



9 May 2016

By email

Ministry for the Environment
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Via email to: watersubmissions@mfe.govt.nz

Tēnā koe

Submission to support in part the proposed '*Next steps to fresh water – consultation document*'

- 1 Thank you for the opportunity to provide a submission on the proposed . '*Next steps to fresh water – consultation document*' . Please forward your formal response and any questions or require further information, please contact our Kaiwhakahaere Matua, Shayne Walker either on [REDACTED] phone [REDACTED] .
- 2 The Maungaharuru-Tangitū Trust (Trust) is a post-settlement governance entity, established to hold and manage the Treaty settlement assets of the Hapū and to be the representative body of the Hapū. The settlement was given legislative effect under the Maungaharuru-Tangitū Hapū Claims Settlement Act in May 2014. The Trust represents the Hapū of Tangoio Marae including Ngāti Kurumōkihi (also known as Ngāi Tataara), Ngāti Marangatūhetaua (also known as Ngāti Tū), Ngāi Te Ruruku ki Tangoio, Ngāti Whakaari, Ngāi Taura and Ngāi Tahu.
- 3 The takiwā (traditional area) of the Hapū extends from the Maungaharuru range in the west of Hawke's Bay, to Tangitū (the sea) in the east, and from north of the Waikari River in the north to Te Whanganui-ā-Orotu (the former Napier Inner Harbour) in the south.
- 4 The natural resources (including waters, rocks, reefs and aquatic life) within their seaward takiwā are taonga belonging to the Hapū. The importance of these taonga to the Hapū is demonstrated through:
 - the whakapapa, history and customary practices of the Hapū;
 - the establishment of the rohe moana and Moremore Mātaitai Reserve within their takiwā;
 - the full range of rights, interests and values of the Hapū;

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- the appointment of the Trust as an advisory committee for the Wairoa Hard (marine area based restriction); and
 - their application under the Marine and Coastal (Takutai Moana) Act for a Protected Customary Rights Order and a Customary Marine Title.
- 5 In addition, there is a wealth of evidence about the association of the Hapū to their taonga, including that set out in various statements of association in their Deed of Settlement.
- 6 Given the importance of the Maunga, the Waterways, Tributaries, Rivers the Lakes and seaward takiwā and responsibilities of the Hapū as kaitiaki we make the following submission.

Key Reform Proposals - Summary

The Next Steps for Freshwater consultation document suggests a range of proposals that impact and affect Maungaharuru-Tangitū Trust. We have summarized our positions to each relevant proposal:

Fresh Water and Our Environment

1.1 National Objectives Framework

- The National Objectives Framework (NOF) bottom lines are significantly lower than current water quality in the Maungaharuru-Tangitū takiwā.
- We do not support a reduction in the quality of our waterways.
- The NOF bottom lines or minimum acceptable state for compulsory values relating to ecosystem and human health are so low and bands so wide they are of no use in supporting the health of the waterways within the Maungaharuru-Tangitū takiwā.
- The NOF should re-emphasise the ‘maintain or enhance’ approach of the NPS FM Objective A2 and equivalent RMA function, and the policy framework should be sufficiently robust to ensure that no water body should be allowed to degrade.

1.2 Maintain or Improve Overall Water Quality

The intent of this proposed direction is not clear.

- The proposed changes to “maintain or improve overall water quality” within our takiwā to within a FMU, perpetuates an unlawful approach to the requirement to maintain water quality.
- The Environment Court has ruled that an “unders and overs” or “averaging” approach to maintaining water quality is inconsistent with the unqualified function in section 30(2)(c)(iii) of the RMA to maintain and enhance water quality - *Ngāti Kahungunu Iwi Inc v Hawke’s Bay Regional Council [2015] NZEnvC 50*.

- The National Policy Statement on Fresh Water Management must give effect to the RMA and cannot change this requirement. The use of the word “overall” should be removed to remove ambiguity and likely legal ramifications.
- The Environment Court also commented on the practical difficulties in implementing such an approach, including the monitoring and enforcement.
 - *“...what kinds of contaminant in one water body could be offset against others, in a different waterbody? ... What sort of beneficial effect would counterbalance an adverse effect when those effects are in different water bodies perhaps scores of kilometres apart?”*
- The Environment Court also ruled that an “overs and unders” averaging approach could not provide for section 6e of the RMA and contradict ‘Tāngata whenua roles and interests Objective D1 and Policy D1 of the NPS FM’. ‘Allowing’ parts of a catchment to degrade ignores the holistic world view of tāngata whenua.
- Maungaharuru-Tāngitū Trust will continue to apply the principals of Kaitiakitanga in advocating for policies to Improving water quality in our takiwā.

