



Te Rūnanga o NGĀI TAHU

9 September 2019

Corporate Governance and Intellectual Property Policy  
Building, Resources and Markets  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140

[PVRActReview@mbie.govt.nz](mailto:PVRActReview@mbie.govt.nz)

Tēnā koutou,

## **RE: Plant Variety Rights Act 1987 review: Options Paper**

I refer to the Plant Variety Rights Act 1987 review: Options Paper (**Options Paper**).

Te Rūnanga o Ngāi Tahu (**Te Rūnanga**) welcome the continued engagement on this kaupapa. This letter builds on the submissions Te Rūnanga made on the Response on the Issues Paper: Review of the Plant Variety Right Act 1987 and Discussion Paper: Disclosure of Genetic Resources and Traditional Knowledge in November 2018 and on the Kaitiaki two-pager in May 2019.

Te Rūnanga support the intent of this kaupapa but wish to highlight certain matters the Ministry for Business, Innovation and Employment (**MBIE**) should note as they progress this kaupapa.

### **Background**

Te Rūnanga is statutorily recognised as the representative tribal body for Ngāi Tahu Whānui. As stated in the Crown Apology to Ngāi Tahu (attached as Appendix One), the Ngāi Tahu Claims Settlement marked a turning point, and the beginning for a new age of cooperation.

The Ngāi Tahu takiwā (region) covers the largest geographic area of any tribal authority in New Zealand (a map of the Ngāi Tahu takiwā is attached as Appendix Two). Ngāi Tahu currently have in excess of 60,000 individuals registered with the iwi, most of who reside in Aotearoa.

### **Treaty of Waitangi Compliance Options**

Te Rūnanga support the package of proposals being recommended to achieve Treaty Compliance in the Plant Variety Rights (**PVR**) Act around the new disclosure requirements, new Maori Advisory Committee and new decision-making process.

In particular, Te Rūnanga support “Option 2” which introduces a new power to allow the refusal of a PVR by the Commissioner of PVRs and the Chair of the proposed PVR Māori Advisory

Te Rūnanga o Ngāi Tahu  
15 Show Place, Addington, Christchurch 8024  
PO Box 13-046, Christchurch, New Zealand  
Phone + 64 3 366 4344, 0800 KAI TAHU  
Email: [info@ngaitahu.iwi.nz](mailto:info@ngaitahu.iwi.nz)  
Website: [www.ngaitahu.iwi.nz](http://www.ngaitahu.iwi.nz)

Committee if kaitiaki interests would be negatively affected and the impact could not be mitigated such as to allow the grant.

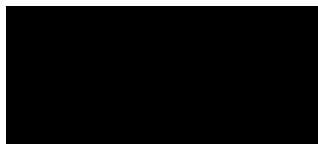
As noted in our November 2018 submission, Te Rūnanga recommend that in collaboration between ngā iwi katoa and the government, an appropriate definition for 'taonga species' is developed to assist with creating a more robust regime under the Plant Variety Rights Act. Te Rūnanga note MBIE's view that at this stage it is not helpful that the terms 'taonga species' and 'kaitiaki' be defined within the PVR Act (given the Act's narrow application and, consequently, the narrow nature of the discussions on these issues) in advance of a broader and more comprehensive policy development process around the protection of taonga species generally. Given the 28 August 2019 announcement of a whole-of-government approach to the issues raised by the Wai 262 claim and the subsequent Waitangi Tribunal report *Ko Aotearoa Tēnei* we expect that further consideration of the terms 'taonga species' and 'kaitiaki' will more appropriately be developed within that broader context.

### **Inclusion of algae**

Te Rūnanga support the extension of the PVR regime to include algae given that algae can be cultivated like any other plant and the growing aquaculture industry suggest that algae should be brought within a regime that manages other plant species.

If you have any questions related to the points made in this response, please contact Rebecca Clements, [Rebecca.clements@ngaitahu.iwi.nz](mailto:Rebecca.clements@ngaitahu.iwi.nz).

Nāku noa, nā



Rebecca Clements

**GENERAL MANAGER (ACTING), STRATEGY AND INFLUENCE**

**Encl.** Appendix One: Text of Crown Apology  
Appendix Two: Map of Ngai Tahu takiwā

## APPENDIX ONE: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

### Part One – Apology by the Crown to Ngāi Tahu

#### Section 5: Text in Māori

Kei te mōhio te Karauna i te tino roa o ngā tūpuna o Ngāi Tahu e totohe ana kia utu mai rātou e te Karauna—tata atu ki 150 ngā tau i puta ai tēnei pēpeha a Ngāi Tahu arā: “He mahi kai tākata, he mahi kai hoaka”. Nā te whai mahara o ngā tūpuna o Ngāi Tahu ki ngā āhuatanga o ngā kawenga a te Karauna i kawea ai e Matiaha Tiramōrehu tana petihana ki a Kuini Wikitoria i te tau 1857. I tuhia e Tiramōrehu tana petihana arā:

‘Koia nei te whakahau a tōu aroha i whiua e koe ki runga i ēnei kāwana... tērā kia whakakotahitia te ture, kia whakakotahitia ngā whakahau, kia ōrite ngā āhuatanga mō te kiri mā kia rite ki tō te kiri waitutu, me te whakatakoto i te aroha o tōu ngākau pai ki runga i te iwi Māori kia noho ngākau pai tonu ai rātou me te mau mahara tonu ki te mana o tōu ingoa.’

