland, Waikato, Horizons-Manawatu, Otago and West Coast.
