

He tono nā



Te Rūnanga o NGĀI TAHU

ki

MANATU MO TE TAI AO
e pā ana ki te

**EMISSIONS TRADING SCHEME:
REVIEW**

Kahuru / February 2016

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Mo tātou a mō kā uri a muri ake nei

1. EXECUTIVE SUMMARY

- 1.1 Te Rūnanga o Ngāi Tahu (Te Rūnanga) acknowledges the positive intent of the review of the Emissions Trading Scheme (ETS), however does not consider the ETS is comprehensive enough to be the primary mitigation approach to climate change in Aotearoa.
- 1.2 Te Rūnanga notes that since the inception of the ETS the net emissions produced in Aotearoa have not decreased, but in fact increased.
- 1.3 Climate change is now having a measurable impact on the weather patterns and the environment in Aotearoa, and this has a direct impact on the economic wellbeing and cultural practises of Ngāi Tahu Whānui.
- 1.4 Te Rūnanga believes that the ETS addresses only a part of the wider issues of Climate Change, and that a broader suite of initiatives are necessary to incentivise behavioural change to slow causes of climate change, and mitigate impacts of on-going emissions.
- 1.5 Te Rūnanga does not support a system that perpetuates imbalances, which was a message given in our response to consultation on proposed changes. The ETS should set a path that delivers reduced emissions and creates a fair playing field.
- 1.6 Te Rūnanga supports a move to full surrender obligations across all sectors.
- 1.7 Te Rūnanga believes that stability in the price of carbon at a price above \$15 a unit is necessary to encourage businesses to achieve a net carbon emissions business model and incentivise afforestation.
- 1.8 Te Rūnanga is disappointed that indigenous forests and species continue to be excluded from the ETS as a viable source of carbon sequestration.

2. OVERALL RECOMMENDATIONS

- 2.1 The following recommendations are made by Te Rūnanga o Ngāi Tahu:

General Issues

- Wider reforms that address the behaviours contributing to climate change across all sectors are required.
- Indigenous forestry continues to be excluded from the Emissions Trading Scheme.
- That the necessity and effectiveness of the pre 1990/ post 1989 forest distinction is explored.

Priority issues relating to the review

- Full Surrender Obligations are met across all sectors.
- The Government must manage the carbon market more effectively to allow forest and forestry land owners to have confidence to continue in the industry. The low carbon price is a contributing factor to the disparity between deforestation and afforestation in Aotearoa.
- Inclusion of the agricultural sector in the ETS and a plan to reach full accountability for their emissions.

Ngāi Tahu Specific Matters

- The economic and cultural wellbeing of Ngāi Tahu Whānui is being jeopardised by the impacts of climate change .
- Ngāi Tahu are significant owners of both indigenous and exotic forests, as well as owners and lessors of forestry land.

3. TE RŪNANGA O NGĀI TAHU

3.1 This response is made on behalf of Te Rūnanga o Ngāi Tahu. Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu Whānui and was established as a body corporate on 24th April 1996 under section 6 of Te Rūnanga o Ngāi Tahu Act 1996 (the Act).

3.2 We note the following relevant provisions of our constitutional documents:

Section 3 of the Act States:

“This Act binds the Crown and every person (including any body politic or corporate) whose rights are affected by any provisions of this Act.”

Section 15(1) of the Act states:

“Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui.”

- 3.3 The Charter of Te Rūnanga o Ngāi Tahu constitutes Te Rūnanga as the kaitiaki of the tribal interests.
- 3.4 Te Rūnanga respectfully requests that Manatu Mo Te Taiao accord this response the status and weight due to the tribal collective, Ngāi Tahu Whānui, currently comprising over 50,000 members, registered in accordance with section 8 of the Act.

4. TE RŪNANGA INTERESTS IN THE REVIEW OF THE EMISSIONS TRADING SCHEME

- 4.1 Te Rūnanga notes the following particular interests in the proposed changes to the Education Act 1989;

Treaty Relationship

- Te Rūnanga o Ngāi Tahu have an expectation that the Crown will honour Te Tiriti o Waitangi and the principles upon which the Treaty is founded.
- The protection and management of the environment within the takiwā, for which Ngāi Tahu Whānui have kaitiaki responsibilities and maintain rangatiratanga status, must be consistent with the principles of Te Tiriti o Waitangi.

Whanaungatanga

- Te Rūnanga has a responsibility to promote the wellbeing of Ngāi Tahu Whānui and ensure that the management of Ngāi Tahu assets and interests supports the development of iwi members.
- This includes the management of forestry assets for commercial gain, as well as influencing policy that will mitigate the impact of climate change on individual whānau households.
- Ngāi Tahu are also investors across wider sectors of the New Zealand economy such as fishing and tourism, with various levels of emissions obligations and subsidy entitlements under the ETS.

