

To: The Ministry for the Environment - MfE

Submission on document / paper:

New Zealand Government – “Proposed amendments to the National Policy Statement for Freshwater Management”

Te Atiawa Manawhenua Ki Te Tau Ihu Trust

The Trust’s submission is comprised of two parts:

1. **Cultural Matters**; and
 2. **Comments on the document / paper, as follows:**
 - A. Referral
 - B. Comments on ‘general principles’
 - C. Comments on “Clearer Articulation of tangata whenua values for fresh water”
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1. Cultural matters

Kiatiakitanga in Te Atiawa Rohe: Tikanga Maori

Tena koe

Nga mihi nui ki a koe i runga i nga ahuatanga o te wa.

Te Atiawa iwi members are the tangata whenua, who hold manawhenua and manamoana over the lands and waters of Totaranui (Queen Charlotte Sound), Kura Te Au (Tory Channel) and environs. As such, Te Atiawa iwi members are kaitiaki (guardians) within this rohe and carry a responsibility for ensuring that the mauri or essential life principle of the natural world is maintained.

Central to this responsibility is the management of freshwater:

Wai (water) is of great significance to Te Atiawa – it is an essential element of life. As kaitiaki, Te Atiawa Iwi believes that the maintenance of the mauri, or life-supporting capacity, of water is vital to the physical and spiritual health and well-being of all living things.

Water is a taonga. Water has been traditionally and remains an integral political, economic, cultural and spiritual taonga for Te Atiawa. Te Atiawa believes that the maintenance of the mauri, or life-supporting capacity of water is fundamental to ensuring the physical and spiritual survival of all living things. A water body with an intact mauri is able to sustain healthy ecosystems. Therefore, the well-being of our people depends on the well-being of river, stream and wetland ecosystem.

Consequently, Te Atiawa seeks the following outcomes from the prospective freshwater management reforms:

1. Te Atiawa Iwi as tangata whenua is empowered to participate effectively in freshwater management and to carry out the exercise of kaitiakitanga in its rohe;
2. Te Atiawa Iwi, as tangata whenua, and as a Treaty Partner to the Crown, will be afforded opportunities to participate in the sustainable use of freshwater in its rohe; and
3. That the reforms provide for integrated, sustainable and equitable management of freshwater resources, including wetlands and freshwater-related habitats, in a way which will promote the genuine sustainable management of the natural and physical resources of the rohe, and, by extension, of Te Wai Pounamu and of Aotearoa, New Zealand, for today and into the infinite future.

It is with these core matters in mind that Te Atiawa has responded to the document / paper on the prospective reform of freshwater management.

Please receive this submission, and give due acknowledgement to its substance, as it is lodged under the mana of Te Atiawa as tangata whenua iwi, in its rohe and as the Crown's partner to Te Tiriti o Waitangi.

2. Comments on the document / paper

A. Referral

The Trust draws Central Government's attention to its related submission of 8 April 2013 on the document: '**Ministry for the Environment. 2013. Freshwater reform 2013 and beyond. Wellington: Ministry for the Environment**', in its entirety. A copy of that submission is appended to this submission. All of the matters presented in that submission remain current.

B. Comments on 'general principles'

1. Quality water is essential to all life.
2. Commodification of water lowers this necessary recognition.
3. But, water is an important eco-service for industry and commerce.
4. Commerce and industry must account, completely, for the full range of effects resulting from their activities, so that they understand, and take full responsibility for all of their actions – the impacts of sourcing resources, manufacture, distribution use and disposal. Balance sheets must include the full spectrum of "externalities", which in this case will require full-spectrum explicit accounting for water use (quantity) and water state (quality) as a consequence of use.
5. Economic growth, as promoted in the proposed amendments as a central driver of water consumption, is not a rational concept to associate with

freshwater management. The intellectual rationality around the future of industry and commerce involves development – ‘sustainable development’. (Growth may occur as a sub-set of development in the context of overall sustainability.) This is beyond semantics, as realistically, open ended growth does not logically fit with our reality of managing finite resources.