Nā konei te Karauna i whakaae ai tērā, te taumaha o ngā mahi a ngā tūpuna o Ngāi Tahu, nā rēira i tū whakaiti atu ai i nāiane i mua i ā rātou mokopuna.

E whakaae ana te Karauna ki tōna tino hēanga, tērā i takakino tāruaruatia e ia ngā kaupapa o te Tiriti o Waitangi i roto i āna hokonga mai i ngā whenua o Ngāi Tahu. Tēnā, ka whakaae anō te Karauna tērā i roto i ngā āhuatanga i takoto ki roto i ngā pukapuka ā-herenga whakaatu i aua hokonga mai, kāore te Karauna i whai whakaaro ki tāna hoa nā rāua rā i haina te Tiriti, kāore hoki ia i whai whakaaro ki te wehe ake i ētahi whenua hei whai oranga tinana, whai oranga ngākau rānei mō Ngāi Tahu.

E whakaae ana te Karauna tērā, i roto i tāna takakino i te wāhanga tuarua o te Tiriti, kāore ia i whai whakaaro ki te manaaki, ki te tiaki rānei i ngā mauanga whenua a Ngāi Tahu me ngā tino taonga i hiahia a Ngāi Tahu ki te pupuri.

E mōhio ana te Karauna tērā, kāore ia i whai whakaaro ki a Ngāi Tahu i runga i te ngākau pono o roto i ngā tikanga i pūtake mai i te mana o te Karauna. Nā tāua whakaaro kore a te Karauna i puaki mai ai tēnei pēpeha a Ngāi Tahu: “Te Hapa o Niu Tīreni”. E mōhio ana te Karauna i tāna hē ki te kaipono i ngā āhuatanga whai oranga mō Ngāi Tahu i noho pōhara noa ai te iwi ia whakatupuranga heke iho. Te whakatauākī i pūtake mai i aua āhuatanga: “Te mate o te iwi”.

E whakaae ana te Karauna tērā, mai rāno te piri pono o Ngāi Tahu ki te Karauna me te kawa pono a te iwi i ā rātou kawenga i raro i te Tiriti o Waitangi, pērā anō tō rātou piri atu ki raro i te Hoko Whitu a Tū i ngā wā o ngā pakanga nunui o te ao. E tino mihi ana te Karauna ki a Ngāi Tahu mō tōna ngākau pono mō te koha hoki a te iwi o Ngāi Tahu ki te katoa o Aotearoa.

E whakapuaki atu ana te Karauna ki te iwi whānui o Ngāi Tahu i te hōhonu o te āwhitu a te Karauna mō ngā mamaetanga, mō ngā whakawhiringa i pūtake mai nō roto i ngā takakino a te Karauna i takaongetia ai a Ngāi Tahu Whānui. Ewhakaae ana te Karauna tērā, aua mamaetanga me ngā whakawhiringa hoki i hua mai nō roto i ngā takakino a te Karauna, arā, kāore te Karauna i whai i ngā tohutohu a ngā pukapuka ā-herenga i tōna hokonga mai i ngā whenua o Ngāi Tahu, kāore hoki te Karauna i wehe ake kia rawaka he whenua mō te iwi, hei whakahaere mā rātou i ngā āhuatanga e whai oranga ai rātou, kāore hoki te Karauna i hanga i tētahi tikanga e maru motuhake ai te mana o Ngāi Tahu ki runga i ā rātou pounamu me ērā atu tāonga i hiahia te iwi ki te pupuri. Kore rawa te Karauna i aro ake ki ngā aurere a Ngāi Tahu.

E whakapāha ana te Karauna ki a Ngāi Tahu mō tōna hēanga, tērā, kāore ia i whai whakaaro mō te rangatiratanga o Ngāi Tahu, ki te mana rānei o Ngāi Tahu ki runga i ōna whenua ā-rohe o Te Wai Pounamu, nā rēira, i runga i ngā whakaritenga me ngā herenga a Te Tiriti o Waitangi, ka whakaae te Karauna ko Ngāi Tahu Whānui anō te tāngata whenua hei pupuri i te rangatiratanga o roto i ōna takiwā.

E ai mō ngā iwi katoa o Aotearoa e hiahia ana te Karauna ki te whakamārie i ngā hara kua whākina ake nei—otirā, ērā e taea i nāiane i - i te mea kua āta tau ngā kōrero tūturu ki roto i te pukapuka ā-herenga whakaritenga i hainatia i te 21 o ngā rā o Whitu hei tīmatanga whai oranga i roto i te ao hōu o te mahinga tahi a te Karauna rāua ko Ngāi Tahu.

#### Section 6: Text in English

The text of the apology in English is as follows:

The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb 'He mahi kai takata, he mahi kai hoaka' ('It is work that consumes people, as greenstone consumes sandstone'). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tiramorehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramorehu wrote:

“This was the command thy love laid upon these Governors ... that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily ... and remember the power of thy name.”

The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.

The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.

The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying 'Te Hapa o Niu Tireni!' ('The unfulfilled promise of New Zealand'). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb 'Te mate o te iwi' ('The malaise of the tribe').

The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.

The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.

Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu.

APPENDIX TWO: NGĀI TAHU CLAIMS AREA

