

The Treasury

Release of Submissions: Mixed Ownership Model Consultation with Māori

Release Document

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Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under the following section of the Official Information Act, as applicable:

[1] 9(2)(a) - to protect the privacy of natural persons, including deceased people.

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, an [1] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

TE KOTAHITANGA RUAWAI HAMILTON WHANAU

Submission to

Government Consultation on Mixed Ownership Model

Introduction

Government has failed to meet reasonable domestic and international standards in its consultation with Maori over the proposals to make changes to the Treaty obligations and SOEs. Rangatira have a right to exercise Rangatiratanga but the government's proposals make no allowances for the realisation of that right. Government is in breach of the Treaty and universal human rights in the way it is "consulting" over these proposals.

Governance/Kawanatanga

Through the Treaty, Rangatira gave the Crown an authority to govern (Kawanatanga) which includes a **right to make laws**. That right is conditional on the Crown meeting its Treaty obligations one of which is the **active protection of Rangatiratanga**. Our whanau Rangatira have never ceded our Rangatiratanga and regard Rangatiratanga as a universal human right (self-determination) affirmed by Te Tiriti o Waitangi. The Crown has an obligation of active protection of Rangatiratanga.

What are Crown Obligations under the Treaty?

The consultation paper uses the words "*Crown's (specific) obligations under the Treaty*" but does not explain clearly what those obligations are or how they are given effect. Government has quite rightly identified that "Consultation with Maori" is one of the obligations. However, the Crown has other obligations under the Treaty which are not addressed in the consultation process. These include but are not limited to:

- Building sustainable partnerships
- Respecting Tangata Whenua rights and responsibilities
- Enabling self-determination (Mana Rangatira)
- Good faith cooperation

Consultation Standards

The standard that government sets for itself is low. The reason they are consulting is "*to ensure that before it makes its final decision on legislation, and specifically on options on section 9, it fully understands Maori views on how Maori rights and interests under the Treaty of Waitangi are affected by the proposals.*" That standard falls well below **partnership** standards established by the Treaty (rohe and national) and **international** standards outlined in the UN Declaration on the Rights of Indigenous Peoples (Declaration) which was agreed by Government in May 2010.

Partnership Standards

Although the Treaty guaranteed a partnership, it does not feel like a partnership to our whanau. In this consultation exercise Maori interests are regarded as the same as other interests including potential overseas investors. Government has failed to distinguish the rights and interests of Maori being any different to those of other people. The standard of "Treaty partnership" is not reflected in the consultation.

International Standards

The Declaration outlines a number of “*standards to be achieved in a spirit of partnership and mutual respect.*” One of them, article 19, requires that “*States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.*” Good faith cooperation and partnership would require government to gain free consent making changes to the issues which affect Maori. Government is not seeking consent and our whanau is not free to have our views valued.

While government has produced information to inform Maori of what they intend to do with *Maori rights and interests* over SOEs the information does not fully explain the issues. More information about the treaty partnership and Crown obligations will contribute to our whanau being informed.

The time frame for “consultation” trivialises notions of “prior.” This limits the ability of our whanau to fully participate in this “consultation” process.

Tangata Whenua Rights

The paper also fails to explain what they consider are “*Maori rights and interests under the Treaty of Waitangi.*” There are a number of key rights and interests regarding Mana Whenua, Mana Atua and Mana Tangata. Maori explain those rights and responsibilities at every consultation called by government but there is no evidence that government “*fully understands Maori views.*” Maori rights that are relevant to this kaupapa include:

- The authority of whanau, hapu and iwi Rangatira to self determination
- The right to good faith cooperation
- The right to our lands and resources

Despite the several explanations from Maori at each “consultation” the only outcome government is seeking is “it fully understands Maori views before making its final decision on legislation.” This demonstrates that Government has no active interest in how Maori explain their rights and interests. Instead it facilitates a passive engagement and fails to “fully understand Maori views” that does not prevent them from making decisions that fail to uphold the Crown’s responsibility to “protect Rangatiratanga.”

Authority to Limit Tangata Whenua Rights

The effect of all three options offered by the Crown limit the extent to which Maori are able to realise our rights as Tangata whenua and the consultation is a cynical exercise to gain our permission to do so.

Recommendation

That Government and Parliament develop enduring engagement and consultation practices that:

- achieve domestic Treaty partnership standards and international human rights standards; and
- give respect to Te Tiriti/Treaty o Waitangi and the responsibility of the Crown to protect Rangatiratanga.

Contact details

This submission is made on behalf of the *Kotahitanga Ruawai Hamilton Whanau* (Nga Rauru, Ngati Kahungunu, Ngati Raukawa)

Our whanau would like the opportunity to speak to our submission

I can be contacted at:
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