6. Fresh water management must be underpinned by wisdom based upon cultural and scientific knowledge, which is essential to give rise to, inter alia: Sustainable development.
7. The primary constraint in fresh water management must be relative-precaution, where insufficient information is available.
8. The sustainable management of freshwater resources does need to address, with absolute attention, the following hierarchy of priorities:

Primary consideration

- No further allocation until iwi matters around Wai Maori have been addressed.
(The compulsion to allocate water needs first to be carefully examined.)
- Allocate to sustain / enhance ecosystems
- Allocate for drinking water purposes - private / municipal

Secondary consideration

- Allocate for recreation purposes
 - Allocate to the landscape for visual / visitor purposes
 - Allocate to public municipal space for passive purposes
 - Allocate for rural, industrial, or other commercial use
9. A safe and responsible freshwater management regime is entirely encompassed by the principles outlined above.

C. Comments on: “Clearer Articulation of tangata whenua values for fresh water”

1. Freshwater is tonga
2. The degradation of freshwater, particularly as a consequence of waste generated by human activity, is particularly abhorrent to Maori.
3. The idea that water quality in a Water Management Area be reduced to enable economic growth, as proposed, is completely unacceptable to Maori, to Te Atiawa, as kaitiaki.
4. Maori, as kaitiaki, carry an abiding and deep responsibility to their ancestors for fresh water quality throughout Aotearoa New Zealand, in each rohe, for sustaining the mauri of the water.
5. In practical terms, and using the terminology of the NPS, the spectrum of acceptable water quality could run from an ideal of drinking water standard to

a limit of quality acceptable for contact recreation. Beyond that, the mauri is lost and with it the mana of Maori, of iwi, of hapu and of whanau.

6. The second fundamental cultural concern for Te Atiawa involves the continuing ability of Te Atiawa people to engage safely in traditional and cultural practices, and to realise contemporary aspirations associated with the freshwater resources of the rohe.
7. Threats to sustaining the mauri of fresh water include:
 - Discharges into waterways urban and rural
 - Community and domestic water-takes, from small streams, with threats to ecology
 - Damming and diversion of watercourses
 - Draining of freshwater wetlands
 - Noxious aquatic plants
 - Loss of habitat for tuna, etc
 - Use of herbicides for weed control
 - Dairy run-off
 - Introduction of exotic species and organisms
 - Earthworks

In summary, it would make a great deal of sense if freshwater management in Aotearoa New Zealand was based upon the holistic principles provided by Tikanga Maori. The consequent application of kaitiakitanga in freshwater management would ensure sustainable outcomes and provide a culturally applicable ideological platform that could be shared by all New Zealanders for their responsible custodial understanding and their consequent actions around the sustainable management of fresh water.

[withheld] – Resource Management Officer for Te Atiawa Manawhenua Ki Te Tau Ihu Trust

4 February 2014

Appendix

To: The Ministry for the Environment – MfE

Submission on document / paper:

‘Ministry for the Environment. 2013. Freshwater reform 2013 and beyond. Wellington: Ministry for the Environment’, by:

Te Atiawa Manawhenua Ki Te Tau Ihu Trust

The Trust’s submission is comprised of two parts:

1. Cultural Matters; and
2. Comments on the document / paper, as follows:

Comments on ‘general principles’

- A. Introducing freshwater reform
- B. Today’s challenges
- c. The future for freshwater
- D. Planning as a community
- E. A National objectives framework
- F. Managing within quantity and quality limits
- G. Appendix A: Mana Atua Mana Tangata Framework

Conclusions and a note about the contributors to this submission

1. CULTURAL MATTERS

Kiatiakitanga in Te Atiawa Rohe: TIKANGA MAORI – Maori culture, the Maori way

Tena koe

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Central to this responsibility is the management of freshwater:

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Consequently, Te Atiawa seeks the following outcomes from the prospective freshwater management reforms:

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3. That the reforms provide for integrated, sustainable and equitable management of freshwater resources, including wetlands and freshwater-related habitats, in a way which will promote the genuine sustainable management of the natural and physical resources of the rohe, and, by extension, of Te Wai Pounamu and of Aotearoa, New Zealand, for today and into the infinite future.

