



Next Steps for Freshwater
Ministry for the Environment,
PO Box 10362,
Wellington 6143

By Email: watersubmissions@mfe.govt.nz

22 April 2016

Submission – Next Steps for Freshwater

Tēnā koe

1. Thank you for offering Te Korowai o Ngāruahine Trust (TKONT) the opportunity to provide a comment on the Government proposal 'Next Steps for Freshwater'. As the post-settlement governance entity for Ngāruahine iwi, TKONT makes submissions to any relevant consultations that affect our iwi.
2. TKONT's interest in this matter is because of the importance of accessible, sustainable quality freshwater to Ngāruahine. As an iwi who has relied and continues to rely on the awa for our spiritual, cultural and other customary practices this kaupapa is very important to us. On a daily basis we exert our kaitiaki responsibilities as we engage in resource management processes. We are therefore very keen to ensure that the national policy framework provides a context that facilitates iwi to exercise its kaitiaki obligations, honours our treaty settlements and continues to protect our important freshwater resources.

Proposals

(1.1) Amend Objective A2 of the National Policy Statement for Freshwater Management so that it applies within a freshwater management unit, rather than across a region.

(1.2) Clarify that councils have flexibility to maintain water quality by ensuring water quality stays within an attribute band, where it is specified in the National Objectives Framework, or demonstrating that the values chosen for a freshwater management unit are not worse off, where an attribute band is not specified in the National Objectives Framework.

3. TKONT is supportive of proposal 1.1. Applying objective 2 of the NPS to freshwater management units is an effective way to assess freshwater quality. A region is too



large an area and does not allow for difference to be recognised, respected and accommodated. It is important that iwi are involved in the setting of the freshwater management units alongside the regional councils and other significant stakeholders.

4. TKONT is supportive of the proposal (1.2) to maintain water quality by setting attribute bands. It is important that iwi are involved in setting the attribute bands for the freshwater management units. TKONT agrees with the setting of additional values where no attribute is set. This opportunity will ensure that Māori cultural interests are recognised and protected.

Proposals

(1.3) Require the use of Macroinvertebrate Community Index as a measure of water quality in the National Policy Statement for Freshwater Management by making it a mandatory method of monitoring ecosystem health.

(1.4) Work with the Land and Water Forum on the potential benefits of a macroinvertebrate measure for potential inclusion into the National Objectives Framework as an attribute.

5. TKONT agrees that the MCI is a useful measure of river health, and supports the use of this tool as a mandatory measure. TKONT also supports, in addition to MCI, a more rounded assessment of river health, measures for: water quality and chemical contaminant; water flow rates; water temperature; and the presence of aquatic life. MCI alone is not enough.
6. As proposed in 1.4, there is value in working alongside the Land and Water Forum to explore whether the MCI attributes could be included in the NOF framework. This would allow communities to set minimum attribute levels for their freshwater management units.

Proposal

(1.5) Provide further direction on providing evidence when councils or infrastructure owners request that the Government include specific significant infrastructure in Appendix 3 of the National Policy Statement for Freshwater Management.

7. TKONT is concerned by this proposal and does not agree that we should be accepting of lower national quality standards to accommodate the infrastructure. Whilst acknowledging the importance of the hydroelectric infrastructure, it is important to mitigate the negative effects related actions and/or activities have on the water bodies. Instead of compromising water quality standards, we should be looking at ways to mitigate negative effects.



8. TKONT is particularly concerned about the effects on our significant waterbodies as recognised under our Deed of Settlement. Where the NOF permits these standards to be compromised, we are unable to effectively discharge our kaitiaki responsibilities. We do not support this proposal.

Proposals

(1.6) Amend the attribute tables in Appendix 2 of the National Policy Statement for Freshwater Management so that attributes clearly apply to intermittently closing and opening lakes and lagoons, with the same band thresholds and national bottom lines as lakes.

(1.7) Provide direction to councils on how to request that, after meeting evidential thresholds, a freshwater management unit be allowed to use a transitional objective under Appendix 4 of the National Policy Statement for Freshwater Management.

9. TKONT is supportive of the proposal to apply attributes to intermittently closing and opening lakes and lagoons. All freshwater bodies should benefit from protection.

Proposal

(1.8) Create a national regulation that requires exclusion of dairy cattle (on milking platforms) from water bodies by 1 July 2017, and other stock types at later dates.

