31 October 2019

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

Tēnā koe

Re: Action for Healthy Waterways Submission

Please find attached the Māori Trustee’s submission in response to the Action for Healthy Waterways discussion document.

Please feel free to contact my executive assistant, Teree Brown, should you have any questions or queries. She can be contacted on Personal details or by email at

Nāku noa, nā

Māori Trustee
ESSENTIAL FRESHWATER REFORM

SUBMISSION BY THE MĀORI TRUSTEE ON THE ACTION FOR HEALTHY WATERWAYS DISCUSSION DOCUMENT

31 October 2019
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Summary of position

1. It is the Māori Trustee’s responsibility to review the Government’s Essential Freshwater work-programme and the proposals set out in the Action for healthy waterways discussion document (the Reform) through the lens of Māori landowners as kaitiaki for their (often) underutilised Māori land.

2. The Māori Trustee, and Te Tumu Paeroa as the office supporting the Māori Trustee, supports what it understands to be the general thrust of the Reform namely to stop the degradation of New Zealand’s waterways so that water quality is materially improved within five years, and restoring them to a healthy state within a generation. ¹

3. However, Te Tumu Paeroa has grave concerns that smaller Māori land blocks have not been considered in the development of the Reform and, as a result, the potential cultural, economic and social impact on those blocks, and how to remediate that, has not been examined. For example, the compliance costs as a result of the Reform for smaller Māori land blocks may have unintended consequences that further penalise Māori land and Māori landowners. We are also of the view that these unintended consequences are contrary to this Government’s other proposals to increase the utilisation of Māori land for the betterment of the whenua and owners. It is important that this Reform does not unintentionally undermine other Government initiatives focused on strengthening the connection of Māori landowners to their Māori land; particularly when the Crown has had a historically negative role in the context of the relationship between Māori landowners and their land.

4. In Te Tumu Paeroa’s view, the Government needs to carefully consider some of the unintended consequences of this Reform on Māori land. One of those unintended consequences is further penalising Māori land and Māori landowners who are unable to utilise their land if (for example) that use results in further intensification. Māori landowners should not be penalised again; nor should they be expected to bear the burden of the actions of other land-users historically that have resulted in the status quo. Te Tumu Paeroa has a fiduciary responsibility to ensure these blocks are considered and the Government has a Te Tiriti o Waitangi obligation to ensure that happens and that the Reform is tailored appropriately.

5. Te Tumu Paeroa suggests that there may be learnings from other regional examples, including Plan Change 1 in the Waikato, that attempt to strike more of a balance between ensuring that water quality is improved whilst not further penalising Māori landowners who have historically been locked out of developing their lands.

6. Our Māori landowners, and the Māori Trustee, also act as kaitiaki and are conscious of the impacts of land use on water quality. In that regard, if the Reform proceeds

substantially unchanged, the Government must make funding provisions for Māori landowners (alongside further support such as training) to ensure that Māori landowners can comply with the Reform.

The Māori Trustee and Te Tumu Paeroa

Who we are

7. The Māori Trustee is appointed by the Minister for Māori Development under the Māori Trustee Act 1953. The Māori Trustee is a statutory office holder appointed to carry out duties and functions and exercise powers under the Māori Trustee Act (and other legislation and legal instruments). The current Māori Trustee, Dr Charlotte Severne, was appointed for a three-year term in November 2018.

8. Te Tumu Paeroa is the organisation that supports the Māori Trustee to carry out her duties, functions and responsibilities.

9. Te Tumu Paeroa administers around 87,163 hectares of Māori Freehold land, as well as general land and other interests and investments, on behalf of over 90,000 Māori Land owners and stakeholders.

10. A primary objective of Te Tumu Paeroa is to protect, utilise and grow the assets of our Māori Land owners. The organisation provides land administration and professional trustee services to over 1,800 trusts, as well as targeted development and sector-specific expertise. Te Tumu Paeroa is involved in the management of a number of Māori enterprises and development projects.

11. Te Tumu Paeroa employs 115 staff across five different main offices throughout New Zealand, with our head office based in Wellington. Our team is made up of, but not limited to, land development, trust management, property, law, registry and owner services, and other specialist teams. Our employees are service driven to our whenua and our landowners.

12. 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.

