

2 November 2023

Ministry for the Environment

Environment House 23 Kate Sheppard Place,

Pipitea, Wellington 6011

Tēnā koutou,

**Te Tira Whakamātaki Submission on the Biodiversity Credit System**

Te Tira Whakamātaki welcomes the opportunity to provide feedback on the proposed Biodiversity Credit System (“the Proposal”). We are committed to protecting our natural heritage through Indigenous-led and Indigenous knowledge solutions. Our team includes mātauranga experts, Māori scientists, policymakers, and kaitiaki.

We have consolidated our feedback with insights from our workshop with the Iwi Chairs Forum<sup>1</sup> and the recommendations outlined by the Options Development Group in their 2022 report<sup>2</sup> (“The Partial Reviews Report”). We are making this submission because the Biodiversity Credit System should be Tiriti-led and meaningfully recognise the role of whānau/hapū/Iwi. In its current state, we oppose the Proposal. Within current environmental credit systems we do not see success for Indigenous peoples or the environment, and this plan does not address the issues that we have seen elsewhere. While we recognise the global importance of the Biodiversity Credit System (“BCS”)—especially in the face of unprecedented biodiversity decline—we note that sustainability can’t be solely framed financially. At the bare minimum solutions must be socioecological, in order to address local issues. On this basis, we propose a reset and redevelopment of this

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<sup>1</sup> This workshop was held on the 18th of July 2023 in Wellington

<sup>2</sup> Partial reviews of Conservation General Policy and General Policy for National Parks 2022, <https://www.doc.govt.nz/our-work/partial-reviews-of-conservation-general-policy-and-general-policy-for-national-parks/options-development-groups/options-development-group-report/>

proposal in partnership with hapū/Iwi. Our submission does not seek to represent the views or experiences of all Māori but rather provides our feedback based on our whakapapa and expertise.

Our submission outlines five key concerns, which are detailed below.

### **1. Lack of mana whenua involvement**

The discussion document places emphasis on its strong commitment to Māori by giving effect to Te Tiriti o Waitangi; it notes:

*"A Biodiversity Credit System must give effect to te Tiriti. This will be a critical consideration in the design of a BCS" (pg. 21).*

However, this proposal has been presented to whānau/hapū/Iwi rather than co-developed with us. The Treaty of Waitangi Guidance for Agencies<sup>3</sup> ("Tiriti o Waitangi Circular") stipulates key considerations regarding Article II of Te Tiriti o Waitangi, which includes a provision to co-develop proposals with Māori:

*"The Crown has, at times in New Zealand history, ignored or denied the right of Māori to control their affairs. Not all such efforts have been based on ignorance of the Treaty – in many cases the government relied on its right to make decisions affecting Māori that it considered would be in their best interests, but without respecting the right of Māori to be involved in those decisions.*

*There are two secondary questions to ask in relation to this question: 49.1 Can/should the proposal, or parts of it, be led by Māori? 49.2 What options/mechanisms are available to enable rangatiratanga?" (pg.9)*

A strong commitment to te Tiriti needs to be met with action. It's clear that regardless of the commitment, the corresponding agencies did little to address the questions asked within their guidance paper. As a result, the proposal seems to position Māori primarily as end-users. While it recognises our values, it falls short in empowering Māori as Tiriti partners and ensuring our communities are equipped to participate meaningfully from the outset.

The Ministry for the Environment and the Department of Conservation possesses ample resources and connections to engage meaningfully with Māori. This includes collaboration with Iwi Chairs in developing the Rauora Framework<sup>4</sup>, Tiriti o Waitangi Circular, the Partial Reviews Report, WAI262 Best Practice Guide<sup>5</sup> and Te

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<sup>3</sup><https://www.dpmc.govt.nz/sites/default/files/201910/CO%2019%20%285%29%20Treaty%20of%20Waitangi%20Guidance%20for%20Agencies.pdf>

<sup>4</sup><https://environment.govt.nz/publications/exploring-an-indigenous-worldview-framework-for-the-national-climate-change-adaptation-plan/>

<sup>5</sup><https://ourlandandwater.nz/news/nga-taonga-tuku-iho-wai-262-best-practice-guide/>

Pūtahitanga: A Tiriti-led Science-Policy Approach for Aotearoa New Zealand<sup>6</sup>. This list is by no means exhaustive, but it highlights that the government should be better informed, especially when many of these resources were developed specifically for its guidance.

