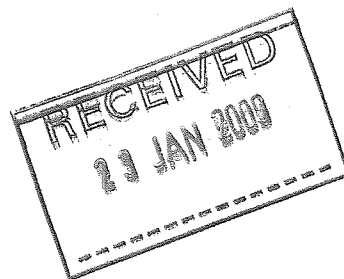


100

Te Runanga o Ngati Hine



He Whakatakotoranga ki te Manatu Mo Te Taiao ki te

Proposed
National Policy Statement for Freshwater Management

Section 49 of the Resource Management Act 1991

The specific provisions of the proposal that my submission relates to are:

All

Our submission is:

Te Runanga o Ngati Hine

Te Runanga o Ngati Hine ("TRONH"), as it exists now, was established in 1989 under Section 11 of the Māori Community Development Act, 1962, as an Executive Committee of the Taitokerau Māori District Council. Te Rūnanga o Ngāti Hine has a monthly schedule of Rūnanga meetings held on various marae throughout Ngāti Hine to keep people informed of the Rūnanga business and particularly about the transition process to a new entity. After numerous applications over the years from 1997 to 2004, to the Fisheries Commission, High Court and Parliamentary Select Committee, Ngāti Hine was granted the ability through the Maori Fisheries Act, 2004 to seek Iwi status and be accepted as an Iwi, for the purposes of receiving fisheries assets and cash for the allocation and distribution of fisheries quota and assets in 2004.

TRONH has in the past engaged in policy regarding discharging sewerage into coastal waters. In 2003 the Northland Regional Council released its proposed policy to allow the discharge of sewerage from boats within inshore areas. This matter was eventually settled through Court assisted mediation. Ngati Hine has a proven and recognised track record in resource management. In 2008, TRONH ratified and released Ngati Hine Environmental Management Plan which contains a range of detailed policy including that for freshwater. We invite the Board of inquiry to inspect that policy which can be made available at your request. Ngati Hine's freshwater resources are of paramount importance to the iwi. The terms "Ngati Hine", "wai", "repo" and "tuna" are synonymous. The ongoing degradation of our freshwater resources and loss of our mahinga kai threatens the very identity of Ngati Hine. The proposed NPS claims to set an ambitious 25 year vision. Ngati Hine anticipates (within that timeframe) achieving at a minimum a full partnership with central and local government over management of all freshwater resources within our rohe. Our preference would be that the next generation of Ngati Hine become the primary managers of that resource. For either of these goals to be achieved this proposed NPS needs to be considerably more directive, clear and broader in scope.

On behalf of the iwi of Ngati Hine, TRONH thanks the Board of Inquiry for the opportunity to make submission on this critical initiative. Our submission, while critical, is offered in a positive and collaborative manner and we signal here the desire and intent of TRONH to be fully involved in the ongoing development of the proposed NPS and all other measures that affect the management of our freshwater resources.

Support or Oppose

The submission form invites us to state whether we support or oppose the various provisions in the proposed NPS. We make some comment below in regard to selected sections of the proposed NPS. Of more importance, but unrequested by this submission process, is whether parties, including Ngati Hine, support or oppose the overall concept of the proposed NPS and its general direction. There is a danger that calling for comment only on specific provisions will lead to a de facto acceptance of the proposed NPS overall approach and effectiveness in its entirety.

TRONH fully supports the development of an NPS for freshwater. We consider it a critical and long overdue tool. We support the Government in adopting a serious and in-depth approach to the management of this critical resource. Unfortunately we cannot support this proposed NPS for a number of core reasons. Unless these issues are addressed within the context of the proposed NPS, the NPS is insufficient and inadequate to perform the role expected of it. In our opinion, the current draft provides a reasonable basis for further work and discussion. The bulk of our submission is concerned with addressing those broader issues.

If the proposed NPS is restricted to its current scope and direction not only will it prove an awkward and imperfect tool for management of freshwater resources in our rohe but we believe it:

- would be counterproductive to achieving either improved water quality or greater integration between the relevant statutory agencies,
- will not overly assist in achieving collaboration between stakeholders and may increase division; and
- will not empower Ngati Hine in any real sense as the kaitiaki and future primary managers of our resources.

We are further concerned that the s.32 analysis which supports the proposed NPS is light-weight, full of glaring errors and assumptions and insufficient to provide the in-depth analysis that an NPS on this critical matter requires and deserves.

Ownership and Management

Who owns the freshwater resource within the Ngati Hine rohe? TRONH is quite clear on its position, Ngati Hine's ownership of freshwater resources is enshrined in Te Tiriti o Waitangi of which we are the guardian. The question of ownership, while inferred throughout the s.32 analysis, is only directly discussed in one short sentence within the brief evaluation of economic instruments:

"Māori continue to reaffirm their view that they have interests and rights in water, and that these should not be overridden by the creation of water property rights through economic instruments without these issues first being addressed by the Crown with Māori."

