

27 July 2025

National Direction Consultation
Ministry for the Environment
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Tēnā koe

PREAMBLE:

He Whakaputanga o te Rangatiratanga o Nu Tireni and Te Tiriti o Waitangi were some of the enabling frameworks, outside of Te Ao Māori, that our tupuna envisioned would support the development of our nationhood as Aotearoa.

This submission is an ongoing part of that continuum to realise and reassert the aspirations of our tupuna to facilitate intergenerational equity whilst recognising and upholding Te Mana me te Mauri o te Taiao and Te Tiriti o Waitangi.

Submission on the proposals to update national direction for infrastructure, development and the primary sector and on options to amend freshwater national direction.

1. This response is made on behalf of Te Kahu o Taonui (Te Tai Tokerau Iwi Chairs Forum).
2. Te Kahu o Taonui was established in 2006/07 and is now a collective of Authorities in Te Tai Tokerau namely Ngāti Kuri Trust Board, Te Rūnanga Nui o Te Aupōuri, Te Rūnanga o Te Rarawa, Te Rūnanga o Ngāi Takoto, Te Iwi o Ngāti Kahu Trust, Kahukuraariki Trust / Ngātikahu ki Whangaroa, Te Rūnanga o Whaingaroa, Te Rūnanga-Ā-Iwi-Ō Ngāpuhi, Te Rūnanga o Ngāti Hine, Ngātiwai Trust Board, Te Iwi o Te Roroa and Te Rūnanga o Ngāti Whātua.
3. The aim of Te Kahu o Taonui is to advance the collective aspirations of Te Tai Tokerau iwi and hapū. "Me mahi tahi tātou mō te iwi te take".

Proposals to change national direction under the resource management system

BACKGROUND:

4. The National led Coalition Government's commitment to replace the RMA via three phases is premised on the enjoyment of property rights whilst supporting priorities in housing, infrastructure, primary industries, environment, and climate change.
 - Phase 1 saw the Natural and Built Environment Act 2023 and Spatial Planning Act being repealed.
 - Phase 2 saw the promulgation of the:
 - Fast-track Approvals Act (FTAA) 2024



- Resource Management (Freshwater and Other Matters) Amendment Act 2024; and the
- Resource Management (Consenting and Other System Changes) Amendment Bill has just concluded its second reading.

- Phase 3 is currently being consulted on and consists of four packages:
 - Infrastructure and development
 - Primary sector
 - Freshwater; and
 - Going for Housing Growth.

5. Te Kahu o Taonui has submitted on Phase 2, below are key points from our Fast-track Approvals Bill (FTA Bill) submission:

There is no requirement for decision makers to “take into account” or to “give effect to” the principles of the Treaty of Waitangi in the FTA Bill, or to protect and uphold iwi and hapū rights and interests guaranteed in Te Tiriti o Waitangi. While the Bill provides iwi and hapū limited protection for treaty settlements and recognised customary rights these are much more limited than the rights and interests guaranteed by Te Tiriti o Waitangi.

In providing feedback on provisions of the FTA Bill, we are not expressing support for the FTA Bill or the policy intent behind it. Rather we have significant concerns with the unduly hasty manner in which the FTA Bill has been developed, including a complete lack of informed engagement with our iwi and hapū.

While Te Kahu o Taonui supports appropriate development, this must only be allowed within sustainable environmental limits to protect the health, wellbeing, and economic opportunities of both current and future generations. The pro-development premise of the FTA Bill prioritises development above all else. This is a fundamentally unsound approach. It is wholly inconsistent with our iwi and hapū rights and obligations as kaitiaki and is directly at odds with international best practice and consumer expectations.

Te Kahu o Taonui rejects any suggestion that existing provisions for the recognition of the health and wellbeing of the environment and/or the rights, interests and participation of iwi/hapū are a material cause of delays in the current approval regime under the RMA or other natural resource legislation. Experience shows that the fully informed and active involvement by iwi and hapū from the outset of infrastructure and development projects (i.e., in the pre-application stage and on an ongoing basis) is a key element in the successful and efficient progress and approval of those projects.