13. Te Tumu Paeroa welcomes the ability to submit on the Reform and welcomes further involvement particularly given the Māori Trustee's statutory responsibilities (for example, by presenting this submission a-kanohi to the Independent Advisory Panel (the Panel) that has been appointed to consider submissions and report back to the Minister for the Environment. Our preference is to discuss this submission further with the Panel.
Our vision and priorities

14. Our vision is **ensuring Māori land is protected and enhanced, now and for generations to come**. Our vision requires a careful balance between protection of the whenua (land) and the taiao (environment), and enhancement of the whenua through a range of pathways including commercial development.

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

16. Our strategic priorities to assist us to deliver on our vision and purpose are to:
   a. **Enhance our core services**;
   b. **Develop capability**; and
   c. **Future-proof our systems**.

17. Our strategic outcomes are:
   a. **Operational excellence**: enhanced delivery of relevant, high quality, effective and efficient professional trustee services.
   b. **Enhanced productivity**: because our systems and processes are streamlined, easy to use, and embedded as part of our organisation’s DNA.
   c. **Client satisfaction**: enhanced client experience of the services of the Māori Trustee, making every interaction one worth sharing.
   d. **Capability development**: more owners transitioning to governance roles who have received relevant training and support.

18. Our responsibility as trustee in the context of this Reform 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 – a snapshot

19. By way of a snapshot, our portfolio consists of the following:
   a. Number of trusts and other entities under administration - 1,805
   b. Number of hectares under management - 87,163
   c. Number of owner accounts maintained - 98,572
   d. Number of ownership interests - 243,794
   e. Client funds under management (market value) - $117.2 million
   f. Māori Trustee equity - $168.8 million
   g. Leases Administered - 1807

20. For the entities where we are Responsible Trustee, 1,308 of the leases are for rural land blocks. 67% of these have rental less than $10k per annum. 65% of these have waterways. The percentage of leases for rural land earning under $10k pa rental and with a waterway is 43% or 562 of the total 1,308 leases.

21. Our current property management portfolio is represented in the following graphic:
Our mahi

22. At Te Tumu Paeroa, we have a responsibility for ensuring the best interests and outcomes for Māori land owners is advanced by our mahi.

23. Our core services are:
   a. Acting as responsible trustee, custodian trustee and agent;
   b. Convening meetings of beneficial owners;
   c. Responding to requests for information;
   d. Consulting with advisory trustees;
   e. Managing and investing case assets in the common fund;
   f. Reporting to beneficial owners;
   g. Acquiring and paying for goods and services;
   h. Keeping proper records and preparing financial statements;
   i. Keeping records for trusts we administer;
   j. Trust distributions;
   k. Making applications to the Māori Land Court;
   l. Reviewing land use and considering appropriate land use options;
   m. Property land management.

24. We also offer the following additional services:
   a. Off-boarding of trust and capability development;

NB: This graphic includes all entities we oversee including those where we act as Responsible Trustee, Advisory Trustee or Custodian Trustee.
b. Land development; and  
c. Asset management planning

Showing leadership in living our kaitiaki values

25. We strive to show leadership when considering options to care for and develop whenua Māori.

26. 10 of our farms already have established farm environmental plans and 50 are currently in development. We have engaged a nationwide farm consultancy firm to provide over 1,100 of these plans for us throughout the next 5 years.

27. We actively contribute to the regeneration of the land through planting and the restoration of wetlands.

a. Appendix A shows photos of work completed on the Himatangi 3A3G2 block – 4,500 plants planted, 2 ha of wetland fenced and protected. This was a 50:50 cost split venture with the Horizon Regional Council.

b. In Tukituki, we have contributed to the Hawkes Bay Catchment work (see Appendix B). Appendix C shows the pond planting we contributed to in the Tukituki catchment.

c. We also recently secured funding with the Greater Wellington Regional Council to contribute $20,000 to protect a 2 ha Manuka wetland. The owners contributed $20,000 themselves (see Appendix D).

d. Hereheretau Station has over the last 3 years partnered with Hawkes Bay Regional council in carrying out a number of kilometres of waterway fencing and planting (see Appendix D).

General submissions

28. Te Tumu Paeroa is committed to pursuing its vision of ensuring Māori land is protected and enhanced, now and for generations to come, in a way that is consistent with our kaitiaki responsibilities both as a trustee and in accordance with the kaitiaki obligations of our owners. In that regard, Te Tumu Paeroa supports reform that accords with our vision. In Te Tumu Paeroa’s view, parts of this Reform package do that.