## **2. Te Tiriti-led requires sharing power**

The Proposal outlines two potential roles for the Government: market enablement or market administration. The former suggests a free-market approach, while the latter leans towards a centralised system where regulations and directive tools would be established. However, neither of these options recognises our role as partners through Article II of Te Tiriti o Waitangi. As noted in the Partial Reviews Report:

*"Te Tiriti and its principles necessitate that partnership and shared decision making between DOC and tangata whenua should be the standard approach to conservation" (pg.64)*

Furthermore, the Tiriti o Waitangi Circular notes that acting in good faith requires policy-makers to allow Māori decision-making powers in matters relating to us:

*'Put more simply, this question asks policy-makers to consider whether the policy being developed keeps the promise the Crown made to Māori to protect their interests and allow for Māori retention of decision-making in relation to them.' (pg.6)*

The governance of the biodiversity credit system should be steered by a decision-making model that is both equitable and informed by Te Tiriti o Waitangi. The current proposal, whether centralised or market-driven, fails to reflect this principle.

## **3. Learning from past initiatives outlined in the proposal**

The Proposal offers an overview of international BCS models but tends to overlook the challenges and inherent biases that need to be addressed in order for an equitable BCS in Aotearoa. A thorough understanding of current and past initiatives is critical to ensure an effective system.

Central to our concerns is the issue of Indigenous sovereignty. Genuine collaboration is more than inclusion; it's a shift in power dynamics, recognising Indigenous Peoples as partners. It begs the questions:

- Have BCS models acknowledged Indigenous rights, especially in terms of their relationship with the government?

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<sup>6</sup> <https://www.maramatanga.co.nz/publication/te-putahitanga-tiriti-led-science-policy-approach-aotearoa-new-zealand>

- How have these systems ensured genuine Indigenous engagement and upheld their principles of sovereignty?

The potential for greenwashing in a market-driven BCS is abundantly evident. This approach might allow businesses to superficially champion environmental causes without substantive action, thereby undermining the system's credibility. The essence of BCS should be genuine environmental restoration, not just corporate optics. As it is written and presented, our view is that the current proposal represents a system vulnerable to greenwashing and it heavily favours corporate interests over any good that may come to the environment. This is confounded by the fact that monitoring and evaluation of any environmental good stemming from BCS is largely absent from the Proposal. To us, this is an indication that any biodiversity monitoring of the effects of BCS will, at best, be off the side of someone's desk and won't assess the impact of the BCS. We strongly recommend that evaluation and monitoring of any potential BCS system is put in place well before the implementation of the Proposal to ensure that information combats greenwashing and can be used to support any iteration of BCS that goes forward.

The *Chubb report*<sup>7</sup> on Australia's Carbon Credit System offers critical insights for Aotearoa. Notably:

- Transparent communication is essential to address diverse community perceptions and enhance understanding.
- Unified policies across governance levels ensure broader participation.
- Benefits should be reinvested in regional communities, fostering trust.
- Crucially, aligning with the principles of free and informed consent, maintaining oversight, and ensuring Indigenous representation in governance are non-negotiables.

The Australian experience warns of the potential biases and institutional prejudices that can creep into BCS designs. Aotearoa must prioritise Indigenous rights and collaboration, ensuring the BCS isn't another tool perpetuating colonial oversights but rather an inclusive, equitable platform benefiting all, including the taiao.

#### **4. Understanding the Implications of Monetisation and Exploitation**

Philosophically, we must be careful about the broader consequences of monetising nature. While market-driven solutions may offer a pathway, they are not without pitfalls. The process of monetising nature inherently redefines our relationship and can lead to unintended consequences. We caution against seeing

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<sup>7</sup> <https://www.dcceew.gov.au/sites/default/files/documents/independent-review-accu-exec-summary.pdf>

these measures as the sole solution. However, acknowledging that these monetising processes will proceed in certain contexts, we emphasise the need for our active involvement of Māori to ensure they are applied cautiously.

## **5. The proposed system privileges colonial values**

The discussion document seeks input on the outcomes to be measured. However, its review of international approaches shows a clear preference for biodiversity outcomes that align with a 'fortress conservation' approach without addressing how such outcomes could be achieved in partnership with hapū/Iwi through te Tiriti o Waitangi. The questions raised in point three are essential to understanding how to address this meaningfully.

