BEFORE THE Ministry for the Environment

IN THE MATTER of the Action for Healthy Waterways: A discussion document on national direction for our essential freshwater

SUBMISSION

31 October 2019

By email: consultation.freshwater@mfe.govt.nz

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1. **INTRODUCTION**

1.1 Ngāti Hauā Iwi Trust represents a tribe of around 6000 tribal members from the Eastern Waikato region, with most members living within the tribal boundary. The Ngāti Hauā rohe spans from Te Aroha, south along the Kaimai Range to Te Weraiti, from Te Weraiti west to Maungataputae then northwest to Te Rapa, from Te Rapa eastward to Mangateparu and then to Te Aroha. Part of the Ngāti Hauā rohe is located within the Waikato Raupatu Claims Area established in 1995. The five Ngāti Hauā marae are part of the Waikato Tainui tribal parliament Te Whakakitenga o Waikato.

1.2 Our five marae are:
   a) Waimakariri Marae
   b) Kai a Te Mata Marae
   c) Te Iti o Hauā Marae
   d) Raungaiti Marae; and
   e) Rukumoana Marae.

1.3 Ngāti Hauā settled with the Crown in 2013 for a nominal amount of assets (cash of $18m and land) and are now on a journey to maximise the return on those assets for Iwi members and the wider Waikato region. Being at the centre of Aotearoa’s most productive food hub, with key links to Auckland, Ports, tourist routes, universities and research institutes gives Ngāti Hauā a wealth of opportunities to unleash our potential and capitalise on their ambition.

1.4 Ngāti Hauā has already engaged with our people (including marae, whanau land trusts, Ngāti Hauā health and education entities, tribal members) to map out a flight path through to 2040, which has assisted to mobilise key stakeholders in the Waikato, to start delivering on Ngāti Hauā’s vision of prosperity and growth for our Iwi members and the Waikato. This strategic plan is inspired by our tupuna Wiremu Tamihana and guiding the direction of Ngāti Hauā’s future projects which have an overarching goal to systematically build wellbeing and wealth for our people through collaborative investment.

1.5 Ngāti Hauā’s growth proposition will be delivered through the creation of a horticulture supply chain, supported by key relationships with regional stakeholders, other industry participants and Ngāti Hauā’s own food development team. The outcome of Ngāti Hauā’s increased investment and activity in horticulture in the Waikato will ultimately result in increased employment and training opportunities for our Iwi, and across the wider Waikato region, directly through our horticulture operations but also through the agricultural support industry.

1.6 Our history of raupatu, Settlement and areas of interest are outlined further below.
2. **SUMMARY**

2.1 Our submission aligns to our Flightpath to 2040 *E hoki ana te ōnuitanga 2040* and our Environmental plan *Te Rautaki Tamata Ao Turoa o Hauā*, written by our marae and Iwi members, from rangatahi to kaumatua.

2.2 We see the stewardship of water as critical and would also like to stop further degradation of freshwater resources, reverse past damage and address water allocation. However, we take a more holistic approach to water quality and see it not only as an environmental matter, but interconnected to the health and wellbeing of our people.

2.3 While we provide comments to the proposals below - it is in our interests that the action for healthy waterways proposals consider not only water quality, but the impact of water allocation issues on us as we undertake the next part of our flightpath in outworking our land development strategy.

2.4 We recommend:

a) a work programme of engaging with Iwi directly to enable us to co-design as treaty partners an *Allocation Discussion Document*.

b) further consideration of the Māori value concept to consider the interconnected nature of Te Mana o te Wai in the context of wellbeing for freshwater; and

c) deferring the Draft NPSFM due to the incomplete nature of an attempt to create a model of Co-governance in isolation of Iwi interests.

2.5 The layout of our submission is below:

**Part A: Context**

a) Raupatu
b) Ngāti Hauā Iwi Trust and Ngāti Hauā Claims Settlement Act 2014
c) Ngāti Hauā Area of Responsibility
d) Te Rautaki Tāmata Ao Turoa o Hauā
e) Ngāti Hauā economic opportunities require a fair allocation system

**Part B: Comments on Proposed Reforms**

f) Te Mana o te Wai
g) New planning process for Freshwater
h) The compulsory Māori value
Part A: Context

3. RAUPATU

3.1 The search for redress and justice for raupatu is well documented and publicly acknowledged. Waikato Tainui became the first iwi to settle its grievances with the Crown, where in 1995 the Waikato Raupatu Claims Settlement Act provided the foundations upon which the tribe could establish itself to progress the cultural, social and economic advancement of its people.

3.2 Ngāti Hauā are a beneficiary of three Waikato raupatu (land confiscation) treaty settlements:

• the Waikato Raupatu Claims Settlement Act 1995 which settled land-based raupatu claims;

• the Waikato Raupatu Claims (Waikato River) Settlement Act 2010, which settled raupatu claims in relation the Waikato River, from Karapiro to the mouth of the river; and

• the Ngāti Hauā Claims Settlement Act 2014.

