

The Māori Trustee's submission on Improving Market Governance of the NZ Emissions Trading Scheme

February 2023

About the Māori Trustee and Te Tumu Paeroa

1. The Māori Trustee administers, as trustee or agent, nearly 90,000ha 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 1. Additional information can be found on Te Tumu Paeroa's website, www.tetumupaeroa.co.nz.
2. The views expressed in this submission are those of the Māori Trustee as the single largest administrator of Māori land in New Zealand. The sheer scale and varied nature of the Māori land we administer necessarily means our views may not be shared by some of the owners of the land that maybe impacted by changes in regulations. Further, and to labour the point, the Māori Trustee does not speak for or otherwise represent iwi, hapū or other holders of Māori land, some of whom are likely to submit on the proposed changes.

The Māori Trustee's Submission

Integrity & Efficiency of the NZU Market

The Māori Trustee does not agree that there are problems with the integrity and efficiency of the NZU market, or with confidence in market trading. She is not aware of any instances of misconduct either. Therefore, the overall policy objective of market governance to address such issues appears to be a solution looking for a problem.

Cost Increases Impact Smaller Forestry Entities

The Māori Trustee is concerned that all the proposed changes will significantly increase costs to comply, transact and seek advice, especially for the smaller forestry entities and individuals who are not as financially sophisticated as the big sequesters and emitters. This is especially so for Māori landowners who have already planted forests or may be considering to do so. It is easy to see smaller foresters shying away from forestry investment due to increased regulatory complexity and reduced net revenues.

NZUs as a Financial Product

NZ Carbon Units are a commodity, just like other commodities such as electricity, exchange rates, interest rates, dairy, wheat etc. Physical trading of commodities is not a “financial product” and to regard NZUs as such is nonsensical, going against normal financial market convention.

Derivatives, however, are definitely a financial product and our understanding is both the NZX and ASX are working on introducing Carbon Futures. The Māori Trustee is supportive of development of the derivatives market which would enable more sophisticated risk management tools to emerge and encourage more trading interest from those outside just sequesters and emitters. Derivatives expansion will also add more liquidity to the market as well as promote better price discovery.

Regulating NZU Financial Advice

Of particular concern is the separation of “financial advice” from “forestry advice”. Anyone planting a new forest will be interested in both the returns they expect from the forest itself but also what can be expected from Carbon sequestration. The two are intertwined. There is no basis to assume that existing Financial Advisors would have any interest in advising on farming for Carbon. They may have an interest in Carbon as an asset class for their clients’ portfolios but this doesn’t assist landowners to make long-term decisions on land-use options and participation in the ETS. In any case a Financial Adviser is more likely to utilise a derivative (when available) rather than physical NZUs for clients’ portfolios.

Increased costs again directly impact Māori landowners negatively. Perhaps a paper or exam could be created to provide appropriate credentials for those wanting to be involved in Carbon advice for physical and forestry related activities. There is obviously no need for any further qualifications for those existing NZX Derivatives Advisers when/if the Futures market is launched.

The only instance the Māori Trustee has come across where advice has potentially fallen short is around permanent forest sinks. Establishing a permanent forest may generate Carbon income for a period, but the number of NZUs earned decreases as the forest nears maturity and eventually to the point where no further Units are produced. This may be fine for a large enterprise where a fraction of land can be earmarked as a permanent sink without impacting the overall business but it is entirely inappropriate for a small Māori land block where the current generation earns the income

leaving the next generations to carry the associated substantial financial liabilities but with little to no income.

The Māori Trustee regards permanent forest sinks on small Māori land blocks as a form of land alienation. To ensure potential foresters are fully aware of the risks, an alternative approach could see the various Government agencies involved getting their heads together to publish a “Fact Sheet” for potential participants.

Insider Trading & Market Manipulation

It appears the MfE is most concerned about potential insider trading and market manipulation in physical Carbon. The Māori Trustee considers that the highest potential for insider trading arises exclusively in Government and its Ministries due to the highly regulated nature of the market and the way in which setting unit limits, updates to emission unit limits and price control settings are developed and made. Rather than place more regulations on market participants, it would be more appropriate to find ways to ensure those “in the know” (namely: MPs and their advisors & Government employees) are prevented from the misuse of inside information through adequate internal policies, controls, procedures and penalties.

The Māori Trustee is not aware of any instances of market manipulation in the physical market but once a derivatives market is established, any risk in the physical market diminishes. Alternatively, legislate for insider trading and market manipulation.