Kaitiakitanga

- The ability of our mana whenua communities to fulfill their role as kaitiaki at a local level depends on measures employed at the national and international level to address the environmental consequences of climate change. There is the potential for measures to be compatible with, and support, kaitiakitanga, or otherwise undermine mana whenua efforts.

- 4.2 The Crown apology to Ngāi Tahu recognises the Treaty principles of partnership, active participation in decision-making, active protection and rangatiratanga.

- 4.3 With regards to the Ngāi Tahu takiwā, Section 5 of the Te Rūnanga o Ngāi

Tahu Act 1996 statutorily defines those areas “south of the northern most boundaries described in the decision of the Māori Appellate Court ...” which in effect is south of Te Parinui o Whiti on the East Coast and Kahurangi Point on the West Coast of the South Island.

- 4.4 Section 2 of the Ngāi Tahu Claims Settlement Act 1998 statutorily defines the Ngāi Tahu claim area as being:

“the area shown on allocation plan NT 504 (SO 19900), being—

(a) the takiwā of Ngāi Tahu Whānui; and

(b) the coastal marine area adjacent to the coastal boundary of the takiwā of Ngāi Tahu Whānui; and

(c) the New Zealand fisheries waters within the coastal marine area and exclusive economic zone adjacent to the seaward boundary of that coastal marine area;—

and, for the purposes of this definition, the northern sea boundaries of the coastal marine area have been determined using the equidistance principle, and the northern sea boundaries of the exclusive economic zone have been determined using the perpendicular to the meridian principle from the seaward boundary of the coastal marine area (with provision to exclude part of the New Zealand fisheries waters around the Chatham Islands).”

(See the map attached as Appendix Two)

5. STRUCTURE OF THE RESPONSE

- 5.1 The structure of the response is outlined in three parts:

SECTION A: GENERAL ISSUES

SECTION B: PRIORITY ISSUES RELATING TO THE REVIEW

SECTION C: NGĀI TAHU SPECIFIC MATTERS

SECTION A: GENERAL ISSUES

6. CLIMATE CHANGE LEGISLATION

- 6.1 Te Rūnanga are concerned that the Emissions Trading Scheme appears to be the Government's primary legislative approach to reduce climate change, and that it is failing in this regard.
- 6.2 Since the enactment of the ETS deforestation rates have outweighed afforestation rates, the price of carbon has been sufficient to result in meaningful emission reductions and domestic emissions continue to rise.
- 6.3 During the consultation process, it was suggested that the ETS will influence consumer behaviour through increased energy costs.
- 6.4 While Te Rūnanga agree that it is important to encourage domestic emission reduction to combat climate change the ETS on its own will not serve this end. The purpose of the scheme is to make emitters responsible for their carbon emissions and to incentivise the investment and adoption of clean technology. Neither of these goals are achieved when the costs are passed on to consumers.
- 6.5 Aotearoa will only be able to reduce emissions across all sectors if we have complimentary government policies across all sectors. Managing emissions is complex and the ETS is not capable of achieving sufficient emission reductions across all sectors on its own, but could when including all sectors and all gases be an effective pillar in a suite of policies addressing emissions and climate change.

7. INDIGENOUS SPECIES/FORESTS

- 7.1 Te Rūnanga is disappointed that the value and contribution that indigenous tree species and native forests play in combatting climate change continue to be ignored by the ETS framework.
- 7.2 Treatment of indigenous species across forestry legislation is frustrating to Te Rūnanga. This frustration is twofold; many of these tree species are taonga to Ngāi Tahu, and support other taonga species such as birds, so incentives for the planting of indigenous forestry is desirable. In the second instance, indigenous forests are a common asset of iwi through Treaty settlements and Māori katoa through whānau land trusts and the like.
- 7.3 Afforestation using indigenous species faces particular hurdles that Te Rūnanga wish to see removed. Rather than requiring 30 per cent Crown cover after ten years and a height of 5 metres after 20 years, the position of Te

Rūnanga is that use of indigenous species for afforestation should be tied directly to useful rates of carbon sequestration. This could be done with reference to trees “that have reached 5 metres in height or have achieved minimum rates of carbon sequestration as specified in forestry regulations”, with any necessary amendments to forestry regulations provisions in the Act to enable that approach.

