

The Māori Trustee's submission on Forestry in the ETS: Second set of proposed recovery fees and charges

April 2023

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Cost recovery
Ministry for Primary Industries
PO Box 2526
Wellington 6104
New Zealand

Tēnā koe

Submission on Forestry in the ETS: Second set of proposed recovery fees and charges

1. The Māori Trustee administers, as trustee or agent, approximately 88,000 hectares of Māori freehold land on behalf of approximately 100,000 individual Māori landowners. Te Tumu Paeroa is the organisation that supports the Māori Trustee to carry out her functions, roles and responsibilities. Detailed information regarding the Māori Trustee and Te Tumu Paeroa is set out in Appendix A to this letter. Additional information can be found on Te Tumu Paeroa's website, www.tetumupaeroa.co.nz.
2. The views expressed in this feedback represent the Māori Trustee's position as the single largest trustee and agent of Māori land in Aotearoa. However, given the sheer scale and varied nature of the land assets within the Māori Trustee's portfolio, the Māori Trustee's views may not always be shared by all owners of lands she administers.
3. The Māori Trustee summarises her submission as follows:
 - a. The Māori Trustee does not support the proposed cost recovery from forestry in the Emissions Trading Scheme (ETS).
 - b. The ETS serves as a public good for Aotearoa New Zealand and is the main tool for ensuring, that as a country, we meet our climate change commitments. The Māori Trustee strongly believes that any service that is considered to be a public good to Aotearoa New Zealand should be funded by the taxpayer not, in this case, by forestry participants in the ETS.
 - c. Although the Māori Trustee considers that no administration costs should be sought to be recovered from any ETS participants, if the Government were to continue to pursue cost-recovery from forestry in the ETS, an exemption needs to be provided to Pre-1990 forests owners. Owners of Pre-1990 forests had their land compulsorily included into the ETS for the benefit of all New Zealanders. This, paired with the imposition of draconian deforestation liabilities, will likely result in Pre-1990 forest owners being unfairly and further burdened by the Government's proposed recovery costs. This needs to be acknowledged and rectified through providing an exemption.
4. The Māori Trustee would welcome the opportunity to discuss her submission with staff from the Ministry for Primary Industries (MPI).

Submissions



5. The Māori Trustee does not support the proposed cost recovery from forestry in the ETS. Instead, the Māori Trustee believes that any service that is considered to be a public good to Aotearoa New Zealand should be funded by the taxpayer not, in this case, by forestry participants in the ETS.
6. The Consultation Document acknowledges the collective responsibility and commitment New Zealand has made to reduce our greenhouse gas emissions¹ with targets been set to achieve this commitment and “*manage the impacts for **all New Zealanders** over time² ...*” (emphasis added). The ETS is credited as being New Zealand’s “*primary tool*” to meet our “*emission budgets, domestic targets and international climate obligations*” with the forestry ETS providing “*a **public good** to New Zealand through assisting in meeting our environmental objectives*”³(emphasis added). Such an acknowledgment, that forestry in the ETS is a public good that provides benefit to all New Zealanders, inherently implies that there is a fiscal responsibility for all New Zealanders to bear the cost of such a service. This understanding is consistent with the definition of a public good⁴. The Consultation Document’s articulation of the ETS/forestry’s service to New Zealand is undermined by the main goal of the proposals – to reduce the “current reliance on taxpayer funding⁵” to cover MPI’s administration costs.
7. The Māori Trustee is concerned that existing costs to forest owners, particularly smaller forest owners, have not been adequately accounted for in these proposals. The current regulations are already extremely complex and the penalties so severe, that any participant within the ETS cannot realistically be expected to perform basic compliance tasks without the assistance of a consultant. If the cost-recovery proposals were to proceed, as is, the cost to participate is likely to at least double.
8. The Māori Trustee considers that the proposed annual charge of \$30.25/ha for Post-1989 forests will see both a decline in participation in the ETS and the destabilisation of the current NZU market. The proposal appears to be both unreasonable and inequitable, particularly for small forest owners. Under the average accounting rules, a new radiata pine forester only receives carbon income up until age 16. After this age, foresters will be required to pay an annual cost during a period in which they receive no revenue. Farmers who have small forest blocks might be able to wear the annual cost from other revenue sources from their land. However, most small Māori-land blocks only accrue one source of income and therefore will not receive revenue to pay for the proposed costs until harvest date. This proposal will therefore have potentially detrimental impacts on the viability of small Māori land blocks to participate in the ETS and perpetuate inequities. The Māori Trustee therefore does not see any merit in implementing

¹ “New Zealand has committed to reducing our greenhouse gas emissions” MPI Discussion Paper No: 2023/05, p. 13.

