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Freshwater Consultation 2016,  
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## **RE NEXT STEPS FOR FRESH WATER CONSULTATION**

### **Summary:**

**This submission opposes the 'Iwi Rights and Interests in Fresh Water' proposals outlined in section three of the consultation document.**

**I strongly oppose the proposals for 'mana whakahono a rohe' agreements between iwi and councils for natural resource management; public funding of such agreements; and race-based appointments on Special Tribunals convened to hear Water Conservation Order applications.**

**I oppose clauses 3.1 to 3.8.**

We all share, without any distinction, interests in clean air, clean water, unpolluted soil, preservation of plant and animal diversity, views, unspoiled public space, provision for services and roads, public facilities and flood prevention. All citizens are actively engaged with water in residential, commercial and recreational activities and have the same aspirations as to fresh water quality.

I support the Government's review of fresh water, and the proposals to improve the management of fresh water in New Zealand that involve consultation with all citizens. I support the objectives of having better environmental outcomes, while enabling sustainable economic growth to support new jobs and exports.

So that a variety of opinions and solutions can be considered, I welcome consultation with all stakeholders. However, I want all decision making about fresh water to remain with local body representatives elected by the citizens.

I do not want iwi/hapu representatives who have been unelected by and unaccountable to the wider community involved in freshwater decision-making.

## **Submission**

I believe the proposals to legislate for the introduction of 'mana whakahono a rohe' agreements represents a serious and unwelcome departure from our democratic and egalitarian principles. Such arrangements, whereby our elected representatives, who are accountable to the public, share rights and powers with a group of citizens unelected by the wider community, undermines the foundations of elective democracy, and equality between members of society.

I am opposed to this proposed amendment to the RMA because this further entrenches separatism whereby different ethnicities, based on a heredity status enjoy unearned privileges to the detriment of other citizens, and which are not available to the general population. This proposal to introduce 'mana whakahono a rohe' agreements provides privileges among those who can claim some Maori blood – no matter how diluted.

At present many Councils have reflected their communities' wishes not to create race discrimination. If these 'mana whakahono a rohe' agreements are incorporated into the RMA it will include in legislation a requirement that councils give iwi a higher special status than they currently have and more power and control than members of the public.

Further, the document contains no proposals that speak of the protection of the over-riding authority of the elected Council, and its duty to all citizens and their right to equal treatment.

The proposed amendments enhance existing preferential treatment already given to Maori. They embed in law privileges that depend on ethnic identity. They entrench permanent ancestral authority. They bypass democracy's prospect of ejection of the powerful by those subject to power, for non-performance or abuse of that power.

### **The Public, when asked, repeatedly rejects race-based representation.**

The public has no appetite for introducing race-based wards as demonstrated in a variety of referenda.

When the citizens of New Plymouth last year voted on the Council's decision to introduce a Maori ward, this was overturned in a landslide vote after a district-wide referendum. Eighty three per cent, (21,053), voted against the creation of the ward, with only 17 per cent (4,285) voters in favour of the proposal.

This result has been reflected in other areas of New Zealand:

- Earlier last year the Far North District Council held a referendum on the establishment of Maori wards. Voters in Northland responded with a resounding “no” to Maori seats on their local council, by a two to one margin. Of those who voted in the referendum 9,315 (68%) are opposed to Maori wards and 4,309 (32%) in favour. The result is even more notable because nearly 44 percent of the citizens in the Far North District are of Maori descent.
- In 2012, 79% of Nelson voters rejected a proposal to establish a Maori ward - even though the City Council itself supported the move. There were 12,298 votes (79.41 percent) against the proposal and 3,131 (20.22 percent) for it.
- Results of the official poll held in Wairoa in 2012, show 1,306 (51.89%) voted against, and 1,210 (47.95%) for the introduction of Maori wards, even though the electoral roll includes one of the nation's highest percentages of Maori citizens.
- A similar poll held by the Waikato District Council in 2012 also rejected separate Maori representation. 10,111 voters (79.8%) were against the idea, while 2,517 (19.9 %) favoured the proposal.

In addition, the Government has conducted two public reviews of our constitutional arrangements over the last 10 years, the most recent just three years ago. Both of these reviews came to the conclusion that there is little appetite for constitutional change. In relation to my submission I present an analysis of the over 5000 submissions to the Government’s Constitutional Advisory Panel.

