

29 March 2021

Submission to: He Pou a Rangi: Climate Change Commission

Submitter: Traci Houpapa (Chair) on behalf of
Federation of Māori Authorities
Berl House, Level 2, 108 The Terrace
Wellington 6011

Submission on: 2021 Draft Advice for Consultation from He Pou a Rangi

Summary

1. The Federation of Māori Authorities (FOMA) does not support the proposals of He Pou a Rangi / the Climate Change Commission ('the Commission').
2. This is because:
 - The Commission fails to adequately acknowledge and understand Te Tiriti o Waitangi and has an unconscious bias throughout its work which subjugates tino rangatiratanga;
 - The Commission fails to adequately acknowledge and understand that Māori land is a taonga tuku iho;
 - The Commission has prepared substandard research on so called 'perspectives from tangata whenua' which is limited in its scope of considerations and has factual error; and
 - The Commission has not undertaken dutiful consultation with a broader range of Māori peoples on its work.

Recommendation:

3. FOMA recommends:
 - The Commission undertakes further research and consultation with Māori to accommodate proper research and discussion processes.

- The Commission’s starting policy proposal position be reset to accord with:
 1. *Te Tiriti o Waitangi as a part of New Zealand’s constitutional framework*
 2. *The United Nations Declaration of the Rights of Indigenous Peoples;*
 3. *The purposes of Te Ture Whenua Māori Act 1993.*
- In practical terms we consider this means Te Ture Whenua indigenous lands ought to be excluded from any operational policies or mitigation strategies proposed by the Commission which interfere with Māori self-determination, and the right of Māori to live on, and/or prosper from taonga tuku whenua. We ask the Commission to make this recommendation to the Crown.
- FOMA wishes to discuss with yourselves, and the Government, the best approaches for this; and offers our availability and support should you request it.

Submission

About the FOMA

4. FOMA is the collective representational arm of approximately 700 Māori authorities and entities with a collective asset base of around \$11 billion. Our membership ranges from single farm businesses to broad-based enterprises that own and manage interests across the full range primary industries.
5. Our members have assets and interests in horticulture, energy, commercial property, innovation and tech, sheep and beef, dairy, forestry, aquaculture, fisheries and arable sectors. Our membership comprises a variety of Māori entities and other Māori landowners.
6. FOMA is the first and long-standing self-determined Māori collective entity – established in 1985 under the guidance of Sir Hepi Te Heuheu and Waaka Vercoe. Our establishment was driven, in part, by an earlier Commission of Inquiry into Māori Reserved Land which found perpetual leases on Māori land were creating an injustice for Māori. (The matter still exists.)
7. There is no other collective entity like. That is, FOMA is the only organisation in New Zealand Māori that specifically represents Māori authorities and entities that administer whenua taonga tuku iho – historic Māori lands in Māori title. This is why Sir Hepi Te Heuheu gifted us the pepeha;

‘Me Uru Kahikatea’

FOMA members standing together in unity, with our roots intertwined in our history and whakapapa.

Te Tiriti o Waitangi

8. FOMA considers Te Tiriti o Waitangi (‘Te Tiriti’) to be the basis for Aotearoa / New Zealand society. It forms part of our constitutional framework for living well together.
9. The three articles of Te Tiriti allow for a balance of Crown-lead kāwanatanga (governance) alongside Māori tino rangatiratanga over taonga Māori (Māori self-autonomy over Māori treasures), in order to achieve ōritetanga (equality amongst peoples). That is the Te Tiriti bargain ought to be more than the sum of its parts; but

mutually beneficial arrangement with exponential benefits for all under its korowai (cloak).

10. There is no evidence in the report that you, the Commission, truly understands this. In our view your strong desire to protect the environment from climate emissions appears to blind your perspectives, leading to a repositioning of Te Tiriti as some-type of operational partnership mechanism, that ought to be fitted within any new incoming legislation such as the proposed Climate Change Adaptation Act (CAA).
11. We note you appear to suggest the extent of Te Tiriti is central and local Government consulting on 'partnership' options – but within your proposed budgetary frameworks; and that tino rangatiratanga is exclusively or mostly about kaitiakitanga. These views are specious. Tino rangatiratanga is about self-autonomy – the right for Māori to live well as Māori. Kaitiakitanga is only but an element of tino rangatiratanga – other elements (which you ignore) include Mana Motuhake and Mana Whenua.
12. We want to clarify that Te Tiriti is a constitutional matter. It ought to sit above any legislative framework linked to your work. The extent of consultation ought not to be about partnership within a framework the Commission proposes; rather it is a higher-level Māori / Crown partnership as to whether any of your work ought to apply to matters such as whenua tuku iho - our historic lands gifted from our ancestors. We submit that any imposition of restrictions on the use of Maori land can only be legitimately achieved by way of mutual agreement.
13. We note, with disappointment, that Te Tiriti is not even within your six main consultation questions (only a secondary matter in your view). We submit that the partnership question – its scope, where it fits, etc, cannot be determined by one-side – as that is not partnership at all. FOMA is disappointed the Commission has not acknowledged this issue - and presents as having an unconsciousness bias towards squeezing Te Tiriti into your worldview throughout this work.
14. Honouring Te Tiriti must sit above your budgetary frameworks, and the Commission must accept that any imposition you propose to the Government on whenua Māori is a potential breach of Te Tiriti.