Our taiao is already degraded from decades of inappropriate development and unsustainable practices and is also facing major risks from climate change and the cumulative effects of existing land and resource use. We need to restore and protect what we have left, instead of finding ways to further degrade the taiao.¹

¹ Te Kahu o Taonui's submission on the Fast-track Approvals Bill to the environment Select Committee



6. Our submission to the FTA Bill focused on:
 - Supporting appropriate development, but not at the expense of degrading our natural resource ecosystems
 - Identifying that Māori rights, interests, and cultural values are not an impediment to promoting and supporting appropriate development
 - The significant pace of developing legislation and policy is a key concern for government officials; and that
 - Not adequately engaging and consulting with the Treaty Partner does not support the Crown wanting to work in good faith.
7. As with the FTAA 2024, Phase 3 is similarly proceeding at pace without the opportunity for the Treaty Partners active input and participation prior to the release of Discussion Documents. This exclusion is a premeditated strategy when you consider the wider (and/or proposed) system changes, which includes but not limited to, the following:
 - the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024
 - Principles of the Treaty of Waitangi Bill
 - Regulatory Standards Bill; and
 - Review of Treaty of Waitangi clauses.
8. Phase 3 is based on the enjoyment of property rights by focusing on:
 - Strengthening and clarifying the role of environmental limits and how they are to be developed, whilst
 - Providing for greater use of national standards to reduce the need for resource consents and simplify council plans; and
 - Upholding Treaty of Waitangi settlements and the Crown's obligations.²

POSITION:

9. In light of the key concerns that Te Kahu o Taonui has raised via the FTA Bill and subsequent other submissions, we are not opposed to appropriate development *per se* provided that:
 - The health of our natural resource ecosystems is our first priority; and that
 - The Treaty Partners (iwi / hapū) are genuinely involved and considered at the front end of the process and not merely as a stakeholder.
10. In relation to the national packages, Te Kahu o Taonui has a number of concerns that would need to be mitigated and addressed. However, we note that the narrow scope of the reforms would see implementation difficult unless clear policy direction is provided to local authorities.
11. Te Kahu o Taonui supports, in part, some of the national direction objectives. However, Te Kahu o Taonui is strongly opposed to the policy development processes and thinking, specifically:

² Cabinet Paper: Replacing the Resource Management Act 1991. Pp2



- How our te Tiriti o Waitangi / Treaty of Waitangi partnership is being implemented; and
- The extractive degradation and abuse of our natural resources.

STATEMENT OF KEY MATTERS:

Package 1: Infrastructure and development

NPS - Infrastructure

12. Te Kahu o Taonui recognises the benefit that energy, three waters, transport networks, social and green infrastructure provides for our communities.
13. In order to streamline infrastructure consenting processes and conditions to minimise environmental effects, litigation, uncertainties, costs and impacts on a range of cultural and environmental values, iwi and hapū need to be involved at the front end of processes.
14. Te Kahu o Taonui supports Policy 5 ‘Recognising and providing for Māori rights and interests’, however we do not support clause 1(c) that provides for the involvement of tāngata whenua ‘in appropriate circumstances’ in relation to sites of cultural significance.
15. Te Kahu o Taonui supports the intent of clause 1(d) of Policy 5 but does not support the intent to disadvantage those hapū and iwi that have yet been able to reach a Treaty settlement and/or iwi participation arrangements.

Relief sought:

- In order to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga, include policy direction for applicants to undertake a pre-application consent process iwi and hapū
- Include policy direction to develop cost recovery mechanisms to support iwi and hapū participation
- Marae need to be included in the definition of social infrastructure bearing in mind that they are recognised as essential community facilities in civil defence emergencies
- Remove “in appropriate circumstances” from Policy 5(1)(c) regarding the involvement of tāngata whenua
- Add in a new clause into Policy 5 requiring the Principles of Waitangi to be taken into account
- Remove “where practicable” from Policy 7 so that the ‘avoid, remedy, mitigate’ hierarchy still applies; and
- In the development of spatial plans and future development strategies include policy direction that enables, iwi, hapū, marae and PSGEs needing to be involved early to provide for their environmental, cultural, social, and economic well-beings similar to Schedule 1 processes.