While Ngati Hine's position on ownership is clear that of the Crown is not. The current RMA permitting system has already created in part a de facto tradable ownership right over freshwater resources in favour of the Crown (albeit represented by local government). The proposed NPS in its current form, in seeking to improve the management of water allocation, extends that regime. The whole approach of attempting to implement an improved national framework for freshwater resource management without clarifying the ownership issue is inherently flawed, possibly fatally so. The previous Government's approach to ownership of foreshore and seabed led to huge bitterness and resentment between Crown and Maori, the latter being labelled as the "wreckers and haters". The cost to coastal and integrated management of that debacle has never been quantified. TRONH (and we suspect the Crown agencies) have not found that debate helpful in terms of advancing a management partnership for coastal resources. Failure to openly and honestly address the issue of ownership of freshwater whilst seeking to advance an improved management regime is likely to be as contentious as the foreshore and seabed debate. It would seem to us that the issue of ownership pervades all aspects of this proposed NPS and yet it does not rate one single direct mention in either the proposed NPS or accompanying documentation.

Scope of Proposed NPS

The freshwater resources in the Ngati Hine rohe are in poor health. The restoration of the mauri of this taonga requires urgent and decisive action. For it to be achieved we need a NPS that provides more than policy guidance to regional and district councils. In limiting the scope of this proposed NPS the authors have failed to specify the role of central government other than the preparation of possible "guidance notes" and a review process that will not possibly commence for 8 years. The s.32 cost analysis which anticipates \$100m cost at local government level over 25 years projects a central government cost of less than \$2m. The reality for Ngati Hine is that the size of our management problem is large and the resourcing available to our local government partners is very small. Nothing in the proposed NPS gives us any indication that this inequity will be addressed or that in the event the onus of responsibility imparted to regional government proves too onerous that central government will provide any realistic support, facilitation or intervention. Rotorua and Taupo provide us good examples of the cost of clean up when degradation is left too late.

We concur with the overall finding of the s.32 analysis (although not the evaluation on which it is predicated) that a robust and effective NPS is an urgently required tool and that it should play a central leadership role in an integrated management arsenal. For it to do this in any manner that is efficient and effective it must clearly set out the leadership role and policy (and preferably the resourcing commitment) of central government. Simply saying that the national policy is for the regions and district to develop more policy is to pass on too onerous a burden for local government and local community especially in rural low income areas such as ours.

The proposed NPS needs to be consistently more directive. The bar set for achieving the objectives desired is too low. The accompanying s.32 analysis concedes that the limited range of voluntary or industry instruments has had little effect in improving water quality. Yet it is consistently stated in the NPS that the minimum action required will be to adopt industry best practice. The recent internal review of our own Northland Regional Policy Statement (RPS) concluded that the RPS, although consistent with the requirements of the RMA, was no

more proactive than that. If that result is applied to the rules resulting from this proposed NPS then industry best practice, inadequate as that may be, will become the standard not the minimum. All indicators show that the health of Ngati Hine's freshwater resource is in serious decline and has been for many years. Minimum standards that only partially arrest the rate of decline are insufficient. The proposed NPS needs to set a baseline that gives us some degree of confidence that the decline can be reversed and restoration of our freshwater ecosystems can be commenced within the next generation.

Resourcing and Implementation

Ekore e taea te oranga o te tangata ki te pipi me te aroha anahe" Ta Himi Henare

"We can no longer live on pipis and aroha alone" Sir James Henare

We strongly suspect that the cost implications for all aspects of implementation, monitoring and enforcement (not to mention protracted mediation and litigation costs associated) has been seriously underestimated. In particular, the costs of kaitiaki and tangata whenua participation have been largely ignored. A nominal sum for facilitating councils' role in the provisions made for our involvement under the glib heading of consultation are given in the s.32 analysis along with the passing comment that most iwi resource management capacity comprises small, un-resourced and often voluntary units. Ngati Hine is no exception and this submission provides a clear example. Although the iwi has access to the best kaitiaki and western trained resource management professionals, our ability to make a comprehensive and informed submission on this most critical matter is limited to aroha.

For the proposed NPS to be an effective tool, the real costs of the various resourcing requirements needed for it to be successfully implemented, and clarity on where those costs will fall, needs to be provided. To simply conclude that it will be a polluter pays regime ignores reality. For example, one of the worst offenders within our rohe is high watertable combined with the failing infrastructure in small towns from Maori Affairs housing stock built to provide a resident labourforce for the farmers freezing works 50 years ago.