The connection between whānau/hapū/Iwi and the environment is deeply relational. Fortress conservation is the idea of locking land away to remove human interactions rather than creating healthy relationships with the environment. The proposed approach as stipulated in the discussion document enables passive income streams anchored in fortress conservation, which is deeply rooted in colonial perspectives, neglecting to recognise our whakapapa as part of the environment and fostering a binary viewpoint: people either safeguard and observe, or exploit. The proposed System reinforces this dichotomy, and its primary advantages appear largely superficial, enabling organisations to boast environmental efforts without significant engagement or commitment to the environment or the communities/landowners who will receive the funding.

The Partial Reviews Report noted that Kawa, Tikanga, and Mātauranga should be centred in the Conservation System:

*"The recognition and application of kawa, tikanga and mātauranga in the context of conservation and the exercise of rangatiratanga and kaitiakitanga must be at the heart of the partnership between DOC and tangata whenua and the discharge of DOC's legal obligations" (pg. 51).*

If the proposal is collaboratively revised with hapū/Iwi centring kawa, tikanga, and mātauranga, it will foster a system that's more adaptive and holistic, benefiting all New Zealanders and the taiao and better align with the Government's obligations to Te Tiriti o Waitangi.

## **6. Lack of accountability and measurement:**

The development of a robust and transparent framework to ensure biodiversity outcomes are achieved is currently missing from the proposal and any potential solutions within it are unsatisfactory (i.e., they portray a lack of depth and understanding of what is required for measurement). Measuring outputs, outcomes, and impacts is fundamental to any biodiversity credit system, as it measures the system's

overall effectiveness. Any development of this framework should be undertaken in collaboration with hapū/lwi.

<b>Our recommendations</b>	
<b>1. Engage with hapū/lwi as partners</b>	Consistent with the Tiriti o Waitangi circular, the Government should collaborate with hapū/lwi in shaping this proposal. This entails reinitiating the consultation process to ensure it is co-developed alongside us.
<b>2. Genuine Te Tiriti Partnership</b>	The governance of the biodiversity credit system should be informed by Te Tiriti o Waitangi, emphasising equitable representation and shared decision-making, instead of a solely centralised Government or free-market strategy.
<b>3. Building Capacity and Capability</b>	The biodiversity credit system must direct resources towards fostering expertise, infrastructure, and other crucial resources for whānau/hapū/lwi. This approach should align with Te Tiriti o Waitangi to ensure that whānau/hapū/lwi are able to actively and meaningfully participate in the Biodiversity Credit System. This should occur before the System is implemented.
<b>4. Centring Kawa, Tikanga, and Mātauranga</b>	The credit system should fundamentally prioritise kawa, tikanga, and mātauranga, rather than solely using conventional ecological benchmarks as the primary measure of selection. Emphasising these values ensures that outcomes are equitable and align with the knowledge and values of whānau/hapū/lwi.
<b>5. Focus on Healing the Relationship with the Environment</b>	The proposed System's benefits risk being superficial, allowing entities to tout

	environmental contributions without genuine commitment. This System should also require a commitment from entities to develop sustainable practices, work alongside communities to develop capacity at place, and contribute to environmental initiatives alongside the purchase of credits.
<b>6. Empowerment of Kaitiaki and Whānau/Hapū/Iwi</b>	The central role Māori communities play in conservation efforts, deeply rooted in whakapapa, necessitates a tangible involvement in decision-making. The biodiversity credit system's design must enable the exercise of rangatiratanga, which means exploring the role of devolution within the System.

Incorporating these concerns and insights, we reiterate our vision for a conservation system in Aotearoa that's committed to transformative change away from colonial power and instead informed by Te Tiriti o Waitangi. The biodiversity credit system must serve as more than a market mechanism—it should represent our collective commitment to the taiao.

In light of the concerns and insights raised in our submission, we invite direct dialogue and collaboration. To this end, we propose a feedback session where representatives from Te Tira Whakamātaki can engage directly with those involved in the Biodiversity Credit System.

Ngā mihi,

**Privacy disclaimer**

- We are happy to be contacted in the future by the Ministry for the Environment and the Department of Conservation.
- We do wish to speak to this submission.

- We give permission for this submission to be proactively published but only after removing any personal details, including names of people and their email addresses. You may publish our organisation's name.
- You may make our submission available in response to requests made under the OIA but must remove or redact personal details, including individuals' names and contact details.
- We request that personal details only are withheld as they are private.