10. TKONT agrees that dairy cattle and other stock types be excluded from water bodies. TKONT agrees with the 2017 deadline for pigs and dairy cattle on milking platforms. However, we do not support the proposed timeframes for the other stock; particularly those on plains (0-3°). TKONT suggests that 2020 should be the latest date for all stock to be excluded.
11. There is also an opportunity to put in place a minimum distance for stock to be from water bodies. TKONT suggests that where feasible a buffer of no less than 10 metres be put in place.
12. TKONT supports the proposed provisions regarding farmers putting in place permanent and temporary fences to prevent stock from getting into water bodies. However, clarification is sought on how decisions regarding the appropriateness of temporary fences will be determined and their effectiveness monitored.
13. It is also the preference of TKONT to encourage the use of *native* riparian planting as natural buffer zones around or along water bodies. Riparian buffers are a more effective investment in bringing about improvements to the quality of our



waterways. There are two ways of promoting and providing for this: providing financial support or incentives to encourage landowners to voluntarily build riparian buffers, and also allowing councils to place the implementation of riparian buffers as a condition of resource consents.

Proposals

(2.1) Require councils to apply technical efficiency standards in catchments that are at, or approaching, full allocation of water.

(2.2) Where councils have elected to allocate discharge allowances, require them to apply good management practice standards in catchments that are at, or approaching, full allocation of contaminants.

(2.3) Require councils to apply these standards at defined times, for example, at initial limit setting, on consent expiry, and/or on application to permanently transfer consents for water or discharge allowances.

14. TKONT is supportive of the proposal (2.1) to require councils to apply technical efficiency standards in catchments that are at / or approaching a full allocation of water. It is important that councils have in place clear and transparent methodology, which provides details about the water allocation in the catchments.
15. It is also important that iwi have more information and understanding about what these technical efficiency measures might be, and that these measures also provide a means of: looking at existing consent holders; and making amendments to the consent conditions, as required, to ensure that the water efficiency requirements are treated proportionally across catchments and according to water takes.
16. TKONT is not supportive of the concept of discharge allowances across catchments. This can have a perverse trading effect. TKONT strongly believes that discharges should be minimised and mitigated at an individual level, catchment level and larger level. It is difficult to understand how the proposal to implement good management practices will work at anything but an individual level. A different way of perhaps considering this issue is to develop discharge ceilings. This could operate in a similar way to attributes; that is, the level of contaminants shall not exceed set levels.
17. Where technical efficiency measures to reduce water allocations and improve efficiency are set, and contaminant levels capped in the consent conditions, it is appropriate that the standards are: set at the initial limit setting; are reviewed during the consent period; and are then re-negotiated at the consent expiry. This would also apply where renewal of a consent is being sought.



Proposal

(2.4) Investigate a package of measures to better enable transfers between users so allocated water and discharge allowances can move to higher valued uses, such as:

- standardising consent specifications to better enable transfer, such as separating 'take and use' components of a consent
- making information available, including public registers of consented and used water and discharge allowances
- model plan provisions specifying where and in what circumstances transfers are permitted
- enabling water user groups and nutrient user groups to provide for low cost transfers.

18. The consultation document appears to imply that: water and contaminant discharge limits will allow users to adapt to changing circumstances and requirements; and economic incentives are the preferred means of encouraging change. TKONT suggests however, that too great an emphasis is placed on the economic over environmental considerations.

19. With that, TKONT is not supportive of the proposal to transfer contaminants. Such a process is likely to adversely affect the quality of the water body to which contaminants are to be transferred to. Should the government decide to further consider such an approach, then no transfer should take place, if the existing attribute levels and other values set of the receiving water body will be adversely impacted.

20. Regarding the proposal to transfer water, there should be limits about when and where a transfer may take place. It is also important that water users do not misuse the system, and, when applying for a consent, do not apply for more water than is needed. Any system where water transfers are possible, need to be supported by recent research recent, convincing evidence and robust environmental and cultural impact assessment. There is however, clearly a need for more research and investigation regarding water transfers.

Proposal

(2.5) Develop guidance on different methods of addressing over-allocation of water quality and/or quantity, if technical efficiency standards and good management practice standards are insufficient.

21. It is reasonable to develop guidance about how the over allocation of water will be dealt with, if efficiency standards and good management practices are



insufficient. We do however urge more forthright leadership on the issues of water allocations and payment for water use.