It is with these core matters in mind that Te Atiawa has responded to the document / paper on the prospective reform of freshwater management.

Please receive this submission, and give due acknowledgement to its substance, as it is lodged under the mana of Te Atiawa as tangata whenua iwi, in its rohe and as the Crown's partner to Te Tiriti o Waitangi.

3. Comments on the document / paper, as follows:

Comments on 'general principles'

A fundamental concern with the approach being taken: As far as the acknowledgement / involvement of Maori / iwi in the management of freshwater, it appears to be reduced to councils consulting and giving 'consideration' or 'explicit consideration', as the degree to which Maori / iwi input might be considered. At the very least, the Maori / iwi point of view should be 'taken into account' by councils and as Treaty-partners, Maori and the Crown, would carry out co-management of the freshwater resource.

Simply put, Maori / iwi aren't just another stakeholder. That is the factual position. Again, at the very least, any council connections with Maori / iwi should be discrete and dedicated and focused just on the views and position of Maori / iwi, not included with the stakeholder sector.

Another primary concern with the approach being taken is taking the environmental capacity / sustainability to the apparent limit for economic growth purposes. Other words and approaches put forward in the document do dispel that fear somewhat, but, the fundamental of the freshwater ecosystem must have primacy in management terms if it is to be genuinely sustained; there would be direct economic implications if it wasn't, in any event.

This means a degree of precaution, a buffering around informed limits / thresholds, to ensure tipping points aren't reached, where irretrievable degradation of the freshwater ecosystem occurs. If the limits / thresholds are under-informed, obviously a greater degree of precaution is required. Also, where allocation is being contemplated, based upon the most valuable potential outcome, it is as well to understand that that may mean leaving a particular freshwater ecosystem alone or dedicating it for customary / cultural purposes. They are equally, if not more valid responses / outcomes.

Now, these freshwater reform proposals may result in far reaching consequences for the community in general and Maori in particular. The short time frame for response is extremely limiting for iwi/Maori, not to mention the general public.

Finally, the artwork in the document depicts activities that fall largely into the Crown / pakeha freshwater-engagement activity paradigm. Where are the waka, where are the customary practices; why are Maori - the co-managers and kaitiaki - invisible? And, what message is that sending?

A. Introducing freshwater reform

Page 5: The Minister of the Environment and the Minister for Primary Industries in their opening message state a number of times that 'our abundant freshwater resource is our greatest asset', denoting something tangible or intangible that is capable of being owned or controlled to produce value. Freshwater is a living embodiment of Maori / iwi whakapapa, which transcends 'asset' and objective connection. Wai is a subjective entity; it is part of the seamless whole of life and must be managed in that context.

Page 9: 'The Government is committed to recognising Maori rights'. Maori are committed to the rights of freshwater ecosystems / freshwater species, as kaitiaki.

The Department of Conservation should be acknowledged as an important manager of the freshwater resources, given the extent of the Conservation Estate and its capacity for quality catchment management, with implications for water use beyond the Conservation Estate.

Page 10: '... while maintaining economic profitability and growth.' Intelligently, growth is a sub-set of development / progress, which may or may not include growth in any particular paradigm, and, profitability also might involve an outcome other than growth. Growth bespeaks progressively of more and more pressure on resources = growth on growth, which, wider experience informs us, cannot be an absolute approach if sustainability is the bottom-line. For example, The RMA is founded on 'sustainable management'; economic development/progress, may well mean doing/having, using less but could well result in improved cultural, social and environmental outcomes, and these outcomes may well be founded upon conservative integrated sustainable management principles.

B. Today's challenges

Page 14: The likes of biochemical/biological oxygen demand – BOD - issues giving rise to the ingression of periphyton, etc, have been raised. Similarly there is a need to ensure that there is a responsible focus on and priority management of infestations of exotic plant pests, like *Didymosphenia geminata*.

