

Report to the Collaborative Stakeholder Group - For Information

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To: Collaborative Stakeholder Group
From: Bill Wasley, CSG Independent Chair
Subject: **Defining Māori Land**
Section **For Information**

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The Collaborative Stakeholder Group (CSG) continue to have discussions on policy options and allocation. The use of land now and into the future forms part of these discussions including the potential for landholders who may have aspirations to intensify (i.e. create "headroom") such as Multiple Māori Owned Land. At CSG 19 some base information was provided to the CSG in relation to the extent of 'undeveloped and under-developed' Māori owned land within the Healthy Rivers Wai Ora sub-catchments¹. The information provided was only in relation to Māori Owned Land, that is not Māori owned land under general or any general title land that may be undeveloped or underdeveloped.

At the CSG Workshop on 17th-18th December 2015 (CSG 21) questions were raised as to the definition of Māori land. This memo therefore firstly provides a legal definition of Māori land and Te Ture Whenua Māori reform followed by an estimate of area of Māori land under general title.

Māori land and Te Ture Whenua Māori Reform

A legal definition (of the status of land) is provided in section 129 of Te Ture Whenua Māori Act 1993 (see attachment 1). Of significance however, is Te Ture Whenua Māori Reform.

In 2011 in a report prepared for the Māori Economic Taskforce and Te Puni Kokiri inefficiencies were identified in respect of the Māori economy. It was found that although Māori have a large asset base that is growing, there were areas that were underperforming. In particular some large blocks of Māori land considered marginal, unproductive and/or underperforming needed "to be brought into production and the legislation that governs them needed reviewing"². Release of the report instigated the government to initiate the process of Te Ture Whenua Māori Reform².

The purpose of Te Ture Whenua Māori Reform is to:

...make it easier for Māori land owners to make decisions about how their land is governed and used. It removes constraints in the existing legislation and makes decision-making easier, faster and more efficient.

¹ See CSG 19 Agenda Item 9: Extent of Māori owned land within the Healthy Rivers sub-catchments and current land-use categories DM 3609413

² As sourced from http://www.minterellison.co.nz/Te_Ture_Whenua_Māori_Reform_09-16-2015/

It is the most significant reform of Māori land law since Te Ture Whenua Māori Act 1993. It will give Māori trusts and other land owners greater ability to make their own decisions and utilise land in the way they choose to³.

It is intended that the draft Te Ture Whenua Māori Bill will be introduced to Parliament in early 2016. It will then pass through the normal legislative process, including being referred to Select Committee for consideration and further public submissions where Māori land owners will then have another opportunity to comment. The Minister for Māori Development anticipates the reform to be enacted as law in late 2016.

Māori owned land under general title

In respect of the Healthy Rivers Wai Ora project it is expected that there are areas that have significant potential for economic development in undeveloped or underdeveloped Māori land. The Reform when enacted will enable Māori land owners to utilise and govern their land to best achieve their aspirations. The CSG are also considering how to consider opportunity for some in the catchment to intensify and requested information on how much land might be involved. At CSG 19, CSG members were provided information that indicated the extent of Māori owned land and its current land use type, including forestry and native forests within the Healthy Rivers Wai Ora sub-catchments (see attachment 2). The CSG highlighted that a number of areas in the catchment were not captured in the information provided. Missing from the package of information was Māori owned land under general title. However, investigating the total area of general land owned by Māori is a challenging task. Through communications with River Iwi managers and Central North Island (CNI) Iwi Holdings Ltd an area of land of most significance missing is an estimated 35,000 hectares of land returned as part of treaty settlement owned by CNI (Central North Island) Iwi Holdings Ltd in the Upper Waikato River Freshwater Management Unit (FMU)⁴. CNI Forest Lands are predominantly in forestry, as blocks of land are harvested, CNI Iwi Holdings Ltd are responsible for determining the future use of the returned lands. Please note in 2043 it is envisioned this land will be distributed/returned to the 8 CNI Iwi consisting of:

- Ngai Tuhoē
- Ngāti Manawa
- Ngāti Tuwharetoa
- Ngāti Whakaue
- Ngāti Whare
- Raukawa
- The Affiliate Te Arawa Iwi/Hapu (Te Pūmāutanga o Te Arawa)
- Ngāti Rangitīhi

The CNI land is largely classed as 3 and 4 under the Land Use Capability (LUC) classification with a current land use of plantation forest. Thus there is considerable genuine potential for land use change.