22. It is well known and understood that water has been and continues to be over allocated at a regional council level. Councils rely on consent holders not actually realising full allocation limits. Over-allocating our water is a practice that cannot continue. Increasingly, we as Iwi are being asked to grant approvals for water takes. Our significant awa are under intense pressure from these commercial users, and TKONT and other Iwi leaders request a firmer position about water allocation.
23. TKONT recommends a national framework to govern water allocations. The advantage of such a framework is greater certainty over both quantity and quality of water allocations for all users. With such a framework, we can move towards the highest quality use values over time. It is also fundamentally important that Iwi rights to part of the allocation are recognised and provided for in this framework. This is not about ownership, but the inalienable, perpetual recognition of Māori connection to wai, residual Iwi rights and interests common to all Iwi.
24. It is also important that those who are awarded a water allocation pay for the privilege. Where water is allocated to a private organisation for a private or commercial gain, there should be payment for this resource. The current low levels of financial contributions offered to offset the adverse environmental effects are inadequate.
25. If there is to be a serious commitment to improving the quality of freshwater it is important to increase the resource that is invested. Freshwater quality is increasingly being degraded by commercial users with water allocation rights, discharging water of a lesser quality back into natural water bodies. This is not acceptable. In short, the user and the polluter need to pay. Only through this increased resource commitment can we secure freshwater that is drinkable and suitable habitat for aquatic life.

Proposal

(2.6 Increase the ability of councils to recover costs from water users for monitoring, enforcement, research and management.

26. TKONT agrees that additional resource requirements are needed for councils to effectively carry out their responsibilities to monitor, manage and report on the new standards and programmes. TKONT also agrees that the rate payer should not bear the additional cost. It is fair and reasonable to implement a cost recovery



programme. It is however important that the additional monies sought from water users is balanced alongside the additional investment, which will be needed to improve water quality and efficiency.

Proposals

(3.1) Include a purpose statement in the National Policy Statement for Freshwater Management which provides context about the meaning of Te Mana o te Wai and its status as the underpinning platform for community discussions on freshwater values, objectives and limits.

(3.2) Require regional councils to reflect Te Mana o te Wai in their implementation of all relevant policies in the National Policy Statement for Freshwater Management.

27. TKONT agrees that a purpose statement should be included in the NPS about *Te Mana o te Wai*, and that this should provide the basis of the platform for community discussions about freshwater values, objectives and limits.

28. And while TKONT agrees that *Te Mana o te Wai* should be reflected in the implementation of all relevant NPS policies, the proposal should *require* Councils to provide clear evidence of meaningful engagement and timely consultation with Iwi to ensure the intentions of *Te Mana o te Wai* are evident in freshwater management policies and procedures.

Proposals

(3.3) Councils must, at the outset of their freshwater planning process, engage with iwi and hapū to ensure all iwi and hapū relationships with water bodies in the region are identified in regional planning documents.

(3.4) Councils must, when identifying values and setting objectives for particular freshwater management units, engage with any iwi and hapū that have relationships with water bodies in the freshwater management unit.

29. TKONT supports the proposals relating to full and active engagement by Councils with iwi on water bodies, better understand the nature and extent of Iwi relationships with water bodies, and the values, concepts, philosophies and practices underpinning Iwi management approaches.

Proposal

(3.5) The Government will amend the Resource Management Act to establish provisions for a new rohe (region or catchment)-based agreement between iwi and councils for natural resource management – a ‘mana whakahono a rohe’ agreement. The mana whakahono a rohe will:

- be initiated by iwi through notice to the councils



- be available to all iwi but will not override or replace existing arrangements for natural resource management in Treaty of Waitangi settlements nor preclude agreement of different arrangements under a Treaty settlement
- provide for multiple iwi involvement where appropriate and agreed
- set out how iwi and council(s) will work together in relation to plan-making, consenting, appointment of committees, monitoring and enforcement, bylaws, regulations and other council statutory responsibilities
- include review and dispute resolution processes.

30. TKONT is supportive of the proposed provisions that would recognise and provide for iwi in resource management processes as they relate to natural resource management via a 'mana whakahono a rohe.' However, we harbour concerns with the manner in which the proposal places the onus on iwi to approach the Council to request such agreements. This should be a shared responsibility. Iwi are grappling with a vast array of demands and priorities, and do not have the people and resources Councils have at their disposal. It should therefore be incumbent on Councils to inform Iwi about putting in place rohe-based agreements.

31. TKONT is supportive of the idea that the 'mana whakahono a rohe' will provide guidance about how iwi and councils will work together in relation to plan-making, consenting, appointment of committees, monitoring and enforcement, bylaws, regulations and other council statutory responsibilities as they relate to freshwater management. That said, we wonder whether a higher level response is needed and that the RMA reforms set out how iwi and councils should work together across all areas of environmental and natural land management.

32. We also have concerns that whilst the 'mana whakahono a rohe' may provide useful guidance for freshwater management, other areas of environmental management may choose different approaches, systems and procedures. This will place a further demand on already stretched Iwi resources to develop the capacity and capability to respond and participate across different models. A joined up approach across the environmental management sector would be a significant risk mitigation strategy in this regard.

