

Provision for the Development of Māori Land within the Framework of Te Ture Whaimana o Te Awa o Waikato and Healthy Rivers: Plan for Change/Wai Ora: He Rautaki Whakapaipai

Outcome Sought

That the Healthy Rivers Wai Ora (HRWO) Plan Change includes Objectives, Policies and Methods in Healthy Rivers Wai Ora (HRWO) Plan Change to provide for the economic development of Māori land, where legal impediments—including confiscation, alienation, land ownership legislation leading to the inability to borrow for capital investment— have prevented that land from being developed to its productive potential.

Issue

River Iwi have historically faced, and continue to face, a number of barriers and constraints to developing their lands. Actions of the Crown, such as the confiscation of land, alienation of land and legislation stipulating specific land ownership structures, have limited the ability of Māori to utilise their lands for economic development.

The return of land through the Treaty settlement process is intended to redress land confiscation and alienation and, provide opportunities for the growth and prosperity of Waikato River Iwi (River Iwi). In addition, the review of Te Ture Whenua Maori Land Act 1993 through the Te Ture Whenua Maori Land Reform Bill is designed to remove barriers and constraints within the existing legislation and, provide the owners of Māori land greater ability to utilise that land to its productive potential.

The proposal to introduce a catchment wide rule to prevent new and further intensification of all land within the Waikato and Waipa River catchments will severely limit and constrain options for the development of Māori land that has not yet reached its productive potential. This is particularly the case for lands returned to River Iwi through the resolution of Treaty settlements and, land where the Te Ture Whenua Maori Land Reform Bill intends to remove historic barriers and constraints to develop multiple owned Māori land.

Providing for the development of Māori land

River Iwi consider the HRWO Plan Change should provide for the development of Māori land to its productive potential. River Iwi and the Māori interests representatives on the Collaborative Stakeholder Group (CSG) share a consensus view of the Māori land that should be subject to any provision:

- Settlement Lands: Land returned to Māori ownership through Tiriti o Waitangi settlements (note this includes CNI Forestry land); and
- Multiple owned Māori Land: Land that is beneficially owned by a group of Māori or by a group of persons of whom a majority are Māori.

Rationale for developing Settlement land and multiple owned Māori land

The resolution of River Iwi Treaty Settlements have given rise to Te Ture Whaimana o te Waikato Awa (Te Ture Whaimana) with an overarching direction to restore and protect the health and wellbeing of the Waikato river. The health and wellbeing of the Waikato River remains the primary concern of River Iwi and, any development of Māori land to further economic aspirations of River Iwi must occur within the context and framework of Te Ture Whaimana. River Iwi and the Māori interests representatives believe providing for the development of Māori land to its productive potential will assist in giving effect to Te Ture Whaimana.

River Iwi note they individually hold broader aspirations for the development of all Māori land within their respective rohe to achieve its economic potential over time.

The CSG are considering the merits of a catchment wide rule to prevent new and further intensification of land within the Waikato and Waipa River catchments to “hold the line” on further water quality degradation. River Iwi consider it would contrary to the intent of Treaty settlements and the purpose and outcome sought through the Te Ture Whenua Reform for land returned through treaty settlement process and multiple Māori owned land to be unfairly constrained by any new catchment wide rule.

River Iwi consider the impact of a catchment wide rule to prevent development is unlikely to be equitable; compared with general title freehold land, the historical restrictions associated with land returned to River Iwi through the resolution of Treaty settlements and multiple owned Maori land mean it is not a level playing field. Unlike freehold land, Māori land cannot be sold should the regulatory framework render that land uneconomic.

River Iwi believe providing for the development of Māori land has a good strategic fit with the CSG policy selection criteria¹. In particular:

- providing for aspirations of River iwi;
- allowing flexibility for intergenerational land use;
- optimising environmental, social and economic outcomes; and
- being acceptable to the wider community.

The development of Māori land to its productive potential would also fit comfortably within the Mana Tangata values captured by the CSG.

The River Iwi note the development of Māori land is consistent with the “Outcome statement and principles for implementing Te Ture Whaimana” document that was provided to CSG in June 2015. Specifically, the “Recognise the potential of landowners to develop land within the water quality limits and, incentivise voluntary changes to current land use to fit within water quality limits” principle.

Impact of provision

At this time WRC do not have a complete set of geo-spatial information on the quantum of multiple Māori Owned land and Treaty settlement land as described above.

¹ As expressed in CSG #22 introduction

The best available information suggests the relative impact of providing for development of Māori land to its productive potential may have a very limited effect on water quality. This is because: (i) the total area that is subject to land use change is likely to be small [*x Ha, or y % of catchment or FMU and overall HRWO plan change area*]; (ii) land use change for the CNI land is likely to be sequenced over the 28-year rotation for plantation forestry crops; and (iii) for a variety of operational reasons, the total development opportunity may not ever be taken up.

The work required to assess the relative costs and benefits of any proposed provision for Māori land will need to inform the evolution of the Section 32 documentation for the HRWO plan change.

