

regional policy and district plan level and where necessary, in the Environment and the High Courts respectively. Our Hapu Environmental Management Plan also includes a range of aspirations around the management of all activities in our rohe.

It is our position that this government must consider and plan early for the future impacts of climate variability and change in order for us to be more resilient in the face of that change. In doing so, it must also address the impacts to our natural environment in our activities and how we must all carefully manage and nurture our natural resources. We have grave concerns around how our freshwater resources, our Wai Maori, are being considered by authorities and how they have been managed in the past and planned for in the future. We seek to ensure that this taonga is accorded its appropriate mana. We also seek to participate and be fully involved as kaitiaki in ensuring its ongoing viability as a taonga tuku iho.

2. BACKGROUND

Patuharakeke Hapu Environmental Management Plan

Our 2015 Hapu Environmental Management Plan ('HEMP') discusses our obligations, responsibilities and aspirations for Wai Maori. Fresh water is a most precious taonga for Patuharakeke and the quality and quantity of this resource is a key management issue and therefore huge responsibility for us. Our focal waterways include the Waipu, Ruakaka, Takahiwai and Mangapai Rivers, while Skull Creek/ Mangawhati and other tributaries such as Pukekauri, and Rauiri (Blacksmiths Creek) also have immense cultural significance.

Patuharakeke hapu continue to advocate for improvement in water quality in the area with our strong commitment to our lands and waters stemming from our duty as kaitiaki to preserve the resource for generations to come. Without appropriate management of water the legacy for our mokopuna and all future generations does not bear consideration.

Clearing of the majority of our native forests for pastoral use and ongoing poor land management practices, have systematically ravaged our freshwater resources. As a consequence, tuna, inanga and koura/kerewai now seldom appear on any whanau tables, and certainly are not in adequate supply to serve at marae events. Watercress was formerly a dietary staple but farm effluent and industrial discharges in our waterways have rendered it unsafe to eat.

Northland Regional Council, the local authority in our area, monitoring data results indicate that habitat quality in the Ruakaka River catchment has declined from sub-optimal to marginal in the last five years and water quality is generally very poor. The site was ranked worst for water

quality out of 35 rivers monitored in 2008-09.¹ These results were corroborated by our own cultural health monitoring programme undertaken in 2010 as part of a Ministry for the Environment-funded project. In our assessment of mahinga kai the Ruakaka River mouth location was found to be virtually unusable for gathering kaimoana (Chetham & Shortland, 2010). This kai source not only provided sustenance for Patuharakeke and the local community but is a food source for the many native and migratory birds that inhabit the Ruakaka estuary.

Water allocation in the rohe is also a major issue for mana whenua. Indicative allocation levels calculated using the proposed National Environmental Standards on ecological Flows and Water Levels shows much of the Whangarei Harbour catchment is highly allocated.

Water permits are effectively treated as property rights and the resource managed as though it is infinite. The confiscation and alienation of tribal lands and waters along with a history of Crown agency assumption of water rights has meant that Patuharakeke have lost control and management of principal water bodies that have since been exploited by successive agencies for the economic benefit of others. In our rohe, Pukekauri Dam is a prime example, having been acquired under the Public Works Act in the mid 1960's to supply water for the Marsden Point Oil Refinery. Some years ago WDC decided it was surplus to requirements but negotiations for its return have had little progress.

There is a lack of coordination and common approach between these agencies and stakeholders. To date, there have been virtually no opportunities for the active involvement of tangata whenua in decision-making, policy development and monitoring in relation to the management of the quality and quantity of water. There has been minimal utilisation of tikanga, matauranga Maori and cultural indicators in the management of water resources to ensure that adverse impacts on culture and traditions are avoided.

The tendency is to deal with problems in a reactive fashion, rather than addressing the source of the issue. Crown management of our waterways is spread over agencies e.g. Fish and Game, DOC and NRC, added to this are the numerous stakeholders with interests e.g. environmental groups, farmers, industry and recreational groups.

Recent initiatives such as the Whangarei Harbour Catchment Group and Ruakaka River Liaison Committee are positive steps forward but have largely only come about because of the requirements of the National Policy Statement for Freshwater Management.