In respect of the areas of land estimated as Māori owned land and general land owned by Māori in the Healthy Rivers sub-catchments a number of points were raised in the CSG 19 memo 'Extent of Māori owned land within the Healthy Rivers sub-catchments and current land-use categories'¹ for consideration:

- What defines 'undeveloped' and 'under-developed land' i.e. do these include only that land which is currently forestry, or does it include native forests? Is sheep and beef land with the potential for conversion to dairy also considered 'under-developed'?
- What percentage of this land will be converted i.e. 100%, or lower (in consideration of some of the barriers to conversion such as land ownership, capital availability, desire to retain native forestry land for cultural or environmental protection purposes, etc?)
- Will land use conversion happen on all types of land, or only of a certain Land Use Capability (LUC) classes?

³ As sourced from <https://www.tpk.govt.nz/en/a-matou-kaupapa/crown-iwi-hapu-whanau-Māori-relations/consultation/review-of-te-ture-whenua-Māori-act-1993/>

⁴ CNI Iwi Land Management Ltd General Manager, Te Arawa River Iwi Trust representative personal communications

- What would be the final land use conversion type i.e. is everything to be converted into dairy, or will a portion of this be sheep and beef land or horticulture, etc?

Conclusion

From the information available, an estimate of the extent of Māori owned land¹ has been identified including a large portion of Māori owned land under general title. Also to consider are the impending changes to come through Te Ture Whenua Māori reform when Māori trusts and Māori land owners will have greater ability to utilise their land in the way they choose to. In light of these changes irrespective of whether the land is Māori owned or Māori owned under general title this memo provides information to add to discussions of the potential of future land use for landholders who may have aspirations to intensify.

Jacqui Henry

Waikato Regional Council

Bill Wasley

Independent Chairperson, Collaborative
Stakeholder Group

Part 6⁵ Status of land

129 All land to have particular status for purposes of Act

- (1) For the purposes of this Act, all land in New Zealand shall have one of the following statuses:
 - (a) Māori customary land:
 - (b) Māori freehold land:
 - (c) General land owned by Māori:
 - (d) General land:
 - (e) Crown land:
 - (f) Crown land reserved for Māori.
- (2) For the purposes of this Act,—
 - (a) land that is held by Māori in accordance with tikanga Māori shall have the status of Māori customary land:
 - (b) land, the beneficial ownership of which has been determined by the Māori Land Court by freehold order, shall have the status of Māori freehold land:
 - (c) land (other than Māori freehold land) that has been alienated from the Crown for a subsisting estate in fee simple shall, while that estate is beneficially owned by a Māori or by a group of persons of whom a majority are Māori, have the status of General land owned by Māori:
 - (d) land (other than Māori freehold land and General land owned by Māori) that has been alienated from the Crown for a subsisting estate in fee simple shall have the status of General land:
 - (e) land (other than Māori customary land and Crown land reserved for Māori) that has not been alienated from the Crown for a subsisting estate in fee simple shall have the status of Crown land:
 - (f) land (other than Māori customary land) that has not been alienated from the Crown for a subsisting estate in fee simple but is set aside or reserved for the use or benefit of Māori shall have the status of Crown land reserved for Māori.
- (3) Notwithstanding anything in subsection (2), where any land had, immediately before the commencement of this Act, any particular status (being a status referred to in subsection (1)) by virtue of any provision of any enactment or of any order made or any thing done in accordance with any such provision, that land shall continue to have that particular status unless and until it is changed in accordance with this Act.

Compare: 1953 No 94 s 2(1)

Section 129(2)(c): amended, on 1 July 2002, by [section 19](#) of Te Ture Whenua Māori Amendment Act 2002 (2002 No 16).

⁵ As sourced from <http://www.legislation.govt.nz/act/public/1993/0004/latest/DLM291287.html>

Attachment 2:

Table 1: Area of the Land use types within each sub catchment in known Māori owned land blocks⁶

Sub-Catchment Unique ID	Sub-Catchment FMU Zone	Total Māori owned land (Ha)	Native forest in Māori Land Blocks (Ha)	Forestry in Māori Land Blocks (Ha)	Dairy Farms in Māori Land Blocks (Ha)	Sheep and Beef Farms in Māori Land Blocks (includes Drystock) (Ha)	Total area of Māori owned land <LUC6 ⁷ (1 to 6) (Ha)	Total area of Māori owned land >LUC6 (6e, 7, 8) (Ha)
23	Central Waikato	0	0	0	0	0	0	0
25	Central Waikato	0	0	0	0	0	0	0
27	Central Waikato	0	0	0	0	0	0	0
28	Central Waikato	1	0	0	0	0	1	0
29	Central Waikato	153	1	0	77	32	153	0
30	Central Waikato	0	0	0	0	0	0	0
31	Central Waikato	13	2	0	0	0	10	3
32	Central Waikato	0	0	0	0	0	0	0
33	Central Waikato	0	0	0	0	0	0	0
35	Central Waikato	0	0	0	0	0	0	0
	Central Waikato TOTAL	167	3	0	77	32	164	3
1	Lower Waikato	0	0	0	0	0	0	0
2	Lower Waikato	125	0	1	42	40	124	1
3	Lower Waikato	0	0	0	0	0	0	0
4	Lower Waikato	27	3	5	0	0	1	25
5	Lower Waikato	0	0	0	0	0	0	0
6	Lower Waikato	1511	7	232	196	63	543	960
7	Lower Waikato	8	0	0	7	0	5	2
8	Lower Waikato	88	0	0	16	0	88	0
9	Lower Waikato	732	1	69	283	171	584	147
10	Lower Waikato	44	0	0	24	20	41	3
11	Lower Waikato	69	0	0	0	14	26	43
12	Lower Waikato	0	0	0	0	0	0	0