Collection & Sharing of Data

Another concern of the Ministry appears to be around the collection and sharing of data in relation to physical transactions. Why not merely require the existing platforms, and market makers, to provide the data required? However, the Māori Trustee is also concerned that data requirements don't intrude into information that may be considered commercially sensitive by participants.

Māori Trustee Backs Status Quo for Physical Trading of NZUs

It is the Māori Trustee's opinion the current workings of the physical market are entirely adequate and the status quo should stand. There are three current platforms that physical Carbon and forward pricing can be traded on and we have had no issues transacting in the past once the AML checks have been completed. Trading in the physical market should be able to be conducted Over the Counter (OTC) with whomsoever a willing seller or buyer wishes.

Support for Existing Market Participants

The Māori Trustee would like to take the opportunity to express her gratitude to those who have helped create, educate and expand the market for Carbon, but in particular Nigel Brunel of Jarden Partners and Lizzy Chambers of CarbonMatch who live and breathe the Carbon market – without them it is doubtful the market would be where it is today. Their respective views on potential changes to market governance will be well worth listening to and will have the backing of the Māori Trustee.

Summary of Feedback

- Minimise the complexity and financial burden to NZ landowners and carbon investors
- Support the development of derivatives markets on Carbon Units
- Apply disclosure regimes to market operators to disclose necessary trading information
- Don't drive advice and expertise away from the market via excess regulation

Appendix A – The Māori Trustee and Te Tumu Paeroa

Who We Are

3. The Māori Trustee is appointed by the Minister for Māori Development under the Māori Trustee Act 1953. The role of the Māori Trustee, is to provide accurate and timely administration and management of whenua and other client assets in compliance with the principles and obligations of trusteeship and agency, and in accordance with the Māori Trustee Act 1953, Trusts Act 2019, Te Ture Whenua Māori Act 1993 and other legislation. 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.
4. Te Tumu Paeroa is the organisation that supports the Māori Trustee to undertake her functions, duties and responsibilities.
5. The Māori Trustee administers around 88,000 hectares of Māori freehold land, as well as general land and other interests and investments, on behalf of approximately 100,000 Māori Land owners.
6. 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 and agency services to one third of all Māori land trusts (over 1,700 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.
7. The Māori Trustee currently employs 124 staff across five offices throughout New Zealand, with the Māori Trustee located in Te Whanganui-a-Tara. Our organisation is made up of, but not limited to, trust and property management, law, client services, and other specialist teams. Our employees are focussed on protecting and enhancing the whenua Māori that we have the privilege to administer on behalf of its landowners and their tipuna.
8. 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

9. 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.
10. Our purpose is to be a dedicated professional trustee service for Māori.
11. Our strategic priorities assist us to deliver on our vision and purpose:
 - a. Ensuring consistent delivery of professional trustee services.
 - b. Building trust and confidence across all of our engagements.

- c. Demonstrating leadership in meeting new challenges to governance and administration of whenua Māori.
12. Our responsibility as trustee in the context of the draft National Policy Statement for Indigenous Biodiversity, 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

13. Our portfolio currently¹ consists of the following:
- a. Number of trusts and other entities under administration – 1,751.
 - b. Number of hectares under management – 88,000.
 - c. Number of owner accounts maintained – 100,793.
 - d. Number of ownership interests – 252,580.
 - e. Number of leases administered – 1,732.
 - f. Client funds under management (market value) – \$ 133.2 million.
 - g. Māori Trustee equity – \$ 170.7 million.

Our Mahi

14. 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.
15. Our core services are:
- a. Administering trusts as responsible trustee, custodian trustee, and agent
 - b. Convening, running and recording proceedings of meetings of beneficial owners
 - c. Responding to requests for information
 - d. Consulting with advisory trustees and owners
 - e. Leasing property on behalf of owners and administering leases
 - f. Collecting rent and managing arrears and bad debts
 - g. Managing contracts for service entered into by trusts
 - h. Managing and investing cash assets in the Common Fund
 - i. Reporting to beneficial owners
 - j. Acquiring and paying for goods and services
 - k. Preparing financial statements and annual tax returns
 - l. Keeping records for trusts we administer
 - m. Making trust distributions to owners
 - n. Administering grants and scholarships
 - o. Making applications to the Māori Land Court
 - p. Reviewing land use and considering, where appropriate, alternative land use options

¹ The Māori Trustee Annual Report 2021

- q. Developing and enhancing property and land management including Asset Management and Farm Environment Plans
- r. Managing and providing support services for the General Purposes Fund

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