² MPI Discussion Paper No: 2023/05, p. 13.

³ MPI Discussion Paper No: 2023/05, p. 13.

⁴ “A commodity or service that is made available to all members of a society. Typically, these services are administered by governments and paid for collectively through taxation” [What Are Public Goods? Definition, How They Work, and Example \(investopedia.com\)](#)

⁵ MPI Discussion Paper No: 2023/05, p. 4.




these proposals. Implementation of these proposals will likely undermine the ETS project as a whole.

9. The Māori Trustee also considers that the proposals may have the effect of limiting the ability for Māori to exercise tino rangatiratanga over their whenua, kāinga and taonga – a right that was guaranteed in Article 2 of te Tiriti o Waitangi – through providing further barriers to develop and best utilise their whenua. The Crown has a te Tiriti o Waitangi obligation to ensure that whenua Māori is not further disadvantaged through the implementation of these proposals.
10. The Māori Trustee is also concerned that the Consultation Document fails to acknowledge the substantial contingent liability that any participant in the ETS is subject to, either willingly (Post-1989) or unwillingly (Pre-1990) as well as the substantial investments committed by foresters before they can even join the ETS. Rather, the document focuses on vague commentary⁶ that ignores the financial commitments, risks (such as price expectations on harvest) and long-term decisions foresters need to make.
11. The framing of the Consultation Document seems to imply that MPI are surprised by the uptake of participants into the ETS despite this being the original intent of the legislation. Foresters are merely responding to market pricing of a commodity created through legislation and whose price direction and operations can be entirely controlled by the Government of the day and its Ministries. Foresters knowingly take on the risk that NZUs may be legislated away in the same way they were created. They also take on the risk, that NZUs, as Te Uru Rākau officials⁷ have recently reminded us, may end up being worthless if new technology enables Aotearoa to meet its emissions reduction targets earlier than anticipated. Among other things, participants are also vulnerable to any change in Aotearoa’s Climate Change strategy that may impact the NZU price e.g. a move away from mitigation tools to adaptation tools.
12. The Māori Trustee emphasises that a Pre-1990 forest owner does not benefit from a rising NZU market. Many Pre-1990 forests owners sold their allocated NZUs early and out of fear of receiving no monetary compensation when the original opening price for NZUs, of \$21, fell dramatically away to a low of \$1.75. Unfortunately, due to Ministry of Agriculture and Forestry processing delays, the vast majority of Pre-1990 forest owners did not receive both tranches of NZUs into their Emissions Trading Account until after the NZU price had collapsed.
13. The Māori Trustee acknowledges that any Pre-1990 participant who hasn’t sold their NZUs may be perceived as benefiting from rising prices, however this perceived benefit is quickly voided by the exponential increase in deforestation contingent liability that coincides with it. Some Pre-1990 participants have kept their NZUs as a form of internal insurance policy in the case a small portion of their forest is deforested. However, it is not likely that even one Māori-land block in the Pre-1990 category would be able to meet the financial burden of their deforestation liability if their entire forest was deforested.

⁶ “The benefits of NZUs are then received by the individual participant alone, rather than all participants, or the wider public” MPI Discussion Paper No: 2023/05, p. 17.

⁷ Te Uru Rākau Officials presented to our Te Tumu Paeroa team on Māori Forestry in the Emissions Trading Scheme - Risks and Rewards in September 2022.



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14. The Māori Trustee is concerned that MPI seems to be preoccupied with Post-1989 forests and have given little thought to the serious and real issues confronting Pre-1990 forest owners within this Consultation Document, of which a great number are Māori-land blocks. The Pre-1990 forest owner is at a disadvantage to their Post-1989 counterparts as they receive zero Carbon income from their forest from planting through to harvest but are subject to significant cash outgoings every year to maintain their forests. Compliance fees therefore just provide additional outgoings without creating any real benefit to anyone.
 15. Pre-1990 deforestation liabilities require the surrender of NZUs to the Crown, which would have to be purchased in the open market at prices rendering any entity immediately insolvent. The draconian nature of the existing legislation sees deforestation liabilities escalate with the increase of NZU prices. It is the Māori Trustee's opinion that deforestation liabilities for Pre-1990 forests should be capped at realistic levels, not subject to NZU market prices. A change might enable the release of locked-up NZUs currently being held for internal insurance purposes and enable those participants to monetise their compensation for land alienation.
 16. The Māori Trustee's position is that forestry in the ETS serves as a public good for all of Aotearoa New Zealand. Therefore, any costs to administer the scheme should be funded by the taxpayer, not participants. If the Government disagrees with this position, despite having expressly stated this service as being a public good in this Consultation Document, the Māori Trustee considers that an exemption needs to be provided to Pre-1990 forests owners. As already stated, Pre-1990 forest owners derive no net benefit from the ETS despite having their land included in the ETS for the express purpose of providing a public good for Aotearoa New Zealand. This is an inequitable outcome of the proposals and the Māori Trustee implores the Government to pursue a fairer treatment of Pre-1990 forest owners.
 17. Should you have any questions or queries, please feel free to contact the Māori Trustee's


