

# **Submission to the Ministry of Economic Development on the *Bioprospecting: Harnessing Benefits for New Zealand* policy framework discussion document**

**9 October 2007**

## **Introduction**

The Māori Party was officially launched on Sunday 31 July 2004 with the purpose of providing a strong and independent Māori voice in Parliament, for the good of the nation. The Party is driven by a commitment to kaupapa (values), which are expressed in our policies, priorities and conduct. Membership of the Māori Party currently stands in excess of 21,500 people.

Thank you for the opportunity to present a submission on the policy framework discussion document *Bioprospecting: Harnessing Benefits for New Zealand*.

In essence, the Māori Party's position on bioprospecting is a reiteration of support for the WAI 262 claimants in relation to indigenous flora and fauna, and mātauranga Māori – and, in particular, the germane issues of rangatiratanga and kaitiakitanga which the claimants have raised and seek resolution of. It is the belief of the Māori Party that any policy development on bioprospecting in Aotearoa/New Zealand is of direct and central relevance to the WAI 262 claims process.

This submission restates the recommendations made in relation to the bioprospecting policy framework discussion document by the WAI 262 claimants from Te Rarawa, Ngāti Wai, Ngāti Kuri, Ngāti Koata, Ngāti Porou, and Ngāti Kahungunu.

## **Bioprospecting Policy Development Process**

There are significant concerns to be raised over the development of the policy framework discussion document in total isolation from the WAI 262 claimants given the centrality of ownership of biological materials to any bioprospecting activity.

While the policy document, and the officials' briefings during the hui process, point out that ownership issues are to the side of the debate – with the focus to be on deliberating what resources should be available for bioprospecting and how they should be managed – it is the strongly held view of the Māori Party that the two lines of inquiry are indivisible.

Indeed, it is already very clear with fresh water, where the Crown holds management rights through the Resource Management Act 1991, that management rights have become pseudo ownership rights given the extent of control inherent in the management rights. In short, the RMA accords local bodies the rights and powers of owners. While it is less politically risky for government to proceed in this manner, in that ownership questions and

challenges from hapū and iwi can be negated and denied, that does not change the fact that ownership is still at stake.

Similarly, any deliberations on what biological materials should be available for bioprospecting, and how the resources should be best managed for this purpose, is very much about the ownership of those resources – which necessarily leads to the heart of the WAI 262 claim.

Government has produced a bioprospecting policy framework ahead of any findings and recommendations from the Waitangi Tribunal on WAI 262, where government officials neither raised nor included the bioprospecting of biological materials, despite the policy framework being released merely one month after the closing statements. This was done even though there had been intimations that any such policy work would follow at the end of the Tribunal process. This is a very poor process – and does not give the Māori Party any sense of confidence in there being positive outcomes from the policy for Māori.

We understand that the time frames for the development of a national bioprospecting policy have been accelerated to meet international deadlines, namely those in relation to the United Nations Convention on Biological Diversity. The Māori Party does not support a policy development process which is more focussed on meeting international deadlines than on the development of just and robust domestic policy. To be just and robust, policy development needs to be undertaken in a manner consistent with the government's Treaty of Waitangi obligations, including that of protecting the right of hapū and iwi to self-determination over their own resources, and that of consultation.

A short-notice national hui series with a report back time-frame to Cabinet of less than 6 months, in order to present a final domestic policy statement at the May 2008 meeting on the Convention of Biological Diversity, is not reflective of a considered and just policy process.

***Recommendation: That development of the government's bioprospecting policy be deferred until receipt by Māori and the Crown of the Waitangi Tribunal findings and recommendations on WAI 262.***

## **A Framework For a Way Forward**

The New Zealand government's opposition to the United Nations Declaration on the Rights of Indigenous Peoples due to their refusal to recognise the human rights of Māori in domestic policy, shows that there is much distance to traverse to even begin to address hapū and iwi resource ownership claims, let alone resolve them.

It has also not escaped the attention of the Māori Party that a key site for bioprospecting includes the seabed, which the Crown is now able to claim jurisdiction over since its confiscation from hapū and iwi Māori following passage of the Foreshore and Seabed Act 2004.


Not only is it the Māori Party's contention that any policy decisions on bioprospecting need to be deferred until the Waitangi Tribunal reports on the WAI 262 claim, it seems logical that a framework will also need to be devised through which to negotiate resource ownership between Māori and the Crown in a way which recognises the status of Māori as affirmed in Te Tiriti o Waitangi, and which is consistent with the return of resources to iwi through Treaty settlements.

This framework will be needed to counteract and correct the default position of Crown ownership of resources – a position which has too often prescribed domestic policy, and which continues to be promulgated by the New Zealand government in international fora.

***Recommendation: That the Crown endorse the 'Framework for Resolution' proposed and recommended by the WAI 262 claimants, and that they seek urgent approval from the Waitangi Tribunal for this to commence.***

Kāti mo tēnei wā.

Heoi anō

A handwritten signature in cursive script, reading "Tariana Turia".

Tariana Turia  
Co-Leader Māori Party