- 7.4 There are a number of legislative barriers in place that restrict the ability of Māori to realise the economic potential of these forest assets, and the unavailability of NZUs for indigenous forests is one of those.
- 7.5 The inclusion of existing indigenous forests in the ETS would unlock environmental and economic opportunities for whānau who have interests in such forestry. Currently māori are essentially donating the environmental benefit of these assets. Recognition of the emissions mitigation value of these forests will help curb inequity.
- 7.6 Te Rūnanga are concerned about the use of willows and poplars as a means of afforestation to avoid deforestation liabilities. This option is financially attractive for land owners given that only 100 stems of willow or poplar need to be planted to avoid liabilities, while 500 stems of forest species would be required to achieve the same result of avoiding deforestation liabilities. These invasive species cause other environmental challenges over the long term and Te Rūnanga considers encouragement of their propagation to be unwise from a wider environmental outcomes perspective.
- 7.7 Te Rūnanga encourages the removal of legislative barriers in place that restrict the ability of māori to realise the economic potential of these forest assets, including the exclusion of existing indigenous forests from the ETS .
- 7.8 The inclusion of indigenous forests in the ETS would create economic and environmental opportunities for iwi and whānau who have interests in such forestry. Currently iwi are essentially donating the environmental benefit of these assets. Recognition of the emissions mitigation value of these forests will allow for those whānau to receive fair value for it.

8. PRE 1990/POST 1989 FORESTS

- 8.1 Te Rūnanga understands that the purpose of the distinction between pre 1990 and post 1989 forest is an arbitrary consequence of the Kyoto Protocol that has limited relevance in reducing emissions or promoting carbon sequestration.
- 8.2 Emissions continue to increase. This shows the current policy settings are not sufficient and brings into question the effectiveness of the arbitrary distinction between pre 1990 and post 1989 forests.

- 8.3 The owners of pre 1990 forest land do not benefit from the carbon stored in their forests yet retain the liabilities of changing their land use
- 8.4 Māori are particularly vulnerable to this trap because of the amount of pre 1990 forest land acquired through settlement processes and whānau land trusts. There is no compensation or benefit, simply liability.
- 8.5 Te Rūnanga recommend stakeholder consultation on the merits of removing the distinction of pre 1990 and post 1989 to provide more equity between owners and promote the re-establishment of pre 1990 forests.

SECTION B: PRIORITY ISSUES RELATING TO THE REVIEW

9. SURRENDER OBLIGATIONS/ TRANSITIONAL MEASURES UNDER THE EMISSIONS TRADING SCHEME

- 9.1 Te Rūnanga advocates for full surrender obligations to be met across all sectors in 2016.
- 9.2 Justification for partial surrender was in place to protect industry from extra pressure when competing in global markets, and to remove pressure during the Global Financial Crisis. The Global Financial Crisis is over and emitters have had a number of years to learn to accommodate the ETS. To allow the continuation of partial surrender is inconsistent with the objectives of the ETS.
- 9.3 Te Rūnanga notes the NZIER Dec 2015 report titled “Economic impacts of removing NZ ETS transitional measures” and the Feb 2016 MFE report titled “The NZETS Evaluation 2016” demonstrate that there would not be a significant impact on New Zealand businesses or society caused by the removal of transitional measures.
- 9.4 To allow major emitters to continue to avoid accountability for a significant portion of their emissions sends the wrong message domestically and globally about this nation’s intentions regarding climate change.

Recommendations

- 9.5 Te Rūnanga recommends that:
 - The ETS moves to full surrender obligations for the 2016 compliance year.

- To remove unique emissions factors as a specific administrative tool. Compliance costs and the opportunity for wriggle room, discretion and loop holes need to be minimised.

10. INCLUSION OF AGRICULTURAL SECTOR IN EMISSIONS TRADING SCHEME

- 10.1 Despite Ngāi Tahu having benefited from some of the inconsistencies and loopholes throughout the life of the ETS, Te Rūnanga has consistently sought an entry date for agriculture to the scheme, to be accompanied by supporting mechanisms to encourage afforestation as the means of off-setting agricultural liabilities. Providing what is effectively a subsidy, lasting almost a century, to our biggest producers of carbon is not an approach consistent with kaitiakitanga principles.
- 10.2 Since the inception of the ETS, Te Waipounamu has experienced a significant shift in agricultural practice from dryland to irrigation. This has seen significant removal of shelterbelts and other on farm tree stocks, so not only does agriculture remain our most significant source of emissions, the capacity of the sector to mitigate some of their impact is decreasing due to common practice, and a lack of incentive to offset with planting elsewhere.
- 10.3 While agriculture is excluded from ETS obligations, the sector enjoys the opportunity to benefit from carbon sequestration from forestry activities. Agriculture enjoys all the opportunity and none of the obligations. The Urban population including low income families fully subsidise the agricultural sector.