3.3 In 2008, the Deed of Settlement for the Waikato River was signed. The Waikato River Settlement supports work to protect and restore the health and wellbeing of the Waikato River, its tributaries for future generations.

4. NGĀTI HAUĀ IWI TRUST AND NGĀTI HAUĀ CLAIMS SETTLEMENT ACT 2014

4.1 Established on 16 July 2013, the Ngāti Hauā Iwi Trust is the post settlement governance entity for Ngāti Hauā. The purpose of the Ngāti Hauā Iwi Trust is to receive, manage and administer the assets on behalf of, and for the benefit of, the present and future members of Ngāti Hauā.

4.2 The Ngāti Hauā Claims Settlement Act 2014 (The Settlement) addresses the non-raupatu elements of Ngāti Hauā’s historical Treaty claims. The Settlement recognises breaches of the Treaty of Waitangi and its principles in its dealings with Ngāti Hauā:

(a) the operation and impact of the native land laws, which undermined the traditional tribal structures of Ngāti Hauā, made their lands more susceptible to partition, fragmentation and alienation, and allowed individuals to sell land against the wishes of other owners;

(b) the Crown’s purchase of over 1,400 acres of Ngāti Hauā land from individuals in the twentieth century, in disregard of the collective decision of the owners not to sell; and

(c) the cumulative effect of the Crown’s actions and omissions, particularly in relation to raupatu, the operation and impact of native land laws, Crown and private purchasing, and public works takings, leaving Ngāti Hauā with insufficient land for their present and future needs.
4.3 The settlement included an apology and agreed historical account; cultural redress as well as financial and commercial redress.

4.4 Cultural Redress also provides for Deeds of Recognition which places certain responsibilities on the Minister for Conservation and The Commissioner of Crown Lands when undertaking certain activities to consult and have regard for the view of Ngā Hapū.

5. **NGĀTI HAUĀ AREA OF RESPONSIBILITY**

5.1 The Ngāti Hauā Area of Interest spans from Te Aroha, southeast along the Kaimai Range to Te Weraiti; southwest to Maungatautari; northwest to Te Rapa, eastward to Mangateparu and then back to Te Aroha.

5.2 Our rohe is largely defined by our significant landmarks, predominantly our maunga (mountains). These are also referred to as ‘nga kohatu whakatu mai te rohe o Ngāti Hauā’ or ‘the rocks that establish the territory of Ngāti Hauā.

5.3 Ngāti Hauā Iwi Trust has Mana Whakahaere (authority) over its lands, resources and the water systems and seeks to exercise Mana Whakahaere to ensure the balance, and the mauri [life force] of the land and the resources is maintained to sustain stability for future generations in accordance with Ngāti Hauā tikanga, culture, and values.

6. **TE RAUTAKI TĀMATA AO TUROA O HAUĀ**

6.1 The Te Rautaki Tāmata Ao Turoa o Hauā is the Ngāti Hauā Environmental Management Plan which articulates our values, frustrations, aspirations and position statements in relation to our taiao (environment).

6.2 It is a living document and will continue to evolve to meet changing circumstances. It is a process to ensure environmental values, aspirations and concerns are incorporated into local and national decision-making processes.

6.3 The Environmental Management Plan has statutory weight under sections 5-8, 35A, 61, 66, 74 and 108 of the Resource Management Act (RMA). This means that Regional, City and District Councils:

(a) must take into account the plan when preparing, reviewing or changing a regional policy statement, District Plan or Regional Plan; and

(b) must have regard to this Plan when considering a resource consent application.
6.4 It is a living document and will continue to evolve to meet changing circumstances. It is a process to ensure environmental values, aspirations and concerns are incorporated into local and national decision-making processes.

7. **NGĀTI HAUĀ ECONOMIC OPPORTUNITIES REQUIRE A FAIR ALLOCATION SYSTEM**

7.1 As we move into the next phase of our Ngāti Hauā flightpath 2040 E hoki ana ki te tōnuitanga we are conscious of the economic opportunities for our Iwi members which rely on a fair water allocation system.

7.2 Agriculture and Horticulture are the thriving industry of the Waikato region, which is experiencing growth driven by demand for fresh produce in New Zealand and overseas. Ngāti Hauā are engaged in existing partnerships for the production of Blueberries and are poised to capitalise on current industry demand.

7.3 The wider opportunity for Ngāti Hauā is to become a horticultural producer, employer and facilitator; by utilising a large existing Māori land base in the Waikato, by making investment in valuable crops and infrastructure, and training its people so that the overall social and economic outlook of the Waikato region is lifted.

7.4 All Ngāti Hauā investment decisions are made with consideration of our Environmental Management Plan - Te Rautaki Tāmata Ao Turoa o Hauā. When waterways have been within the governance and management of Ngāti Hauā, they have been maintained to a state of wellbeing, where the waterways have sustained the people and the people have sustained the waterways. This has not been the case when in the governance and management of others. We propose that this be taken into account when considering any allocation system – that environmental impacts on waterways have always been managed when in Iwi stewardship.

