



**Te Ohu Kaimoana's response
to the Environment Select
Committee on Climate Change
(Emissions Trading Reform)
Amendment Bill**

Te Ohu
Kaimoana


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Chairperson
Environment Select Committee
Parliament Buildings

Te Ohu Kaimoana's Submission to the Environment Select Committee on Climate Change Response (Emissions Trading Reform) Amendment Bill

Introduction

Te Hā o Tangaroa kia ora ai tāua
The breath of Tangaroa sustains us

1. Thank you for providing an opportunity for Te Ohu Kaimoana to provide comment on the Emissions Trading Reform Amendment Bill. The Bill aims to refine the New Zealand Emissions Trading Scheme (ETS) to drive emissions reductions to help Aotearoa reach both domestic and international climate change targets.
2. In this context we support reduction of Aotearoa's emissions and the mechanism through which it is achieved. We are committed to making a constructive response to climate change and preserving opportunities for socially responsible economic development in the long-term national interest.
3. Our response is structured as follows:
 - First, we set out who we are and our interests in this context.
 - Second, we describe *Te Hā o Tangaroa kia ora ai tāua* as the foundation of our fisheries management principles.
 - Third, based on the above, we set out preliminary recommendations for the Environment Select Committee to consider.
4. Te Ohu Kaimoana's submission does not usurp the mana of Iwi to make individual submissions. It is also not intended to override or conflict with any responses from Iwi.

About Te Ohu Kaimoana

5. Te Ohu Kaimoana was established to implement and protect the Fisheries Settlement¹. Our purpose, set out in section 32 of the Māori Fisheries Act 2004, is to “advance the interests of Iwi, individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities, in order to:
 - a. Ultimately benefit the members of Iwi and Māori generally;
 - b. Further the agreements made in the Māori Fisheries Settlement;
 - c. Assist the Crown to discharge its obligations under the Māori Fisheries Settlement and the Treaty of Waitangi, and
 - d. Contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Māori Fisheries Settlement.”
6. We work on behalf of 58 Mandated Iwi Organisations (MIOs)², who represent all Iwi throughout Aotearoa. MIOs have approved a Māori Fisheries Strategy and three-year strategic plan, which has as its goal “that MIOs collectively lead the development of Aotearoa’s marine and environmental policy affecting fisheries management through Te Ohu Kaimoana as their mandated agent”. We play a key role in assisting MIOs to achieve that goal.
7. Climate change will affect Māori rights in fisheries. Māori rights in fisheries can be viewed as a share of the productive potential of all aquatic life in Aotearoa’s waters. These rights do not just involve a right to harvest. They also include using aquatic resources in a way that provides for their social, cultural and economic wellbeing. Iwi have directed us to lead development of national and regional fisheries policy based on Māori values and principles in light of their rights. We are working on how we can best assist Iwi to achieve these objectives in the context of climate change.

We base our advice on *Te Hā o Tangaroa kia ora ai tāua*

8. Iwi/Māori have a unique and inseverable connection with the environment. Our challenge is to ensure that this connection is maintained in a changing climate. *Te Hā o Tangaroa kia ora ai tāua* (the breath of Tangaroa sustains us) is an expression of a Māori World View. It contains the principles we use to analyse modern fisheries policy, and other policies that may affect the rights of Iwi under the Māori Fisheries Settlement. *Te Hā o Tangaroa kia ora ai tāua* is outlined in Appendix A.

¹ The Fisheries Settlement was a settlement of fisheries claims under Te Tiriti o Waitangi. It was enshrined in the Deed of Settlement, signed in 1992 and implemented through the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Fisheries Act 1996 and the Maori Fisheries Act 2004.

² MIO as referred to in The Maori Fisheries Act 2004: in relation to an Iwi, means an organisation recognised by Te Ohu Kai Moana Trustee Limited under section 13(1) as the representative organisation of that Iwi under this Act, and a reference to a mandated Iwi organisation includes a reference to a recognised Iwi organisation to the extent provided for by section 27. Some (but not all) MIOs are also the Post Settlement Governance Entity for the particular Iwi they represent.

9. In essence, *Te Hā o Tangaroa kia ora ai tāua* highlights the importance of an interdependent relationship with Tangaroa, including his breath, rhythm and bounty, and the way those aspects work together to sustain both Tangaroa and humanity in an enduring way.
10. Protection of the reciprocal relationship with Tangaroa is an inherent part of the Māori Fisheries Settlement agreed by Māori and the Crown in 1992. The Fisheries Settlement is an important and relevant part of modern fisheries management for Aotearoa.