While PTB are participating in both these groups, it has become evident that resourcing is limited and we are yet to see how much weight any policy developed will be given in planning

¹ See [http://www.nrc.govt.nz/Resource Library Summary/Research and reports/Rivers and streams/Northland Rivers Habitat Assessments 2008-2010/Results/#A1](http://www.nrc.govt.nz/Resource%20Library%20Summary/Research%20and%20reports/Rivers%20and%20streams/Northland%20Rivers%20Habitat%20Assessments%202008-2010/Results/#A1)

documents. Further, we agree with the viewpoint espoused by Fish and Game, that is:

*“Despite the overwhelming number of submissions, advice from the Land and Water Forum and scientific and multi-sectoral working groups and detailed consideration of these issues in legal cases which set higher standards including the Horizons One Plan and the Ruataniwha, the changes announced will not require regional councils to provide swimmable, fishable waters which are safe for food gathering”.*²

The onus will be on regional councils to set the bar higher than the minimum standards required by the NPS.

We accordingly support the *Ngāti Kahungunu* decision where the Environment Court found that section 6(e) of the Resource Management Act 1993 is directly relevant and considered it fundamental that the quality of the water in the whenua should be, at the very least, not further degraded by anthropogenic activities in the future. That degradation of water affected the manawhenua’s way of life and wellbeing given the intrinsic relationship of the water with them.³ This is the position also for Patuharakeke.

We further acknowledge and support the Judge’s consideration that, ‘nothing less than those two objectives – of protection from further degradation, and improvement over time – will suffice to recognise and provide for this issue of national importance’.⁴

We also support the Court’s position that to safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems, of fresh water, was unequivocal.⁵

Our concern also is that little or no management is occurring in licencing arrangements with no recognition of Maori aspirations about Wai Maori.

3. OUR SUBMISSION

Issues

² See <http://www.mfe.govt.nz/rma/central/nps/freshwater-management.html> <http://www.fishandgame.org.nz/national-policy-statement-freshwater>.

³ *Ngāti Kahungunu Iwi Inc v The Hawkes Bay Regional Council* [2015] NZEnvC 50.

⁴ per Judge Thompson, above n3.

⁵ Objective A1, National Policy Statement on Freshwater Management

Water is perceived as a public utility with privatised rights for exploitation and is viewed as an infinite resource rather than a taonga tuku iho, an inherent treasure to be nurtured and protected in its utilisation and care.

The Mauri, the life force of water, is in serious decline and needs enhancing and protection. Mana whenua are increasingly unable to feed their whanau and our mana is being eroded through inability to manaaki manuhiri due to degradation of mahinga kai in our waterways.

Mana whenua access to clean drinking water and access to safe sanitation is at risk due to over allocation and the pollution of water resources in their rohe. Mana Whenua are increasingly unable to carry out cultural and traditional activities on, within and around water resources.

Patuharakeke are not represented in decision-making over water management in Te Taitokerau. Patuharakeke have never ceded sovereignty over our water resources and do not accept that it is a “common resource” or one for private and insufficient licencing arrangements.

Patuharakeke have not had any share or any of the economic benefits derived from commercial use of our water for infrastructure or commercial purposes.

Patuharakeke HEMP objectives

Water is valued as a precious resource essential to all life and is respected for its taonga value above all other values. The mauri of water is enhanced in ways which enable Patuharakeke (and indeed other mana whenua in their rohe with respect to their waterways) to provide for our physical, social, economic and cultural wellbeing.

Our aspirations are that:

Sustainable management of water in Te Tai Tokerau and nationally occurs on an integrated catchment basis and is led by tangata whenua. In all mahinga kai sites in waterways in our rohe we seek that they are managed, monitored and enhanced by Patuharakeke;

Water quality standards relevant to Patuharakeke are developed and implemented by agencies in consultation and conjunction with Patuharakeke and monitored by kaitiaki;

Water quality is such that future generations will not have to drink treated water;

Healthy riparian margins exist or are created for all the waterbodies in the rohe;

Patuharakeke are fully involved in decision-making over water allocation in our rohe; and

The underlying titles of which waterways and dam areas is comprised and which were taken under Public Works and later declared surplus to requirement, is back in Patuharakeke ownership.

