27 AUG 2019

Hon David Parker
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Tēnā koe David

This letter responds to the recent invitation from Cabinet to write to you with specific issues that fall within scope of the comprehensive review of the Resource Management Act 1991 (RMA) you recently announced.

I support your proposal to tackle the core problems in our resource management system. Reducing complexity and protecting the environment are important objectives and well aligned with Māori interests. On their own however these objectives are insufficient to address other fundamental problems for Māori under the RMA.

When the RMA was enacted it was widely seen as an opportunity for Māori to be more effectively involved as Treaty partners and kaitiaki in resource management. That promise has not been consistently delivered through the implementation of the RMA. Māori have consequently turned to Treaty settlements, which have produced positive but varying outcomes. The upcoming review is an opportunity to avoid the implementation problems of the RMA and to systematically build upon the progress made through Treaty settlements. The need for Māori to be better involved in decision-making under the RMA was a key theme when I consulted on the scope of my portfolio.

I am pleased that the review will uphold the core principles in part 2 of the RMA. They represent some of the Crown’s most progressive provisions for meeting its Treaty responsibilities in legislation. However, the policy intent of these provisions has not always been realised. The current framing of the review raises doubts that this will be directly addressed. I recommend the final scope and terms of reference require the review to realise the intent of the core principles as they relate to Māori interests.

It will be crucial for the policy proposals developed by the review group to reflect the government’s current efforts to strengthen Māori Crown relationships. The review group must therefore include members with appropriate expertise in te ao Māori, as you intend. However, the appointee(s) will not have a mandate to speak for all Māori. I recommend the final terms of reference be explicitly amended to require the review group’s proposals to be consistent with the Crown’s duties as a Treaty partner. I also recommend you establish a Māori reference committee to assist the review group.
I am heartened that relevant aspects of Treaty settlements will be carried over in any new regime. This work will be complex but critical for ensuring the durability of settlements. I look forward to my officials working closely with the review group on this matter.

The review group’s approach to engagement with Māori is not yet finalised. Given the depth and breadth of Māori interests in the RMA, the engagement approach needs to align with the guidelines and framework for Crown engagement with Māori and the principles for building partnerships with Māori agreed by Cabinet. This will require broader and more collaborative engagement with Māori than currently proposed. It will also be important for the engagement to be consistent with relevant relationship agreements established through Treaty settlements. I therefore recommend you engage with post settlement governance entities on the scope of the review.

The table below includes further information on specific issues relevant to my portfolio. Given the significance of these issues, I ask that you add me to the Ministerial governance group to oversee the review and instruct your officials to undertake a complete stocktake of issues for Māori under the RMA. At the appropriate time I also ask that you report to the Cabinet Māori Crown Relations: Te Arawhiti Committee on the issues for Māori arising from the review, as required by the Cabinet Office circular CO (19) 3 - Better Co-ordination of Contemporary Treaty of Waitangi Issues.

I appreciate the need for a focussed and efficient review of the RMA and I am confident that the issues raised in this letter can be addressed without delaying the review unduly.

Thank you for progressing this difficult but vitally important work. I look forward to the next phase.

Nāku noa, nā

[Signature]

Hon Kelvin Davis
Minister for Māori Crown Relations: Te Arawhiti
### Comprehensive RMA review – engagement issues for Māori Crown relations

The process for the review should:

1. Be consistent with Cabinet’s engagement framework/guidelines for engagement with Māori and principles for building closer partnerships which, in light of the significance of the kaupapa, would require collaboration at multiple levels of Māori society.

2. Be consistent with the Cabinet Office circular (19) 3 - *Better Co-ordination of Contemporary Treaty of Waitangi Issues*.

3. Support the whole of government strategy that Cabinet has decided to develop in response to the Watangi Tribunal’s WAI 262 report.

4. Take into account work already completed on issues for Māori in resource management (including relevant reports from Waitangi Tribunal, the Iwi Leaders Group, and Kāhui Wai Māori).

### Comprehensive RMA review – policy issues for Māori Crown Relations

The review group’s proposals should:

1. Reinforce the significance of sections 6(e), 7(a) and 8 and provide mechanisms to ensure they are appropriately implemented.

2. Encourage partnership arrangements between Māori and agencies/local government especially in relation to planning processes.

3. Provide mechanisms for promoting the uptake of arrangements under sections 33 and 36B.

4. Include procedural principles to reinforce requirements for Māori to be involved in decision making where their rights and interests are affected.

5. Address barriers which prevent fair access for Māori to natural resources (including freshwater, coastal space etc).


7. Effectively accommodate Māori land tenure.

8. Clarify the role and status of iwi management plans.

9. Ensure the durability of Treaty settlements and the integrity of the Marine and Coastal Area (Takutai Moana) Act 2011 are actively supported.

10. Remove barriers to effective Māori participation on hearing committees.

11. Enable more effective participation of Māori Land Court judges in Environment Court proceedings where appropriate.

12. Be well integrated with other national direction relating to Māori interests.

13. Promote capacity and capability building for Māori in resource management processes.