7.5 Ngāti Hauā investment decisions are driven by its underlying objectives and core drivers. The primary objectives of the trust are:

— To transform its Whanau outcomes positively;

— Preserve Ngāti Hauā’s values and culture, through education and implementation of the Peria standard;

— Provide educational support and jobs to its people and the region, in the short and long term;

— Create a sustainable horticulture industry in its Rohe that continues to employ and support whanau across multiple generations.
7.6 We propose a work programme of engaging with Ngāti Hauā to enable us to co-design as treaty partners an allocation Discussion Document, to support a fair allocation system with respect to Te Mana o te Wai.

8. COMMENTS ON PROPOSED REFORMS

8.1 While we do not support the reforms to progress in an underdeveloped state, which seemingly addresses Te Mana o te Wai – the management and Governance of Freshwater, yet substantially does not address co-management and co-governance as this would address Māori interests in allocation – we do provide comments below to support the current body of research to be used in future.

a) Te Mana o te Wai

8.2 We support the Kāhui Wai recommendations as they address that Te Mana o te Wai must authentically address Governance and Management of Freshwater in Aotearoa. This requires support to both improved water quality as well as Iwi allocation consideration.

8.3 We would invite further engagement to expand on our proposed allocation model to be co-designed over 2019/2020 to give effect to an element of our unresolved interests in freshwater in Ngāti Hauā rohe.

8.4 To give effect to a framework such as Te Mana o te Wai we would require a framework that gives consideration to unresolved matters including, but not limited to:
   i. rights and interests according to tikanga and customary law;
   ii. rights and interests arising from the common law (including the common law relating to aboriginal title and customary law); and
   iii. rights and interests under the Treaty of Waitangi and its principles.

8.5 We continue to support improved water quality beyond bottom line sustainability in the Resource Management Act and current arrangements. We submit often on local resource consents where required to ensure the health and restoration of our local waterways, and will continue to do this until a true representation of Water Governance and Management policy is created that addresses both the water quality and our rights and interests.
b) New Planning process for Freshwater

8.6 The planning process for Freshwater would impact our plans already in place at a local level and would require an engagement process where we are able to consider its implementation and its integration with current plans.

8.7 The Draft NPSFM clashes with RMA definitions and we would encourage consistency where possible to support councils to make decisions that are consistent. The definitions that require consideration for alignment are below:
   i. Freshwater
   ii. Stream
   iii. Wetland definitions; and
   iv. Waterbody.

8.8 Ngāti Hauā supports the importance of water quality and acknowledges the requirement of regulation to prevent further degradation of freshwater. However we consider further analysis should be made on how the NPSFM will interact with policies and plans already in place, including our Environmental plan.

c) The Compulsory Māori value

8.9 We support the development of a mandatory Māori measure of wellbeing in the NPSFM National Objectives Framework (the compulsory Māori value). We see an interconnected spiritual element to the water, ensuring we care for its health, which reciprocates to its community and its wellbeing.

8.10 This is part of our history and also part of our current workstreams where we are developing lands in line with environmental standards that allow our Iwi and local communities to prosper through commercial enterprise, while also applying our own environmental Peria standard that not only sustains the waterways but reduces further degradation.

8.11 In order to give effect to Te Mana o Te Wai, a fair allocation model must be considered that recognises Ngāti Hauā both as the Treaty partner for our region, and also having an interest that has not been given away. While this would not constitute addressing Iwi allocation it provides a platform for further development.

9. CONCLUSION

9.1 We see the proposals as significantly affecting our rights and interests. While we acknowledge the efforts of the proposed water reforms to protect water quality and further degradation of waterways – we recommend:
a) a work programme of engaging with Ngāti Hauā to enable us to co-design as treaty partners an allocation Discussion Document.

b) further consideration of the Māori value concept to consider the interconnected nature of Te Mana o te Wai in the context of wellbeing for freshwater; and

c) deferring the Draft NPSFM due to the incomplete nature of an attempt to create a model of Co-governance in isolation of Iwi interests.

9.2 In conclusion with the words of our King Tuheitia, Pootatau Te Wherowhero Tuawhitu – urging us to consider a better way that protects our future.

“Today, you must usher in a new way, a better way, a more effective and efficient way of doing our business and discharging our duties to our people and to the generations to come” – Kiingi Tuheitia.

9.3 We cannot address action for healthy waterways in a half-pie measure. We must consider Water Governance and management to ensure healthy waterways effectively and in an efficient manner. To do this in a piecemeal way that does not address allocation to Iwi is not conducive to both Iwi and commercial entities who require certainty in how we move forward.

9.4 We will continue to advocate and action water quality in our region in the meantime and seek your partnership to advance this in authenticity as we do this in a holistic manner to address allocation.

DATED 31 October 2019

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