⁶ The land area for dairy farms and sheep and beef farms are derived from AgriBase which is based on property boundaries, while the land area for native forest and forestry are derived from LCDB4 which is NOT tied to property boundaries. As a consequence overlap can occur between the two datasets where – for example – a farm identified as dairy or sheep and beef may also contain stands of native forest and/or sections of forestry. Therefore, you cannot add the land area for dairy farms, sheep and beef farms, native forest and forestry all together without acknowledging that there may be overlaps which will result in higher land area totals than is stated in total Maori owned land.

⁷ For this analysis LUC 6 was considered to be an approximate cut-off for land to become too steep for intensive agricultural use.

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13	Lower Waikato	97	2	1	21	68	70	26
14	Lower Waikato	63	0	0	34	29	62	1
15	Lower Waikato	102	0	0	5	4	100	0
16	Lower Waikato	122	4	7	0	88	87	35
17	Lower Waikato	778	1	253	179	195	367	411
18	Lower Waikato	8	0	0	3	3	8	0
19	Lower Waikato	33	1	25	2	2	8	25
20	Lower Waikato	429	30	107	5	181	186	242
22	Lower Waikato	61	0	0	0	32	61	0
	Lower Waikato TOTAL	4297	49	700	817	910	2361	1921
41	Upper Waikato	1546	112	286	682	600	721	824
44	Upper Waikato	98	8	5	24	12	92	6
45	Upper Waikato	460	29	2	454	239	182	278
48	Upper Waikato	0	0	0	0	0	0	0
49	Upper Waikato	1	0	0	0	0	1	0
54	Upper Waikato	4599	647	865	1855	1018	1333	3266
56	Upper Waikato	263	25	236	263	0	0	263
57	Upper Waikato	114	3	0	114	0	1	113
58	Upper Waikato	424	7	1	423	325	111	312
59	Upper Waikato	6	0	0	0	0	0	6
62	Upper Waikato	12	0	0	12	0	12	0
64	Upper Waikato	16303	5297	2513	8911	4355	4369	11934
65	Upper Waikato	772	19	153	579	0	445	327
66	Upper Waikato	6028	868	1063	3034	2224	1722	4305
67	Upper Waikato	2658	70	389	376	1797	929	1729
69	Upper Waikato	6	0	0	6	0	5	1
70	Upper Waikato	4215	220	355	21	3292	2003	2213
71	Upper Waikato	2961	296	1011	0	2939	843	2119
72	Upper Waikato	0	0	0	0	0	0	0

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73	Upper Waikato	2616	675	32	638	66	1643	973
74	Upper Waikato	1699	70	472	279	707	733	966
	Upper Waikato TOTAL	44781	8346	7383	17671	17574	15145	29635
21	Waipa	0	0	0	0	0	0	0
24	Waipa	1259	8	927	41	403	243	1016
26	Waipa	20	0	0	0	0	20	0
34	Waipa	157	3	55	1	50	52	105
36	Waipa	322	1	229	0	290	51	271
37	Waipa	0	0	0	0	0	0	0
38	Waipa	518	0	178	205	45	280	238
39	Waipa	109	0	109	0	0	0	109
40	Waipa	1565	2	19	1290	758	1330	235
42	Waipa	1082	10	404	89	459	368	713
43	Waipa	2607	23	194	1333	737	1613	994
46	Waipa	822	47	218	35	326	351	471
47	Waipa	495	0	314	107	0	234	261
50	Waipa	630	8	18	246	625	351	279
51	Waipa	443	0	36	165	52	273	171
52	Waipa	284	1	169	0	99	50	233
53	Waipa	2152	87	234	510	1065	1185	966
55	Waipa	306	4	12	70	203	182	125
60	Waipa	4416	18	2527	0	2534	1720	2696
61	Waipa	566	10	27	180	340	340	226
63	Waipa	1891	19	262	23	1681	1363	528
68	Waipa	983	1	219	0	983	683	300
	Waipa TOTAL	20627	242	6151	4295	10650	10689	9937
	Total	69872	8640	14234	22860	29166	28359	41496