Page 16: "Even in catchments that are not yet fully allocated, there is a concern that future freshwater supplies may not be reliable, especially in the context of climate uncertainties."

Two matters: Firstly, Aotearoa is not a factory, so that catchments don't need to be, inevitably, fully allocated. Secondly, it is comforting to see that climate uncertainty issues have been acknowledged - significant precaution is required.

Reference is made to 'storage', quite reasonably. Two down-catchment issues include: Hazard management for failure of dams, and the need for a thorough understanding of the nature of the catchment ecology / ecosystem below the point of interruption, so that these matters can be factored into sustainable management responses.

Page 18: "Management decisions about freshwater need to be fit for purpose. They should not constrain economic growth for insufficient environmental outcomes, nor allow environmental degradation". In any event, full, robust and transparent processes must underpin related decisions.

C. The future for freshwater

Page 21: "Over time, freshwater should be able to be allocated to that activity that generates the highest overall benefit to communities and the nation". The focus on 'activity' presents philosophical issues to tangata whenua (refer to the point about whakapapa, above.).

Context:

At a median level the human body is about 60% water. Water has primacy for human survival and for the survival of 99% of the biota of the biosphere. That is water's primary value.

Options: An allocation response may be:

- No allocation (The compulsion to allocate water needs to be carefully examined.)
- Allocate to sustain / enhance an ecosystem
- Allocate for drinking water purposes - private / municipal
- Allocate to tangata whenua for cultural purposes
- Allocate for recreation purposes
- Allocate to the landscape for visual / visitor purposes
- Allocate to public municipal space for passive purposes
- Allocate for rural, industrial, or other commercial use

"The reform of freshwater management will maintain and strengthen New Zealand's international reputation for strong environmental stewardship ..."

The definition of 'stewardship' in the document's glossary is:

Stewardship: The act of taking care of or managing something, for example, property, an organisation, money or valuable objects.

It is of deep concern that the key piece missing from this definition is the word ethic. The following definition is preferred, particularly if the outworkings of this process are genuinely pitched at New Zealand's international reputation.

Stewardship is an ethic that embodies the responsible planning and management of resources. The concepts of stewardship can be applied to the environment, economics, health, property, information, religion etc. Stewardship is often linked to the principles of sustainability. (Wikipedia)

D. Planning as a community

Page 24: " ... the need for stronger national leadership in freshwater management."

Leadership across resource management is an essential. That leadership must be ethical, informed, visionary and brave, if sustainable outcomes are to be achieved. Leadership must come from the top down and the bottom up and meet in the middle ethically and effectively.

Proposed Reform 1:

Page 25: Collaborative planning:

Collaboration between councils and iwi/Maori is positive but it doesn't amount to co-management. Will the decision-maker change? Decisions will mostly remain solely with councils. Why not have co-management, and structure the impending law changes for iwi/Maori to have joint-authority on decision making, with councils?

Page 9 of the document states 'users must come together with councils and iwi and achieve a common understanding of the uses, values and challenges around local water bodies, and agree on common aspirations and actions'. Clearly this will require Iwi/Maori to be co-managers with councils, which represent the Crown (Treaty partner) and provide iwi / Maori with legal rights in decision making, not just council's being required to 'consult' with iwi/Maori.

If Iwi/Maori are to remain as stakeholders, decision-making will remain with councils and this is unacceptable to iwi/Maori.

Stakeholders who are worth continually engaging as a collective for freshwater management knowledge/experience are Integrated Catchment Management (ICM) groups, such as the group involved with the Motueka River catchment. These groups, importantly, include tangata whenua iwi.

Proposed Reform 2

It is positive to see specific acknowledgement of Iwi/Maori in the context of the Treaty and freshwater management.

Page 26: "A more effective role for iwi/Maori in national and freshwater planning and decision-making is a crucial part of recognising them as Treaty partners."