TRONH sense that the government is anticipating that iwi will play a far greater and much more practical partnership role in future freshwater management than has been the case to date. We welcome this intent and look forward to its successful implementation. The question of how we will be resourced to perform that role does not appear to have been considered. Had the management partnership between iwi and local government that was envisaged at the time of the Resource Management Law Reform Bill eventuated or had the enabling provisions for Maori in the Local Government Act 2002 proved workable and feasible we would have fully expected that our paid professional kaitiaki would have now worked collaboratively with their counterparts at Northland regional, Far North, Whangarei and Kaipara district councils (not to mention our whanaunga in our neighbouring iwi) to prepare a comprehensive joint submission to this Board of Inquiry. Unfortunately, neither the RMA nor the LGA have led in any real sense of a working partnership. Lack of consideration of the resourcing needs for such a partnership is an obvious reason. (Lack of political willingness is another).

There is reference in the s.32 analysis background to a greater role for iwi and hapu environmental planning documents. Ngati Hine's environmental management plan is one of only a handful that exists in the north, which has taken the best part of 20 years to prepare and was achieved with the financial and technical support of only one of our four local government bodies (FNDC) and MfE. We are still unsure as to the processes that local government will now use to receive and recognise our environmental management plan and the effectiveness it will have in influencing their future decision-making. Our own resourcing capacity to give effect to our environmental management plan is limited. The fault for all this lies not only with the inability of local government to give any true effect to a primary partnership in resource management with iwi, but primarily on the almost total failure of central government to recognise and provide for the practicalities of Maori participation. Failure to now address this issue through this proposed NPS process will result, we suspect, in more of the same.

As also discussed above, the resourcing inequities between regions must also be addressed. The Northland councils simply do not have the budget or professional capacity to comply with the increased planning, monitoring, education and enforcement necessary to meet the objectives of this proposed NPS. The s32 analysis indicates that this additional workload can be achieved by the injection of \$150,000 for regional and

\$75,000 for district councils to spend on consultants (recognising the difficulties that some councils face with retaining experienced staff). We suspect the reality is that this is a serious underprojection.

Role of Kaitiaki and Kaitiakitanga

We appreciate the attempt that has been made within the proposed NPS and supporting documentation to recognise both the critically important role of water to our cultural identity and to make some form of provision for our participation in its future management. We note that our role has been carefully pigeon-holed and is prefaced by terms such as “non-consumptive” and “where appropriate”. The s.32 analysis makes passing reference to s.33 (which for Maori has proved fatally flawed) and the new joint management provisions in s.36. In our opinion the role of kaitiaki needs to be paramount.

We look forward to a time when Ngati Hine are the primary managers of the freshwater resources within our rohe and we believe there are clear and demonstrable benefits for all water users if this was to be achieved.

The inclusion of Te Arawa in the current management of the Rotorua Lakes and the co-management basis of the Tainui Waikato River Settlement indicate that the Crown also sees a primary role for Maori in water resource management. If this is correct it needs to be clearly stated in the proposed NPS and central government objective and policy set to facilitate this occurring as a priority. There is only passing reference to Treaty settlements in the analysis given.

The proposed NPS requires our “notable values” to be recorded and made publicly available. It also requires local government to identify who tangata whenua are in an area but it falls far short of stating that central government considers a primary Treaty partnership between Maori and local government as the most effective and efficient means of achieving the purpose of the RMA in regard to freshwater.

Language and Terminology

The proposed NPS introduces yet another set of potentially contentious definitions and phraseology. It would be preferable and provide greater consistency if the proposed NPS used the same turn of phrase as the RMA, for example instead of “identify and reflect” used in Objective 8 use “recognise and provide for” as per s.6(e). At least with “recognise and provide for”, “particular regard” and “take into account” have been tested in the courts. Terms such as “where appropriate” lack any form of definition and provide a let out clause. The RMA’s “land use, subdivision and development” becomes “Land-use Development” in the NPS. “Swimmability”, if such a word exists, introduces a new water quality standard which presumably replaces “contact recreation” used in the RMA. The capitalisation of some words (Freshwater Resources” for example) is unexplained and has no grammatical basis. TRONH would have loved to have read a version of the proposed NPS translated into Maori.

Comment on Specific Provisions

Objective 1 TRONH supports this objective.

Objective 2 TRONH support the overall objective, “Land-use Development” should be replaced with “land use, subdivision and development”.

Objective 3 TRONH support the overall objective – delete “appropriate” and change “swimmable” to “drinking”.

Objective 4 TRONH support the overall objective, “Land-use Development” should be replaced with “land use, subdivision and development”.

Objective 5 TRONH support the overall objective, “Land-use Development” should be replaced with “land use, subdivision and development”.

Objective 6 TRONH support this objective. We would assume in saying this that Ngati Hine marae, whanau, kaumatua and tamariki have access to clean water for their daily needs, and that need cannot be usurped in favour of new development. As discussed previously the ownership of freshwater resources needs to be clarified here.

Objective 7 TRONH support this objective.