NES – Granny Flats

16. Te Kahu o Taonui supports the changing of rules around building granny flats especially in order to address the regulatory and consenting challenges for developing whenua Māori, papakāinga and kaumātua housing.

NES - Papakāinga

17. Te Kahu o Taonui supports planning rules that enables Māori landowners to develop their ancestral land to increase the supply of affordable housing and supporting their social and economic opportunities.

Relief sought:

- Papakāinga development on Treaty settlement land should be a permitted activity
- Underlying rules that act as a barrier to facilitating papakāinga development should be removed; and
- Alongside Tōnui Māori / Going for Growth with Māori that resources and policy direction be provided to address the following barriers:
 - Māori Land Court bureaucracy and a lack of resources
 - Limited access to investment capital and finance
 - Land banking lending practices aligned to non-Māori models of land title
 - Lack of appropriate infrastructure
 - Lack of access to national innovation networks
 - Access to appropriate expertise on statutory processes and planning compliance and their associated costs; and
 - Ongoing issues with the rating of whenua Māori.

NPS – Natural Hazards

18. Te Kahu o Taonui supports the national direction on managing the risks of natural hazards, however we do have concerns that the provisions would not apply to infrastructure. For us in Taitokerau, infrastructure (telecommunications, water and wastewater and transport networks) resilience, alongside our marae, is critical in times of need and are lifelines for our communities.

19. Within Taitokerau whenua Māori is disproportionately exposed to natural hazards, and hence Māori owners may be more likely to experience more restrictive development controls than other members of the community. To assist in remedying this inequitable position, we recommend that the NPS-NH provide for targeted support to owners of whenua Māori who are assessed to be subject to significant risks and consequences of a natural hazard event, to assist them to implement adaptation measures.

Relief sought:

- That targeted support be provided for assessing and managing hazard risk on whenua Māori.



Package 2: Primary sector

NES – Marine Aquaculture

20. Te Kahu o Taonui supports iwi, hapū and marae who are active farmers or who are considering undertaking aquaculture activities.
21. In areas where iwi, hapū and marae do not have aquaculture, Te Kahu o Taonui supports consenting authorities having discretion to consider the effects on Māori access to coastal areas of cultural significance and amending Schedule 6.
22. In permitting research and trial activities in new space Te Kahu o Taonui supports marae-based aquaculture as a permitted activity.
23. Supporting and enabling Māori aquaculture, and wider fisheries management areas³, requires good water quality, however in other areas of these national packages (e.g. Te Mana o te Wai and water quality provisions, housing growth, mining and quarrying, national standards for wastewater network discharges, resource extraction, stock access to wetlands etc) there are proposed changes that will put good water quality at risk.

Relief sought:

- Provide for research and trials associated with marae-based aquaculture as well as Māori commercial aquaculture
- In order to support and promote marine aquaculture, and marine ecosystem health in general, water quality provisions need to specifically consider and better manage industries from degrading downstream systems.

NES – Commercial Forestry

24. Māori connections to forest and forest lands are cultural, spiritual, and commercial with interests in plantation and native forestry slowly increasing.
25. Te Kahu o Taonui acknowledges the impact of slash mobilisation on our communities and the proposal to require a Slash Management Risk Assessment for all forest harvests. However, we do note that this could impose greater costs on Māori landowners as a lot of whenua Māori tends to be in lower capability land-use classes compared with general land and is therefore at higher risk for slash management. Similarly, the Erosion Susceptibility Classification in Taitokerau is identified as high but captures areas where the risk of slash is low (e.g.) areas such as Pouto and Aupōuri are dune systems which have relatively gentle contour and few rivers.
26. Te Kahu o Taonui has concerns around water quality and quantity management and the downstream impacts noting that improving freshwater health needs to remain a key priority for landowners and communities.