Yes, an equal role, the role of a partner, as a co-manager, is necessary and just. What is set out under Proposed Reform 2 does not reflect this opening statement. Refer to the matters covered in detail, above, regarding this fundamental issue and revisit the anticipated role of iwi/Maori.

E. A National Objectives Framework

Page 28: "... or of contaminants that can be discharged into it"

The discharge of contaminants into water depletes the mauri of that water and is unacceptable to iwi/Maori. Freshwater management practice must, progressively reduce, and ultimately prevent contaminants being discharged into freshwater.

Proposed Reform 3

Page 30: In regard to 'fisheries': With respect to significant freshwater habitats'. Legislation should not single out significant aquatic habitats important for two introduced species of fish. The Fish & Game lobby must not force the dilution of the protection of indigenous fish stocks. Also note here that all natural freshwater waterways, wetlands and associated biota are significant.

Page 32: "It is important that all impacts - environmental, [social], cultural and economic - of different choices are well understood before final decisions are made. For example, robust economic analysis is required during the regional planning process so that communities can balance the cost and benefits of the various choices."

Robust analysis is also required of the other three components of the quadruple-bottom-line. It is essential that this decision making process can and does aggregate and cross-compare the costs and benefits of the four components and come to a true, defensible, quadruple bottom line decision that will withstand the objective scrutiny of all stakeholders and of iwi/Maori. To accomplish this must-do process, a cross-equivalent weighting system model is necessary. These tools have been developed.

Proposed Reform 4:

The framework provided on page 33 appears plausible, if approached with sustainable outcomes in mind. Holistic policies and delivery expectations need to also be incorporated into freshwater objectives.

Proposed Reform 5

Tangata whenua values and interests must be central to all processes and decision making about Water Conservation Orders.

F. Managing with quantity and quality limits

Page 37: "..., while ensuring iwi/Maori rights are considered."

That isn't how the Crown's position is envisaged (Will the Crown's, the Government's position simply be considered'?) and is at odds with Maori as Treaty partner.

Proposed Reform 6:

Councils are very aware of the freshwater resources which they manage and this includes allocation decisions and permit lengths. This needs to be respected.

Page 38: "Costs might also be reduced for councils [read, local communities] if a standard approach is developed to estimate the takes that are not measured."

Supported

Proposed Reform 7

Page 39:

The development of non-regulatory methods must include iwi/Maori methods/values. If tool kits are to be developed and promoted, then iwi/Maori, as kaitiaki, should be engaged in the process, given the alignment of kaitiakitanga and 'best management practices'.

Also, in noting the need to control irrigation quantities to reduce wastage and to prevent nutrient leaching, potential weather events (including emerging and unexpected weather events) that will cause substantially worse outcomes, for both aspects, need to be taken into account when land use and nutrient budget decisions are addressed in forward planning.

Proposed Reform 8

Page 40:

'a': specifying water permits - supported, this should already be (is) happening.

'b': permit duration - opposed: Council's give timeframes based upon reasoned management experience. Please respect the councils' views on shortness or otherwise. For example, if they need to be short, e.g. 5 years, then that may well be because a river or stream has been degrading and the council needs to reassess the effects of the water take after 5 years.

Page 41: Support the points suggested on how uses can be brought within limits. Uninvolved ratepayers should not be financially penalised by this regime – rather, user-pays, central government support?

Page 43: The 35 year maximum consent period is proven and adequate, particularly given unknowns; decision makers must assess each application/situation on its unique merits. No restriction should be imposed by central government on the minimum permit term.

Proposed Reform 9

Iwi/Maori, including Te Atiawa, require funds allocation to enable their meaningful participations in the required research. Consideration should be given to the use of cultural indicators.

Proposed Reform 10

Effective water quality management is of central importance to Te Atiawa. As signalled above, any/all discharges are unacceptable to tangata whenua iwi

Pages 48 & 49: All important points - especially monitoring and reporting. Iwi/Maori could be engaged by councils to undertake this work. Consideration should also be given to the use of cultural indicators.