Objective 8 TRONH do not support this objective wording (it appears to be a sub-heading not an objective). Replace with two new objectives:

Ensuring full iwi and hapu participation in decision-making, monitoring and enhancement of freshwater resources.

To ensure that iwi and hapu participate as partners in the management of freshwater resources (management includes planning, decision-making, implementation, monitoring and enforcement) including the matters specified in Objectives 1–7.

Recognising and providing for tangata whenua values and interests.

To ensure that the relationship of Maori and their culture and traditions with freshwater is recognised and provided for, including the matters specified in Objectives 1–7.

Alternatively, include the new objectives above directly within Objectives 1-7 (i.e. mainstream rather than pigeon-hole).

Objective 9 TRONH support this objective. The objective needs to be either expanded or a new objective added to ensure the full participation of kaitiaki and local communities in the monitoring and reporting.

Policy 1

1(a) This clause is supported on the assumption that full resourcing will be available for its effective implementation. We note that a full inventory of all freshwater resources of our rohe (let alone the whole of Northland) is not yet available and does not appear to be achievable in the short to medium term.

1(b) TRONH do not support this clause. Notable Values is a meaningless phrase – all freshwater resources have value, and why mention only outstanding and degraded resources? We note that despite the huge debates over landscape values within our rohe and Northland, while some progress has been made on mapping biophysical, landscape and aesthetic values, little or no progress has been made on mapping cultural values in the past 20 years. Without clear central government guidance (including resource prescriptions) as to how this policy is to be given effect, its inclusion will cause ongoing and expensive debate.

1(d) This clause requires greater clarification. What standards will central government set that it requires compliance with and how will it monitor and enforce the policy?

1(e) This job is clearly outside either the capacity or mandate of the regional council. This clause needs to be reworked to provide a policy that requires councils to agree on processes with iwi for how the values of importance to tangata whenua are to be provided for. TRONH is most open to and has a demonstrated track record of working collaboratively with a wide range of stakeholders in the protection of our natural resources to the benefit of all. We will continue to do so. However we do not intend transferring the custody or matauranga of our cultural values to anyone other than our mokopuna. It is unreasonable of central government to make this request of regional government.

1(f) TRONH supports this clause; see our previous comments on definitions and wording.

1(g & i) See comments on objective 6 above. Tikanga around any issue to do with tapu should always have priority and the policy needs to reflect this hierarchy.

Policy 2

Our comments on Policies 2 – 6 are largely consistent with those made on Policy 1 above and require consequential change accordingly. Our comments in regards to the effectiveness of using industry good

practice as the minimum action required should be noted. Monitoring and reporting should both prioritise local participation and wherever possible see this function progressively transferred to professional kaitiaki.

Policy 4

Water allocation within the rohe of Ngati Hine remains a matter of ownership and management for the iwi. TRoNH believes that we must avoid over-allocation of Freshwater for Consumptive Use. The NPS should in terms of water allocation ensure the sustainability of the water resource. There are many unknowns around what is required to sustain freshwater environmental ecosystems particularly underground waters, their flow and volume etc. A true needs assessment for users of water must be measured against the needs of the ecosystem and iwi.

Policy 7

TRoNH support this. The use of non-regulatory methods obviously needs far more research and evaluation. Experience to date would appear to indicate that a pre-occupation with regulatory methods has not provided sufficient or adequate management to arrest the decline in the quality of our freshwater resources. Education and community participation are just two examples of where major results can be achieved for little investment. While it may not hold true in other rohe, Ngati Hine have great faith in our communities to respond more positively to incentives.

Policy 8

Despite almost two decades of the RMA requirements and the explicit provisions of the Local Government Act 2002 not one of the local government agencies in Te Taitokerau have shown a real and practical ability to recognise and provide for the relationship of numerous iwi and hapu, their culture and traditions with any of their resources. They still can't get a register of kaitiaki together even with TPK assistance. Greater prioritisation and support is required including the integration of the various agencies with a requirement to procure similar information (e.g. Min Fish, DOC, DHB) before there will be any results worth communicating (electronically or otherwise). A more useful policy would be one that directed local government to work collaboratively with other agencies to empower iwi and hapu to effectively manage and protect those values and taonga of importance to them. There needs to be clear central government directive and implementation of this policy and it needs to be co-ordinated with the government's stated intention of settling Treaty claims by 2014. TRoNH support the second half of policy 8.

Policy 9

The effect of the NPS and its implementation needs to be constantly monitored and if monitoring shows it to be inefficient or ineffective in the objectives it should be reviewed. Given the critical importance of this tool we shouldn't have to wait 10 years to change it if the evidence shows we are making wrong decisions today.

6. HEARING DETAILS

I wish to be heard in support of my submission.

* If others make a similar submission, I will consider presenting a joint case with them at a hearing.

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