Highly Productive Land / Quarrying and Mining / Stock Exclusion

27. Taitokerau has a comparatively small proportion of high-quality productive soils which has been the historical focus of settlements like Kaikohe, Waimate, Kerikeri, Awanui and parts of Whangārei. Our LUC3 lands are highly productive and used for horticulture, therefore making it easier for this land to be permanently lost under development would be a significant issue for us and is not supported.

³ For example fisheries quota, taiāpure, mātaitai and rāhui.



28. Te Kahu o Taonui opposes the removal of LUC3 and instead suggests that within a Taitokerau perspective and in addressing the housing crisis and housing affordability issues that more emphasis be placed on supporting development on whenua Māori.
29. Te Kahu o Taonui is not opposed to quarrying and mining per se, however we do not support extractive industries that degrades our ecosystems impacting *Te Mana me te Mauri o te Taiao*.
30. Similarly, from a *Te Mana me te Mauri o te Wai* perspective, Te Kahu o Taonui does not support livestock entering waterways contaminating wai, damaging riverbanks and compromising our mahinga kai and we therefore oppose the stock exclusion proposals.

Package 3: Freshwater

Te Mana o te Wai

31. Water bodies and freshwater ecosystems are part of our spiritual, cultural, genealogical, and ecological DNA, which is clearly articulated within karakia, waiata, haka, whakataukī, pepeha and mihihihi.
32. This relationship is a taonga tuku iho and is manifested in the maintenance of mana and the subsequent rangatiratanga obligations and responsibilities placed on us as kaitiaki, consumers, developers, and farmers.
33. The health and well-being of water bodies and freshwater ecosystems should be the priority first and foremost.
34. The ability of people and communities to provide for their social, economic, and cultural wellbeing, now and into the future cannot be supported by degraded ecosystems.
35. Successive governments have grappled with the question (and notion) of Māori rights and interests in water, irrespective of whether it is acknowledged that Māori do have interests and rights in freshwater resources even though the full nature and extent of those rights and interests have not yet been defined⁴. These rights and interests have been considered and supported by the Judiciary; however, the Crown chooses to maintain and defend a position of inertia preferring for this matter to be unresolved.
36. Te Kahu o Taonui has previously submitted on retaining the hierarchical obligations within the NPS – FM 2020 and prefers that these be reinstated. However, we are also realistic and mindful that this National led Coalition Government’s economic development agenda is being forced through various systems and processes at pace and at the expense of our natural resource ecosystems.
37. Te Kahu o Taonui’s preference is the NPS – FM 2020, failing that it will have to be Option 1.

CONCLUSION:

38. This National led Coalition Government is looking for “quick wins” by developing legislation and policy at pace. This is being achieved without the constructive, or collaborative, input and participation of its Treaty partner nor our relevant PSGEs and is inappropriate and sets a tenuous, undemocratic precedent.

⁴ Waitangi Tribunal Report (2012). Stage 1 Report on the National Freshwater and Geothermal Resources Claim. Wai 2358:pp 36.



39. Unsurprisingly, Ministry officials via their Regulatory Impact Assessments have also clearly identified that there was limited opportunity to investigate the specific impacts on Māori, iwi and hapū, and any impacts on Treaty settlement agreements. Once again this is untenable.
40. In maintaining the mana of the Crown, government should pause its reform process and allow proper consultation and engagement with its Treaty partners in good faith in order to uphold Treaty of Waitangi settlements and the Crown's obligations.
41. From Te Kahu o Taonui's perspective the above amounts to fundamental breaches in the Te Tiriti partnership which is distressing, debilitating and lacks integrity.
42. Te Kahu o Taonui needs to clearly identify that Māori rights, interests, and cultural values are not an impediment to promoting and supporting appropriate development.
43. Finally, utilising this process as a default mechanism to engage and consult directly with the Treaty partner, and Treaty Settlement partners, further exacerbates our aggrieved position.

Please also note that this request does not usurp the mana of our respective Authorities to engage directly should they so wish.

Signed:

Katie Murray
Co-Chairperson
Te Kahu o Taonui

Dated: 27 July 2025

Aperahama Edwards
Co-Chairperson
Te Kahu o Taonui

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