Proposal

(3.6) The Government will amend the Resource Management Act to:

- require water conservation order (WCO) applications to provide evidence of consultation with relevant iwi and have one person nominated by the relevant iwi represented on the Special Tribunal convened to hear the application
- require the Special Tribunal for a WCO (and, where relevant, the Environment Court) to consider the needs of iwi/tangata whenua



- require WCO applications to consider any planning processes already underway
- allow the Minister for the Environment to delay an application if there will be a conflict with a regional planning process
- allow councils to recommend to the Minister for the Environment that a WCO be created over an outstanding water body that has been identified through regional planning, and allow the Minister to consider recommendations under a streamlined procedure.

33. TKONT is encouraged by the proposal to fully and actively engage iwi in matters relating to the issuing of Water Conservation Orders. This will address the obvious inadequacies with the existing process, in that iwi are not currently involved at all.

Proposal

(3.7) The Ministry for the Environment will facilitate and resource programmes to support councils and iwi/hapū to engage effectively in freshwater planning and decision-making, including collaborative planning.

34. TKONT is encouraged by the Ministry's commitment to facilitate and resource programmes to support iwi and hapū to engage effectively in freshwater processes. It is important that the Ministry facilitates and resources programmes in ways that are practicable, useful and informative to local iwi, Councils and the local community. It would also be helpful if programmes were tailored specifically in response to a particular identified local need, rather than a "one size fits all" approach.

Proposal

(3.8) The Government will consider if additional funding is required to develop or improve water infrastructure at marae and papa kāinga.

35. It is important that the water infrastructure at marae and existing papa kāinga is of the same quality as other residential and community environments. A review of by the South Taranaki District Council (2012) highlighted that sources for marae across the district come from shallow wells, streams, springs or roof catchments. Little water treatment takes place, and where treatment is undertaken it is usually in the form of UV treatment.

36. Similarly, the last Taranaki District Health Board assessment of marae water sources found that none complied with accepted drinking water standards. The government should as a matter of priority provide funding to support Council's to improve the water infrastructure for marae and papa kāinga housing, where drinking water quality is less than accepted standards.





Proposal

(4.1) The Government proposes that eligible projects will need to meet the following criteria:

- only projects that support users to move to managing within quality and quantity limits will be considered
- projects will need to demonstrate that they produce environmental benefits
- projects will be considered if the overall public and private benefits are clearly demonstrated to be greater than the public and private costs
- irrigation projects will be eligible for funding only commensurate with any environmental benefits that would not be achieved by the funding available from other sources
- any legal entity will be eligible for funding
- changes in resource use or other business practices, or installed infrastructure, will all need to be sustainable beyond the length of the project without ongoing Government funding
- extension programmes will only be funded where there are clearly public benefits and the barriers to success are about adaption and roll out at scale. These projects must continue to meet the initial objectives after the extension funding has stopped
- if comparable projects achieve similar economic and environmental objectives cost efficiently, preference will be given to projects that achieve co-benefits, such as improvements in ecosystem health, conservation and climate change
- government funding should reflect the public benefits of each project and be limited to a maximum of 50 per cent of the cost of any project. Other sources of government funding will not count towards the co-funding requirement. Priority will be given to projects with funding sourced from either business or philanthropic funds, in addition to funding sources from local government
- the minimum government contribution for projects will be \$250,000. There will be no maximum contribution.

37. TKONT applauds the government for proposing to commit \$100M to the water improvement fund. TKONT is however somewhat disappointed that despite the need, Taranaki has yet to see any investment in improving the quality of freshwater and freshwater environs.

38. And while the fund criteria seems reasonable, it is unclear who the fund intends to target. At this stage, the criteria seem more appropriate or likely to be met by Regional Councils. It is difficult to see how Iwi alone could look to front investment in the types of freshwater improvements envisaged by the fund. That said, it is important that Iwi are meaningfully engaged in any proposals within their respective rohe, seeking monies from such a fund.





Conclusion

39. In conclusion, TKONT thanks the Ministry for the opportunity to provide a submission on this important matter. TKONT suggests that the proposals are a move in the right direction, and there is the potential for the new framework to afford the correct level of protection to our freshwater environment in ways that guarantee its longevity and health for future generations.

40. We trust that the comments in this submission are useful. If you have any question or queries about any of the matters raised please contact myself or Kaitumuaki, [REDACTED]

Naku iti noa, nā

[REDACTED]

Louise Tester

[REDACTED]

[REDACTED]