Recommendations for the Environment Select Committee

We recommend a general Treaty of Waitangi provision is included in the Bill and that Treaty Settlements are recognised and preserved

11. The current Treaty of Waitangi section, and the proposed amendments through the Bill, are inadequate and do not provide scope for the Treaty of Waitangi to be interpreted appropriately. The current drafting in the principal legislation is piecemeal in that it only recognises the Crown's responsibility to give effect to the principles of the Treaty of Waitangi in specific sections, namely s 2B, s 5G, s 5H, s 5ZG and 5ZI and other sections.
12. The Treaty of Waitangi is a fundamental constitutional document that all legislation should be consistent with. It ought to apply to the legislation as a whole rather than just those sections referred to in s 3A of the principal legislation.
13. We recommend a general Treaty of Waitangi clause similar to section 9 of the State-Owned Enterprises Act 1996 which provides greater constitutional protection for Maori. This provides:

Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi.

The provisions in the Act should meaningfully incorporate the integral role of Iwi/Māori in the review panel

14. Currently the legislation only requires the Minister to ensure that only 1 member has "appropriate knowledge, skill, and experience relating to the principles of the Treaty of Waitangi and tikanga Maori to conduct the review" (s 3A(d)(i)). This does not reflect the fact that the Treaty of Waitangi is a partnership with the Crown. Nor does it allow for any Maori input as to who the appropriate person is.
15. To that end we make the following recommendations:
 - Strengthen section 3A(d)(i) to include – "ensure at least 50% of the members of the review panel have the appropriate knowledge, skills, and experience relating to the interpretation and the principles of the Te Tiriti o Waitangi and subsequent Settlements as well as Te Āo Māori (including tikanga Māori, te reo Māori, mātauranga Māori, and Māori economic activity) to conduct the review."

- Include an obligation on the Minister to consult with Maori in the appointment of those members with expertise in Te Ao Maori. Include a new s 3A(d)(iv) that “the Minister must consult with Maori when making an appointment to the review panel under s 3A(d)(i).
- Section 3d iii) include Te Tiriti o Waitangi.
- That the government, when making any appointments to the review panel (whether or not under s 3A(d)(i), that skills, knowledge and experience in te ao Maori are included as part of the criteria for consideration and appointment.

16. These recommendations are necessary to ensure that the review panel is capable of carrying out section 3d ii) “the review panel must consult with the representatives of Iwi and Māori that appear to the panel likely to have an interest in the review” in a meaningful manner.

We endorse a partnership approach that allows Iwi/Māori to co-design a pathway towards a climate resilient Aotearoa

17. Due to the complexity of the ETS process there is a need for the government to acknowledge the time and capacity building needed for Iwi/Māori to be able to actively participate in processes to assess the implications of the ETS on the value and development potential of Māori. We see this as an issue that the government needs to acknowledge and actively mitigate as they implement policy relevant to the ETS.

18. The government should work in partnership with Iwi/Māori to formulate a clear domestic position, based on Aotearoa New Zealand’s unique context, before agreeing to international obligations. Obligations under Treaty of Waitangi settlements, in principal, must take precedence to international commitments.

Orthographic conventions

19. Currently the legislation refers to ‘the Treaty of Waitangi’. Many Maori consider that the “Treaty of Waitangi” refers only to the English version of the Treaty. For inclusiveness, and to reflect partnership, we recommend that all references to the ‘Treaty of Waitangi’ be amended so that they read the ‘Treaty of Waitangi / Te Tiriti o Waitangi’.

Conclusion

20. Halting the human-induced effects of climate change on the marine environment will require collaboration and innovative solutions from all parties. Te Ohu Kaimoana supports mechanisms to reduce emissions undertaken in a manner consistent with The Treaty and associated Settlements. We intend to commit more resources to this problem as our understanding evolves.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read "Dion Tuuta".

Dion Tuuta
Chief Executive

Appendix A: Te Hā o Tangaroa Kia Ora Ai Tāua

The infographic features a dark teal background with white Maori-style swirl patterns in the corners. The central text is enclosed in a large, thin white circle. Four quadrants are defined by white curved lines, each containing a title and a descriptive paragraph.

WHAKAPAPA
Māori descend from Tangaroa and have a reciprocal relationship with our tupuna

HAUHAKE
Māori have a right and obligation to cultivate Tangaroa, including his bounty, for the betterment of Tangaroa (as a means of managing stocks) and support Tangaroa's circle of life

**TE HĀ O
TANGAROA
KIA ORA
AI TĀUA**

TIAKI
Māori have an obligation to care for Tangaroa, his breath, rhythm and bounty, for the betterment of Tangaroa and for the betterment of humanity as his descendants

KAI
Māori have a right to enjoy their whakapapa relationship with Tangaroa through the wise and sustainable use of the benefits Tangaroa provides to us