Proposed Reform 11

Page 50: "Maori rights and interests in water quality management will be addressed as an integral part of these ongoing improvements.

Supported.

Appendix A: Mana Atua Mana Tangata Framework

Appendix A of the framework is supported in principle. This model will take significant time to build up for each rohe but its direction is positive.

Conclusions and a note about the contributors to this submission

In conclusion, Te Atiawa is very concerned about the discharge of contaminants into water, including spray on stream margins, agricultural run-off, direct stock access to waterways, septic tank

overflows and stormwater discharges into catchment drainage. All of these discharges have the potential to impact on the health of the freshwater ecosystem(s) in its rohe, subsequently affecting mahinga kai, including watercress and tuna. Te Atiawa is also concerned about the advent of mining in the rohe and the implications of that activity on te wai Maori.

The drainage of freshwater wetlands has resulted in the loss of significant ecosystems, important as spawning areas for native fish, sediment traps and areas rich in food and nutrients for bird and plant life. Many wetlands in Te Tau Ihu have already been lost through drainage and reclamations. Of great concern to Te Atiawa is the low priority given to the retention and restoration of wetlands. Wetlands have traditionally been places for gathering mahinga kai and a range of other cultural materials, important to the customs and economy of tangata whenua. Therefore the loss of these significant resources has had a huge impact on the spiritual and cultural values and uses of tangata whenua.

The freshwater resource is another central component in the outworking of the role of Te Atiawa as kaitiaki. The key concerns of Te Atiawa Iwi for the sustainable management of the freshwater resources of the rohe, include, but are not restricted to:

CULTURAL CONCERNS

The ability of Te Atiawa people to engage in traditional and cultural practices and to realise contemporary aspirations associated with the freshwater resources of the rohe

THREATS TO SUSTAINING MAURI

- Discharges into waterways urban and rural
- Community and domestic water-takes, from small streams, with threats to ecology
- Damming and diversion of watercourses
- Draining of freshwater wetlands
- Noxious aquatic plants
- Loss of habitat for tuna, etc
- Use of herbicides for weed control
- Dairy run-off
- Introduction of exotic species and organisms
- Earthworks

It can be expected that Te Atiawa will maintain a high degree of awareness of activities like these, which in isolation or combined have the capacity to profoundly degrade the mauri of the freshwater water resources of the rohe. Te Atiawa cannot support the further degradation of the freshwater resources of the rohe. The way forward is through the enhancement of these resources, but in all things, Te Atiawa believes that the key word is "balance".

Up until very recently, owing to capacity issues and legislative restraints, there has been a lack of involvement by Te Atiawa in the management of the freshwater resources of the rohe. This lack of involvement has resulted in the inability of Te Atiawa to effectively exercise kaitiakitanga in the monitoring and enhancement of waterways, habitats and associated fauna and flora. A further concern has been the lack of integrated management of water bodies and surrounding lands; a situation that now appears to be changing positively. Te Atiawa supports that shift.

Fundamentally, Te Atiawa maintains that Article II of the Treaty provides Te Atiawa with undisturbed possession of freshwater resources. The Crown has assumed possession of waterways and wetlands, and as a result, Crown agencies and territorial / regional authorities undertake management and protection of freshwater resources, with little regard to the status of iwi/Maori as rangatira and kaitiaki of those resources. Consequently, the mana of tangata whenua, in this case Te Atiawa, has been continually undermined.

Te Atiawa, as a post-Settlement iwi, is now ready to actively participate in the co-management of freshwater, as tangata whenua and kaitiaki of the freshwater resources of our rohe.

Contributors to this submission

- S G (Glenice) Paine – Chair: Te Atiawa Manawhenua Ki Te Tau Ihu Trust
- Ian Shapcott – MNZPI – Resource Management Practitioner
- Catherine Johnson - Master of Resource and Environmental Management with Honours – Resource Management Practitioner

[withheld] Te Atiawa Manawhenua Ki Te Tau Ihu Trust

8 April 2013