Policies

The right of access to clean water is a basic human right. Patuharakeke have never transferred our customary ownership or dominion of our water resources. Patuharakeke will participate fully in any decision-making over water management and allocation within our rohe. Decision-makers will ensure that economic costs do not take precedence over the cultural, environmental and intergenerational costs of poor water quality. To discharge human effluent, treated or untreated, directly to water is culturally repugnant. All direct discharges of pollutants or contaminants should be put to land treatment processes and not discharged into waterways. A timetable should be set for the elimination of any existing discharges to natural waterbodies.

Local authorities/NRC must provide an integrated, catchment-management planning and implementation programme that progressively includes all waterbodies in our rohe and is based on intergenerational outcomes. Local authorities/NRC must develop stringent and enforceable controls on the following activities given the risk to water quality:

- Intensive rural land use;
- Subdivision and development adjacent to waterways; and
- Discharge to land activities associated with industry

Activities potentially affecting waterbodies will be managed on an integrated catchment basis. All aquifers will be protected from contamination and over-allocation. All puna and repo will be protected from inappropriate use and development. Councils and other relevant agencies will recognise and support the use of cultural monitoring and assessment tools by Patuharakeke to compile base line data and assess the state of freshwater resources, including but not limited to:

- i. Cultural Audits
- ii. GIS Mapping of waterways and mahinga kai
- iii. Cultural Health Index; and
- iv. The Use of customary management tools for protecting freshwater values.

Methods

Water Quality

- . a) Councils and hapu must jointly develop integrated catchment management strategies including mechanisms for allocating water and monitoring for all waterbodies in our rohe.
- . b) Hapu must continue to participate in initiatives such as in our case, the Whangarei Harbour Catchment Group and Ruakaka River Liaison Committee.
- . c) Hapu will take positive action to enhance waterbodies and will develop and implement a monitoring programme using cultural health indicators and other assessment tools as needed.
- . d) We advocate for the enhancement of all our waterbodies and will work with any party promoting or implementing positive actions to improve water quality. PTB request statutory authorities to:
 - i Ensure that water quality standards in our rohe and nation are set based on the elevated standard we want to achieve rather than establishing a minimum lower standard that we can degrade to.
 - ii Ensure that when water quality issues arise, the source of the problem must be addressed rather than adopting “band aid” solutions (eg. find new ways to treat water, mangrove removal in estuaries as opposed to addressing sedimentation and pollution in the upper catchment etc).
 - iii Promote and provide incentives for the rehabilitation, enhancement and protection of waterbodies and margins;
 - iv Ensure that appropriately sited, pupose-built wetlands are used for sewage systems. We object to the use of repo of any size being used for sewage systems;
 - v. Prohibit drainage of naturally wet areas or wetlands including draining adjacent land;
 - vi. Ensure that no chemical pesticides, fertilisers or contaminants are used where they can potentially affect any waterbody;
 - vii. Ensure that no liquid waste (e.g. stormwater, sewage and farm effluent) is discharged into a waterbody;
 - viii. Ensure that unrestricted stock access to waterbodies is prevented and nitrogen caps are imposed on farms;

- ix. Ensure that resource consents for works stipulate regular cultural health monitoring by resourced kaitiaki as part of compliance monitoring. Where data shows that there is an adverse effect on water quality then activities must cease;
- x. Ensure that riparian margins are as wide as possible and planted in locally sourced indigenous plants;
- xi. Ensure that when structures are placed in waterbodies, provision is made for indigenous migratory species; and
- xii. Provide free riparian management plans for farms.

Water Quantity/Allocation

PTB advocate for appropriate water allocation strategies and request local authorities in consultation with tangata whenua ensure that water permits are granted for a maximum 15-year duration with a cap on volume, an appropriate licensing arrangement that provides sustainable supply to all and not just the licensee and some royalties to the local mana whenua and community. In addition, permits must include consent conditions that take into account the following matters:

- i. The level of existing knowledge about the resource;
- ii. The risk to the resource;
- iii. The type of the activity supported by the take and use of water; and
- iv. Justification for volume applied for.

We oppose the granting of water permits to take and use water from waterways where there is insufficient information about flows, including flow volume and variability (e.g. small tributaries).

We advocate for monitoring, reporting and effective and enforceable penalties for non-compliance, including revoking resource consents and enforced environmental remediation.

We are available to be heard on this submission.

Mauri Ora

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Ani Pitman

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