Māori Land is Taonga Tuku Iho

15. Many of our members retain lands under Te Ture Whenua Māori 1993. These members, in many instances, are in remote parts of Aotearoa where they are the major employer and important to the viability of their respective communities. Within this law our lands are said to be '*taonga tuku iho of special significance to Māori people*'.
16. We are concerned the Commission, within the draft advice and evidential materials fails to acknowledge or demonstrate any real understanding as to what this means. It means these lands are vital to all dimensions of our health and wellbeing – that is our wairua, hinengaro, tinana and whānau health (spiritual; emotional and mental; physical and whānau health). In particular your work is largely silent on our physical and whānau health. So it is clear our lands, this 5% of New Zealand land mass still in our direct control, are used to provide for our physical and whānau prosperity as much as our spiritual and emotional connections.¹
17. This means we take a balanced view of wellbeing dimensions – and make our own decisions as to what is best. We do not accept the Commission ought to have the

¹ We acknowledge the work of Sir Mason Durie in explaining the dimensions of Māori wellbeing.

right to advise Government to impose any new or specific constraints on whenua Māori. Your remit should be limited to land in general title; and we consider you should be treating whenua Māori separately and advising the Government of this.

18. We also note the Commission is seemingly unaware of the United Nations Declaration on the Rights of Indigenous Peoples (2007), of which Aotearoa is a signatory. Under that declaration we have the right to use our lands to sustain our wellbeing, and we seek acknowledgement from the Commission of that right within its final advice to Government.
19. Our view is that no impositions arising from the Commission's work should be unilaterally placed on Māori whenua. We submit that all whenua Māori – lands under Te Ture Whenua Act – be exempt or eligible for exemptions of any incoming measures – in recognition of taonga tuku iho status.

Comment on the Commission's Evidence Base

20. The above two statements of Te Tiriti and Taonga Tuku Iho are statements of principle. However, in addition we have some further technical comments for you to note, and to work on, when improving your final advice.

Are Māori net emitters, or sink holders for Aotearoa?

21. The Commission points out that Aotearoa is a net emitter of pollutants like carbon dioxide, and therefore change is required. However, is the same true of Ngāi Taua, te iwi Māori? We find your research incomplete in this regard, which is unsatisfactory. If Māori own 40% of the forests which sequester emissions (plus uncounted native forests), and own circa 1.5 million hectares of whenua Māori (only half of which is farmed) then Māori as a people are likely to be retaining a carbon sink. That equates to a positive contribution to the environment as opposed to a negative one.
22. We request the Commission address and improve comment on this matter within its final advice to Government.

Understanding the socio-economic position of Māori people

23. We submit that Māori authority land activities are taxed at the lower tax rate of 17.5%. There is only one reason for this – it is because it reflects the earning levels of average Māori land owners. Most Māori land owners are on a lower tax rate, and therefore so too is Māori land, simply because Māori earn less than others. Ministry of Social Development work indicates circa one-third of Māori live in poverty.
24. In effect this means Māori, who are poorer – are already carrying more than our share of the emissions burden and costs for other New Zealanders (given forestry owner and the points above). We are concerned that evidential work from the Commission does not express this clearly; and that risks for increased inequality and hardship for Māori as a people arise from the Commission's work to date.
25. We request the Commission address and improve comment on this matter within its final advice to Government.

Use and Productivity of Māori land

26. We note the Commission states, in regard to whenua Māori that, “*a considerable portion is underutilised or underproductive.*” FOMA does not accept that position and asks that the Commission clarify why it holds such negative views about us?
27. For the record, earlier work in this area from the former Ministry for Agriculture and Fisheries made random assumptions about usage – but never actually surveyed Māori land or Māori land owners in any empirical way to determine productivity and use levels.
28. We consider this message – along with the confusing story on the number of land titles – to be myths perpetuated for the purpose of undermining the quality of Māori rangatiratanga over Māori land. (In regard to land titles, there are actually only a small number of large farming units, less than 400 entities with more than 500 hectares, and all have proper governance arrangements.)
29. Further to this, as regards our lands not being used for productive agriculture purposes, there tends to be a good explanation for that – for example the very largest Māori land block – at 62,000 hectares - is not being farmed because it sits beneath Taupō Moana. Other unused blocks are under towns, mines, etc.
30. We request the Commission address and improve comment on this matter within its final advice to Government.