29. However, Te Tumu Paeroa has some grave concerns about the Reform particularly in relation to proposed implementation and compliance costs for smaller underutilised Māori land blocks with minimal (or no) yields. Te Tumu Paeroa is also concerned that the Reform proposals may have been advanced without adequate consideration for these Māori land blocks and steps already taken by Māori landowners to address effects of land use on water quality have not been taken into account. The Reform simply cannot have the effect of again taxing Māori land that has continually been locked out of development.
30. Although Te Tumu Paeroa accept that some land use needs to be managed more effectively, and the Reform proposals have some suggestions in that regard, smaller Māori land blocks need to be properly considered in the context of this Reform. Te Tumu Paeroa has a fiduciary responsibility to ensure that happens and the Government has a Te Tiriti o Waitangi obligation to ensure that happens and that the Reform is tailored appropriately.

31. Te Tumu Paeroa endorse an approach to freshwater management that facilitates a broad range of community engagement, and balances economic interests with the need to improve overall water quality. Te Tumu Paeroa suggests that there may be learnings from other regional examples, including Plan Change 1 in the Waikato, that attempt to strike more of a balance between ensuring that water quality is improved whilst not further penalising Māori landowners who have historically been locked out of developing their lands.

32. Te Tumu Paeroa are cognisant that iwi and hapu will likely submit on the Reform. Te Tumu Paeroa do not intend to displace or otherwise effect or make comment on the nature and impacts of the proposed reforms in the Bill to iwi and hapu.

Te Mana o Te Wai

33. Te Tumu Paeroa supports the kaupapa and principles contained within Te Mana o te Wai. In particular, Te Tumu Paeroa supports the notion of Te Mana o te Wai being the national korowai that frames and informs the trajectory for immediate and future policy development, and regional freshwater planning (noting that it is a concept that encompasses the integrated and holistic health and well-being of waters as a continuum from the mountains to the sea). We are of the view that Te Mana o te Wai is consistent with, and assists us to achieve, the protection component of our vision.

34. With regards to the enhancement limb of our vision, Te Tumu Paeroa’s position is that the Reform needs to enable appropriate development on our whenua Māori. Development is a key aspect in ensuring that the whenua is providing for our future generations. It is also a right of Māori land owners to be able to do that in accordance with their kaitiaki responsibilities. The protection and enhancements components of our vision go hand in hand and require constant balancing.

35. Te Tumu Paeroa makes further submissions about Te Mana o te Wai, particularly its legal weighting and place in the NPS-FM, in paragraphs 61-63.
Cost of compliance and unintended consequences for Māori landowners

36. As foreshadowed earlier in this submission, Te Tumu Paeroa are concerned that the Reform process has not adequately considered the cost of compliance on small underutilised Māori land blocks that remain captured by the Reform. A potentially unintended consequence of parts of the Reform is that compliance costs will be pushed onto the landowners who, particularly in the case of underutilised Māori land that is leased, will simply not be able to afford it (nor will Te Tumu Paeroa). The Government has a Te Tiriti responsibility to be alive to this issue and address it if the Reform package is to be progressed in substantially the form that it is in now.

37. In our view, parts of the Reform currently run the risk of further disenfranchisement of Māori to develop Māori Freehold land. This simply cannot happen again. Māori landowners already have a number of additional hurdles before them when considering development of Māori freehold land. Māori landowners cannot effectively be taxed further through reforms that have not adequately considered their interests and aspirations.

38. Te Tumu Paeroa is concerned further that the costs associated with the audits, and other related matters under the Reform, will push some potential tenants out of the market for our land, resulting in a potential drop in yearly rental for block as there will be less competition. The rental on some of our blocks is already very low.

39. The potential impact of these compliance costs also do not align with the Government’s other priorities for the development of Māori land (including work being undertaken by the Provincial Growth Fund and Te Puni Kokiri). It is important that this Reform does not unintentionally undermine other Government initiatives focused on strengthening the connection of owners to their Māori land.

40. Te Tumu Paeroa has completed some initial analysis as to what some of these compliance costs may mean for our underutilised Māori land blocks and include these in this section.

Example case studies

41. In the context of this Reform, and in response to the Taranaki Regional Council requirements, we have undertaken a snapshot analysis of potential fencing and planting costs for those 180 blocks that Te Tumu Paeroa is responsible trustee for in the Taranaki region. Of these 180 blocks, 120 have water on them (e.g. a river, stream or drain). 60 of these blocks with water on them have a riparian plan; the other 60 do not (so we are yet to have the data on these). Of the 60 blocks that we

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2 i.e. pastoral farms of more than 20 hectares; arable farms of more than 20 hectares and horticultural farms of more than 5 hectares.