1.2 Swimming

- The inability to swim in our own ancestral waters is of great concern.
- Maungaharuru-Tāngitū recommend the need for the bottom line of water quality needs to ensure that our Hapu, in our takiwā are able to not only swim but, bath, cleanse in conjunction with our relationship with our Taonga, our culture and traditions with our ancestral waters.

1.2 Freshwater Management Unit (FMU)

- Maungaharuru-Tāngitū takiwā catchment should have specific FMUs and should enable different management frameworks between lowland, upland streams, lakes.
- These Principles and criteria should be specified and agreed within the a Te Mana o Te Wai framework.
- Aquifers and ground water is often over looked or an afterthought to surface water management, considering their significance aquifer can warrant their own FMU and this needs to be considered within our takiwā.

1.3, 1.4 Macrovertebrate Community Index as a measure of water quality

- Maungaharuru-Tāngitū Trust support inclusion of the MCI in the NPS FM and as an attribute in NOF.

1.5 Significant Infrastructure and Water Quality Exceptions

- Maungaharuru-Tāngitū Trust **DO NOT** support exceptions to the bottom line of water quality within our takiwā catchment.

1.8 Stock Exclusion From Water Bodies

- Maungaharuru-Tangitū Trust support the exclusion of stock from water bodies.
- We support the proposed timelines to allow farmers to modify their operations and encourage more government support to assist them to do so.
- Provisions for fines but also incentives are encouraged.

Economic Use of Fresh Water

2.1, 2.2, 2.3 Technical efficiency and Good Management Practice Standards

- Maungaharuru-Tangitū Trust support the proposal.
- We also recommend that in the Regional Planning Committee receive all information related to Allocation limits, discharge allowances.

2.4 Transferring consents to more efficient, higher valued uses

- Maungaharuru-Tangitū recommend that consent limits be reported to the Regional Planning Committee on a regular basis for monitoring and decision from a Te Mana o Te Wai basis.
- '*Higher Value*' could prove to be ambiguous based on *Economic* returns. Te Mana o Te Wai economic returns may place more value on Cultural Return as opposed to financial in determining our economic wellbeing or Oranga.

2.5 Addressing Over-allocation and Over-Use at least cost

- Maungaharuru-Tangitū support the need for such policy and framework tools.
- As per 2.4 part of this framework should be the engagement and decision of the Regional Planning Committee.

2.6 Council Funding for Freshwater Management

- Maungaharuru-Tangitū support the need for such policy and framework and funding.
- A decision point should sit with the Regional Planning Committee and in direct engagement between the local Council and Maungaharuru-Tangitū Trust.
- Such engagement and decision process should maintain the integrity of application across all of the other proposed policies.

Iwi rights and Interests in Fresh water

- Maungaharuru-Tangitū Trust is Treaty Settlement governance Entity. We have not engaged in the Freshwater Iwi Leaders Group and speak on behalf of our takiwā.
- As the per the finding of the Waitangi Tribunal, we expect to exercise our proprietary rights of the exclusive right to control access to and sue of the water in our takiwā.
- In the essence of partnership, we are happy to manage and agree in conjunction with the Crown and the Councils a pragmatic approach to the management of water in our takiwā.

3.1, 3.2 Te Mana o Te Wai

- Maungaharuru-Tangitū support the inclusion of Te Mana o Te Wai with greater clarity on the Tikanga values and how these are applied across all Fresh Water Unit polices and Decision making.
- We recommend that this function sits with the Regional Planning Committee to manage and monitor.

3.3, 3.4 Iwi, Hapū relationships

- Maungaharuru-Tangitū support the inclusion of a policy to ensure that engagement is undertaken from the **OUTSET**.
- We recommend that this function sits with the Regional Planning Committee to manage and monitor.
- We are mindful that not all Whenua Maori Trusts are represented within the Regional Planning Committee and any impact on Iwi, Hapu **and WHANAU** lands and waterways should be included in the decision making framework.

3.5 Participation in freshwater decision-making

- Maungaharuru-Tangitū support the increased participation of Iwi and Hapu.
- We recommend that this participation is related to **making decisions** to strengthen what has been an advisory and consultative participatory engagement.

3.6 Water conservation Orders

- Maungaharuru-Tangitū support this policy and recommend that Te Mana o Te Wai ensures any WCO considerations within our takiwā catchment are discussed with us from the **OUTSET**.

3.7 Implementation support

- Maungaharuru-Tangitū support this policy and advocate for transparent management of the funding support available.

3.8 Clean, safe drinking water for marae and papakainga

- Maungaharuru-Tangitū recommend that this policy is moved from consideration to application in ensuring that our communities across our takiwā have access to clean, safe drinking water.

4.1 Freshwater Funding

- Maungaharuru-Tangitū support this policy and make recommend that:
 - The fund does not replace the role of the Council obligations and functions
 - The funding ensures a Te Mana O Te Wai framework across all applications and decisions.

Nāku noa, nā

Shayne Walker

