

Resource Management Reforms Submission Template

Closing Date for Submissions: 28 February 2022

Ministry for the Environment has advised submissions will be accepted up to 4 March 2022

Date 1 March 2022

Ministry for the Environment
Wellington 6143

By Email: RM.reform@mfe.govt.nz

SUBMISSION ON RESOURCE MANAGEMENT REFORMS

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Introduction

1. This is a submission by the Kahukuraariki Trust, on the *Our future resource management system: Te pūnaha whakahaere rauemi o anamata* Consultation Document.
2. The Kahukuraariki Trust is the Post Treaty Settlement Governance Entity for Ngati Kahu ki Whangaroa, representing over 2000 Iwi members and kaitiaki of 3000+ hectares of land – a mix of general title/fee simple and Maori freehold; commercial, cultural and customary, situated in the far North of Aotearoa.

Hierarchy of Māori Rights and Responsibilities

3. The Kahukuraariki Trust agrees that the starting place for determining Māori Rights and Responsibilities is tikanga and Te Tiriti o Waitangi. We support the Hierarchy of Māori Rights and Responsibilities prepared by Te Tai Kaha Māori Collective.

Māori Rights and Responsibilities in Freshwater

4. The Kahukuraariki Trust is concerned that no progress has been made by the Government in advancing Māori Rights and Responsibilities in relation to freshwater.
5. These reforms cannot be completed accurately without identifying the full extent of Māori rights and responsibilities in freshwater and protecting and accommodating those rights and responsibilities in the new resource management system. The Kahukuraariki Trust are strongly of the view that the Natural and Built Environment Act (NBA) needs to include a preservation clause that says it is not intended to, and it does not, adversely affect Māori rights in freshwater and geothermal bodies:

One option is a clause preserving all pre-existing Māori rights: i.e. *“This Act shall not compromise, disadvantage or otherwise inhibit or limit any customary rights, any aboriginal title rights or any rights arising under Te Tiriti o Waitangi in respect of freshwater or geothermal bodies.”*

6. Such a clause needs to be supported by a mechanism to actively protect Māori rights in freshwater and geothermal bodies prior to their full identification. Options include: a moratorium on allocation

of further freshwater rights; or “tagging” all existing permits making permit holders aware of the potential the permit might be resumed, if needed to satisfy Māori rights in freshwater; limiting the term of renewals; and dealing with the “first in first served principle” and automatic renewals in the current system.

Transfer Treaty Settlements but not at the expense of “Rights holders”

7. The transfer of Treaty Settlements to the new system must ensure rights holders based on tikanga and Te Tiriti o Waitangi are not usurped through this process.
8. Post Settlement Governance Entities (PSGEs) should not independently determine how some mutually agreed upon and defined rights held by hapū (e.g., takutai moana rights) are incorporated into governance arrangements.

Role of hapū/iwi/Māori in the future system

9. Participation by Māori in the new resource management system should be based on the principle of Mana Whakahaere.

Mana Whakahaere:¹

Iwi, hapū, whanau (Māori landowners) who exercise mana whakahaere (authority) and other obligations (kaitiakitanga and manaakitanga) to a particular area, water source, space, and resource.

National Entity

10. The proposed National Entity set out in the Engagement Document : *Our future resource management system : Te pūnaha whakahaere rauemi o anamata* has “no teeth” and does not give effect to the principle of partnership, envisaged by Te Tiriti o Waitangi.
11. We support the establishment of a Te Mana o te Taiao Commission at the national level, co-governance, in partnership with the Crown.
12. Appointment to Te Mana o te Taiao Commission should be made by the Iwi Leadership Group, New Zealand Māori Council and Federation of Māori Authorities, peak National Māori bodies, including urban. This should be a transitional measure, for the first 5 years of the new system. After which appointments should be through a self-determined Māori process.

¹ For more information on Mana Whakahaere, refer <https://www.foma.org.nz/>

Regional Spatial Strategies (RSS) and Natural and Built Environment BA plans

13. We support the appointment of Mana Whakahaere representatives to RSS and NBA joint committees, based on 50/50 Māori membership. Appointment should be made through self-determined Māori processes (Mana Motuhake) and be timebound.
14. There should also be requirements for Mana Whakahaere representatives to regularly report and consult with those who hold relevant rights, interests, and responsibilities; as well as mechanisms to allow for Mana Whakahaere representatives to be held to account and replaced in defined circumstances. Arrangements should also be specified that include appropriate mediation and resolution processes / determinator mechanisms, which should also be time bound.

Mana Whakahono ā Rohe process

15. We recommend that *Mana Whakahono ā Rohe* processes be reassessed and re-designed to ensure they provide for and recognise the primary “rights” holders, landowners, individuals, whānau, hapū and Iwi, in accordance with tikanga and Te Tiriti o Waitangi.
16. Māori landowners are not captured by the current RMA provisions, yet in accordance with tikanga and Te Tiriti o Waitangi they are “rights holders” in natural resources, including freshwater.
17. The concept of iwi management plans needs to also be reassessed and re-designed to encompass the interests and responsibilities of all “rights holders.” They should be called *Mana Whakahaere Plans*, to depict the broader range of Māori rights and responsibilities in natural resources, including freshwater.

Funding

18. Funding of participation should support Māori in all roles, as Te Tiriti partners, kaitiaki and users of the system. In the case of Māori as users of the system, they should be supported to remedy historical inequities, to actively protect Māori rights and to promote Te Tiriti o Waitangi right to development. Funding should be annual and ongoing, adequate to achieve the outcomes sought, and allow a level of autonomy over the budget and decisions about building capability and capacity.