Holistic View of Papatūānuku

31. We note the Commission’s evidential work makes reference to Paptūānuku, Ranginui, and their offspring. We acknowledge the Commission for seeing some our perspectives. We also agree that tīkanga values are important to our members. However, it is for each member to determine what is best for this. Yet we note the Commission takes a Government-centric worldview – ‘this is what Aotearoa should do’.
32. In our view Paptūānuku is broader than the Commission and Crown, and we must consider what is best for her overall. For example, we see you promote greater use of electricity – but in Aotearoa the majority of that energy comes from damming our awa and risking our water health. Do you foresee the need for further dams along the Waikato or other rivers?
33. We wish to clarify, caring for Papatūānuku is of primary importance to us, however this comes from a te ao Māori perspective, and cannot be put into a non-Māori siloed managerial system. We submit that the Commission needs to take consideration of, and understand that, FOMA members have a broader view of Te Taiao, including land and river health, alongside emissions management.
34. Your draft advice is actually silent on such matters which are vitally important to us. Equally our members’ farming practices may well be more efficient and better for Papatūānuku than those offshore, so reducing our services, and allowing others to fill the gap, may not necessarily be the best we can do for her. These are difficult questions, all of which require further engagement, hui, wānanga and rangahou.
35. We request the Commission address these concerns and the need for further mahi, and improve comment on this matter within its final advice to Government.

Further Research

36. FOMA notes the Commission proposes a Māori emissions count is created by the Crown (perhaps via Te Puni Kōkiri). FOMA's view is that it is for individual Māori entities to determine whether, and if, a Māori specific emissions count is of value to them at a farm level. Accordingly, as it is presently worded, we have significant concerns that this is another imposition being prejudicially imposed on Māori land owners.
37. At best perhaps a tool could be developed, and offered for free to Māori landowners, who might voluntarily share data if they chose to (maybe with each other and not the Crown.) Please refer to the concluding comment below for further context on the basis of these concerns.
38. We request the Commission to reconsider its advice in this area noting the need to maintain Māori rangatiratanga over data and land.

Consultation and Engagement – And An Offer of Assistance

39. FOMA acknowledges with respect the individual tangata Māori who have contributed to the Commission's work to-date. Notwithstanding, this mahi is not about any individuals, and the consultation needs to move from academics and public servants, to real Māori land owners who will be impacted upon, and also get closer to the real marae and hapori communities. This did not occur in earlier processes. Furthermore, four weeks into the consultation process your website on consulting with Māori remains a blank page with no information. FOMA advises that is not fair and genuine consultation, nor tikanga based.
40. Because of our concerns, FOMA members have agreed to offer our support to assist and advise the Commission on consultation with Māori landowners. Please contact us if you wish to take up this offer.

Closing Comment

41. In this submission FOMA has pointed out our concerns with core principles, shortcomings in your current findings, and weaknesses in current processes. These are important matters we expect the Commission, and later, the Government, to properly address.
42. However, so it is also clear, FOMA's membership is concerned about climate change. Members do want the best for Papatūānuku and intend to continually apply best practices and new technologies to support reduced emissions. For the avoidance of any doubt, FOMA is not a climate-change denier, and wishes to work with the Commission in giving advice to Government on changes Aotearoa should consider.
43. FOMA is, however, against the current approach of the Commission which has boxed Māori landowners within a framework, and effectively subjugated our rangatiratanga over our remaining resources. The approach is not consistent with Te Tiriti o Waitangi and does not properly acknowledge our rights to care for our taonga tuku iho.
44. So, while we may have the same end goal, we consider that the work of the Commission to date, as regards te ao Māori, is not the best way to achieve desired outcomes.
45. Our history is also long – we know what it is to experience unfair Government policies; such as dog tax to gain our lands, or the use of the Public Works Act (historic and current) to acquire lands, or perpetual leases that disempower us and have no

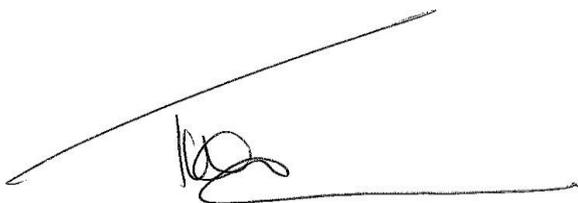
regard for inflation; or the Māori Trustee holding onto revenue from Māori lands; or unfair rating charges from local authorities on lands without utility services; or water and oil on our lands being nationalised without compensation, etc. The list goes on.

46. In that context we are concerned that without more diligence the work of the Commission is another step towards greater impositions on Māori land and Māori more generally and interferes with the ability of Māori to achieve and provide for our wellbeing – as well as for our whenua, and te taiao.
47. FOMA considers these matters are serious and seeks assurance that the Commission will work to develop advice that is fair for all parties and result in a better environment for our mokopuna katoa.

Me Uru Kahikatea.

Heoi ano,

FEDERATION OF MAORI AUTHORITIES INC

A handwritten signature in black ink, consisting of a long, sweeping horizontal line that starts high on the left and descends towards the right, with a smaller, more intricate scribble in the middle.

Traci Houpapa JP MNZM

Chairman