An initial management intervention agreed to by the CSG is the mandatory application of Good Management Practice to new and existing land uses in the Waikato and Waipa River catchment. In addition, the CSG have placed emphasis on spatially locating land uses to optimise productivity based on a natural capital/capacity approach. The River Iwi and Māori Interests representatives consider Māori land subject to any proposed provision should be developed to its productive potential —being cognisant of the natural capital and carrying capacity of the whenua— and, utilise the evolving suite of Good Management Practice tools.

Process and timeframe

WRC resourcing the technical expertise to:

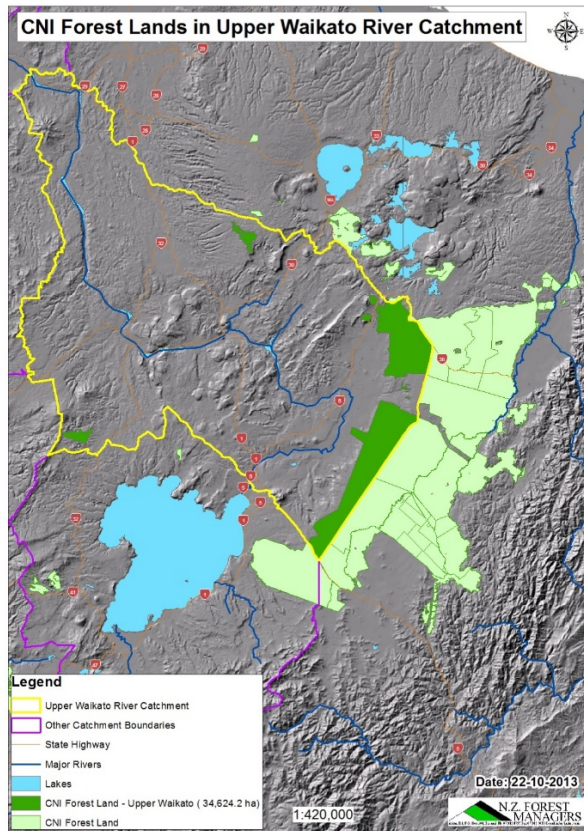
1. identify the location and areas (GIS shape files) of the two types of Māori land within the HRWO project area, the Land Use Capability of that land, and its present use.
2. develop the policy set (objectives, policies and methods) to provide for the development of Māori land previously constrained from being used to its potential.

Fundamental components of process for CSG sub-group:

1. River Iwi technical advisor to be involved in any CSG led sub-group to develop policy for any proposed provision.
2. WRC need to confirm the area (ha) of: (i) Treaty Settlement lands; and (ii) multiple owned Māori land (ha), within the Waikato and Waipa River catchments.
3. WRC and Technical Leaders Group (TLG) need to undertake a broad-scale assessment of the potential for land use change on Treaty Settlement land and multiple owned Māori land that is the subject of any proposed provision. This should be achieved by:
 - a. Broadly assessing the existing land use of the subject land;
 - b. Using the best available LUC mapping information broadly —at the same scale of mapping as the LUC information— determine the productive potential of the subject land; and
 - c. Quantify the relative difference between current land use and productive potential land use for each LUC class
 - d. Apply a graduated approach to sequencing land use change over a 28-year plantation forestry rotation
4. TLG to provide policy development expertise to craft a policy suite to support this proposal.

Case study

Map 1 – CNI land



CNI Iwi lands

The final settlement between the Central North Island (CNI) Iwi Collective and the Crown was signed in 2008. The CNI Iwi Collective consists of eight iwi:

- Ngai Tuhoe
- Ngāti Manawa
- Ngāti Rangitihī
- Ngāti Tuwharetoa
- Ngāti Whakaue
- Ngāti Whare
- Raukawa
- Te Pūmāutanga O Te Arawa

In July 2009 the 176,000 hectares of forest lands was transferred to CNI Iwi Holdings Ltd (CNIHL). CNI Forest Lands were returned under Crown Forestry Licenses (CFL) in which the land is forested and leased by Kaingaroa Timberlands.

Approximately 34,624 hectares of CNI forest lands are located in the Upper Waikato River Freshwater Management Unit (FMU), shown in Map 1 as the dark green area.

The Land Use Capability of this land, which is presently mainly in production forest, is:

- 8,399 hectares LUC Class III land
- 14,093 hectares LUC Class IV land
- 6,127 hectares LUC Class VI land
- 3,669 hectares LUC Class VII land
- 30 hectares LUC Class VIII land

The spatial location of the different LUC classes is shown in Map 2.

CNIHL have a forestry right agreement with Kaingaroa Timberlands (KT) that provides CNIHL with the ability to hold back lands for alternate purposes ie, non-forestry land use, as the land is harvested. About 5 - 6000 Ha of the full estate is harvested annually, and at that time CNIHL determines the future use of the returned lands.

Any changes in land use will be sequenced over time as harvesting occurs and will utilise best available information to provide the best return for the CNI Iwi Collective. In 2043 the CNI forest land will be held in a different business structure through the eight CNI Iwi.

Map 2 – LUC