In response to the question, *“How should Māori views and perspectives be represented in local government?”* not one person chose to support *“Co-governance between Māori and local authorities.”*

Nor did anyone support *“There needs to be better consultation with hapu and iwi”*.

To obtain a copy of this analysis, I have provided this link:

<http://www.nzcpur.com/oia-analysis-of-submissions-to-the-constitutional-review/>

See page 7 section 4 – 4.3

### **The role of elected representatives**

One of the most precious gifts entrusted to our elected representatives is that they respect our democracy, and the equality of citizenship on which it is based. Issues of significance to Maori deserve all due respect, but they must not be used as a vehicle to gain privileges over other citizens. There must be a better, fairer way for the Government to consider the concerns of iwi that does not compromise the principles of democracy.

## Conflicts of interest

We cannot ignore the fact that iwi, wishing to realise their economic potential following Treaty settlements, are developing significant commercial entities. The potential for conflict of interest in iwi being in a preferential planning role as well as being commercial developers is too great to ignore.

## Ownership of water

The governments stated position is very clear. “No one owns the water”. The real issue is who controls the water.

## The Iwi Leaders Group (ILG) intent is clear

Iwi leaders are clear in their intent to control water. The Freshwater Iwi Leaders Group late last year stated, among their goals and objectives:<sup>1</sup>

- (a) Ownership of all Crown owned river & lake beds and the water column;
- (b) Title in freshwater consistent with Waitangi Tribunal rulings; and
- (c) \$1b fund in to an iwi approved entity to address capacity and capability including mechanisms to assist decision making, water quality and economic mechanisms.

## Next Steps for Fresh Water public consultation meeting

Minister Smith, speaking about the government’s fresh water policy, said at a recent public meeting in Auckland, that there would be an obligation on local bodies to consult with iwi about the use of water in which they might have a special interest, but there was no suggestion of ‘co-governance’, and all decision-making with regard to water would continue to be vested in democratically-elected councils. He reminded the audience that the Government had repeatedly made it clear that nobody owns the water.

The summary of key proposals on p.10 of the consultation document includes the intention to **“improve iwi/hapū participation in freshwater governance and management.”** And in the first paragraph of the chapter entitled ‘Iwi rights and interests in fresh water’, it states that the Government wants to ensure **“iwi and hapu are able to participate in decision-making about fresh water in their rohe”**. These statements do not align with the Minister’s assurance that all decision-making relating to water will remain with democratically elected local authorities.

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<sup>1</sup> Freshwater Iwi Leaders Group (presentation for Regional Hui July/August 2015) available at <http://iwichairs.maori.nz/wp-content/uploads/2015/07/FINAL-DRAFT-Freshwater-Regional-Hui-Presentation-August-2015.pdf>

## **Te Mana o te Wai**

*“Te Mana o te Wai is a core concept for fresh water. It encompasses the integrated and holistic health and well-being of a water body. It represents the innate well-being and vitality (mauri) of a water body and its ability to provide for the health of the water (te hauora o te wai), the health of the environment (te hauora o te taiao), and the health of the people (te hauora o te tangata). “*

Te Mana o te Wai is an attempt to justify the interests of one community of interest being considered over and above all other communities of interest. There is no need for this in the Next Steps For Fresh water document.

## **Clean, safe drinking water for marae and papakāinga**

All citizens should have access to clean safe drinking water and the Government should not be singling out exclusive privileges for one sector of the community.

It should not be the responsibility of Councils to provide fresh water to a group of citizens based on race. 83% of the population live in urban areas, with 14% in rural and 1% in remote areas. Citizens in rural and remote areas who do not have access to reticulated water, have solved this need for fresh water by installing roof or similar water catchment systems fed to storage tanks, at their own cost.

## **I call for a referendum on fresh water management**

An opportunity presents itself in the up coming local body elections. Citizens of New Zealand need to be consulted by referendum as to who should be involved in decisions on water. The Government was prepared to invest some \$26 million in a flag referendum. The Government needs to carry out a similar investment, asking the citizens of New Zealand who they want to make decisions on water.

I believe that, in the interests of peace and prosperity, water cannot be owned, and that any control should not be by anyone other than elected representatives. It needs to be managed by impartial, democratically elected representatives for the benefit of all citizens . As such, it should not be allowed to be manipulated by unelected people or groups.

Under elected management, the representatives charged with managing our water can be held to account, and voted out if they do not perform in the best interests of all New Zealanders.

Thank you

Lee Short