Recommendations

- 10.4 Te Rūnanga recommends that:
- The Agriculture sector is made accountable for their significant contribution to emissions by inclusion in the ETS.
 - This does not necessarily need to be an immediate 'shock' but could be managed with support mechanisms, however there needs to be a timeline in place for full and unassisted participation and compliance across the sector.

11. STABILITY OF CARBON PRICING

- 11.1 The Government should determine a target price band for NZU's that the Government will target in managing the supply (and demand) of NZU's.
- 11.2 Aotearoa must have certainty in domestic carbon legislation and the price of NZU's. Only then can emitters and sequesters of carbon respond with

economic efficiency in reducing our net emissions.

- 11.3 Domestic carbon legislation needs to be rational, effective and stable. Te Rūnanga cautions against tying the fate of NZUs with international policies that continually change, are politically motivated and drive uncertainly. Aotearoa needs to be committed to driving down emissions regardless of international policy.
- 11.4 Te Rūnanga sees a strong carbon price as a good tool to encourage afforestation to directly mitigate emissions through sequestration, providing forest owners confidence, and encouraging emitters to operate more efficiently and develop cleaner technology and practice.

Recommendations

- 11.5 The Government will manage the supply and demand of NZU's through auctioning emission obligations, and progressive reduction in the emissions allocations to achieve a stable market price for NZU's of between \$20 to \$25 (target price band).

SECTION C: NGAI TAHU SPECIFIC MATTERS

12. NGĀI TAHU AS FOREST LAND OWNERS

- 12.1 Ngāi Tahu are significant forestry owners in Te Waipounamu, and since settlement have utilized forest assets purchased in the Ngāi Tahu Claims Settlement Act 1998 to further the economic development of the iwi. Many whānau also have interests in forestry assets through land trusts separate to settlement.
- 12.2 The ability of the iwi to fully capitalize on the economic potential of these forestry assets is weakened by the poor performance of the carbon market.
- 12.3 As discussed above, the exclusion of indigenous forestry from the ETS restricts māori from an avenue of capital from their indigenous forest assets.

Recommendations

- 12.4 Te Rūnanga recommends that the serious consideration is given to the inclusion of indigenous species and forests in the ETS to incentivise planting of those species and allow owners to benefit economically from their asset.
- 12.5 Te Rūnanga is interested in design opportunities rather than service opportunities – we welcome the chance to be involved at the front end of decision making processes.

13. IMPACT OF CLIMATE CHANGE ON MĀORI

- 13.1 Iwi play an instrumental role in advocating for environmental outcomes across a number of kaupapa, and at local, regional and national levels. This includes climate change.
- 13.2 As stated above, this is in part a demonstration of kaitiakitanga, a role Ngāi Tahu exercise as a right and responsibility within our takiwā.
- 13.3 Te Rūnanga are also conscious of the impact of climate change on the cost of living, particularly to economically vulnerable whānau. It is with this in mind that Te Rūnanga advocates for carbon costs to remain with emitters rather than being passed on to consumers.
- 13.4 Ngāi Tahu Whānui are also particularly aware and concerned about the effects of climate change because many cultural practices and sources of mahinga kai are compromised by the changing environment. Our people witness first hand impacts and changes of habits of species such as titi and shellfish, influenced by ocean temperature changes. Climate change continues to have an impact on how our people can access resources and the availability of resources for cultural use and sustenance. A number of Ngāi Tahu marae are already contemplating the need to relocate due to rising sea level and accessibility issues related to that.

Recommendations

- 13.5 Te Rūnanga recommends that:
- Ngāi Tahu be engaged more proactive to ensure our interests are adequately addressed – we welcome the chance to be involved at the front end of decision making processes. . (or something that sounds a lot more stronger)

APPENDIX ONE: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

Part One – Apology by the Crown to Ngāi Tahu

Section 6 Text in English

The text of the apology in English is as follows:

- 1 The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb ‘He mahi kai takata, he mahi kai hōaka’ (‘It is work that consumes people, as greenstone consumes sandstone’). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tiramōrehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramōrehu wrote:

“This was the command thy love laid upon these Governors ... that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily ... and remember the power of thy name.”

The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

- 2 The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.
- 3 The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.
- 4 The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying ‘Te Hapa o Niu Tireni!’ (‘The unfulfilled promise of New Zealand’). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb ‘Te mate o te iwi’ (‘The malaise of the tribe’).

5. The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.
6. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.
7. The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.

Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu.”