Ngā manaakitanga,

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Māori Trustee

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Appendix A – The Māori Trustee and Te Tumu Paeroa

Who We Are

The Māori Trustee is appointed by the Minister for Māori Development under the Māori Trustee Act 1953. One of the principal roles of the Māori Trustee is to administer as trustee or agent whenua Māori and other client assets in accordance with the principles and obligations of trusteeship and agency, and relevant legislation including the Māori Trustee Act 1953, Trusts Act 2019 and Te Ture Whenua Māori Act 1993. The current Māori Trustee, Dr Charlotte Severne, was appointed for a three-year term in September 2018 and was re-appointed for a five-year term in October 2021.

Te Tumu Paeroa is the organisation that supports the Māori Trustee to undertake her statutory and other legal functions, duties and responsibilities.

The Māori Trustee administers approximately 88,000 hectares of Māori freehold land, as well as general land and other interests and investments, on behalf of over 100,000 Māori Land owners.

A primary objective of The Māori Trustee, is to protect, utilise and grow the assets of our Māori land owners. The organisation provides land administration and professional trustee services to one third of all Māori land trusts (over 1700 trusts), as well as targeted development and sector-specific expertise. The organisation is involved in the management of a number of Māori enterprises and development projects.

The Māori Trustee currently employs approximately 124 staff across five offices throughout New Zealand, with the Māori Trustee based in Te Whanganui-a-Tara

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.

Our Vision and Priorities

Our vision is: Ko Te Tumu Paeroa tēnei, te tauawhi nei, te taunaki nei, te tiaki nei ngā whenua Māori mō naianei, mō āpōpō hoki. Ensuring Māori land is protected and enhanced, now and for generations to come.

Our vision requires a careful balance between protection of the whenua and taiao and enhancement of the whenua through a range of pathways, including commercial development.

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

Our strategic priorities assist us to deliver on our vision and purpose:

- a. Enhancing operational excellence.
- b. Growing an inclusive culturally competent organisation committed to a greater understanding of Te Ao Māori.
- c. Contributing to growth, development and future leadership in whenua Māori administration and governance.

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- d. Increasing the resilience and sustainability of the assets and whenua we administer.

Our responsibility as trustee in the context of Forestry in the ETS, 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

Our portfolio currently⁸ consists of the following:

- a. Number of trusts and other entities under administration – 1746.
- b. Number of hectares under management – 88,000.
- c. Number of owner accounts maintained - 102,502.
- d. Number of ownership interests - 258,469.
- e. Number of leases administered – 1,732.
- f. Client funds under management (market value) - \$ 130.1 million.
- g. Māori Trustee equity - \$ 170.7 million.

Our Mahi

The Māori Trustee has the responsibility to ensure that the best interests and outcomes for Māori land owners are advanced by Te Tumu Paeroa's mahi.

Our core services are:

- h. Administration of trusts where the Māori Trustee is the responsible trustee.
- i. Agreed trustee services where the Māori trustee is an agent or custodian trustee.
- j. Keeping records for trusts we administer.
- k. Managing finances and preparing financial statements.
- l. Consulting with and convening meetings for advisory trustees.
- m. Consulting with and convening meetings for beneficial owners.
- n. Reporting to responsible trustees, advisory trustees and beneficial owners.
- o. Administering trust distributions.
- p. Filing applications with the Māori Land Court and attending associated hearings.
- q. Property management, including leases and asset maintenance.
- r. Reviewing land use and considering, where appropriate, alternative land use options.

⁸ The Māori Trustee Annual Report 2022



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- s. Developing and enhancing land and assets; including the production and maintenance of Asset Management Plans and Farm Environment Plans.
 - t. Responding to requests for information.
 - u. Managing and investing cash assets in the Common Fund.
 - v. Managing and providing support services for the General Purposes Fund.
 - w. Acquiring and paying for goods and services.