



WAAHI PA

Submission on proposed amendments to the National Policy Statement for Freshwater Management 2011

SUBMITTER INFORMATION

Organisation Name Waahi Pa Marae

[withheld]

Do you agree to be identified by name in any reports on the submissions?

Yes

Introduction

1. This submission is made on behalf of the Waahi Pa Marae (Waahi) for the proposed amendments to the National Policy Statement for Freshwater Management 2011 ('NPS-FM').
2. Waahi is a marae located on the banks of the Waikato River in Huntly. Ngati Mahuta is the principal hapu of Waahi.
3. Waahi is part of the iwi of Waikato-Tainui and is one of the 68 marae of the Waikato-Tainui Te Kauhanganui Inc. Waahi lies within the Raupatu Area, those lands and waterways

confiscated in the 1860's and referenced in the Waikato Raupatu Settlements in relation to lands and the Waikato River.

4. The Waikato River is of historical and cultural significance to Waahi and is an ancestor to the people of Waahi.
5. Waahi reveres the Waikato River and all freshwater bodies with the greatest significance, in that water not only sustains life, but its mauri (life essence) is the foundation of all living things. Therefore any water management systems and associated limits must recognise and provide for the intrinsic value of water to Waahi, in union with the ability of water to sustain the people and the environment.

Summary of position

6. Waahi is generally positive about the proposed amendments to the NPS-FM and acknowledges the work that has gone in to preparing the amendments. We have made suggestions that we think will improve the proposed amendments in this submission.
7. We congratulate the Crown on the use of te reo in the proposed NPS-FM and encourage the retention of te reo.
8. The Government must recognise and provide for the increased resourcing required to achieve real collaboration during processes to implement the National Objectives Framework ('NOF') and the other amendments. Waahi expect to enter into collaborative processes that are appropriately resourced when these processes are required under national legislation. Investment in resourcing this process is likely to make savings with fewer resources allocated to the litigious processes that occur in the absence of a collaborative approach.

RESPONSE TO DISCUSSION DOCUMENT QUESTIONS

General comment:

- We recommend that the proposed NPS-FM should not impact on the Waikato River settlement legislation and our co-management legislation for the Waikato River. We expect the Crown and councils will continue to honour the Waikato River Settlement.

- The Government must recognise and provide for the increased resourcing to tangata whenua that will be required to achieve real collaboration during the processes to implement the NOF and the other amendments to the NPS-FM.
- The importance of iwi management plans should be reflected in the NPS-FM.
- Waahi supports the restoration and protection of all waterways for future generations.
- Waahi seeks that the all freshwater bodies are swimmable, fishable and drinkable (or to a similar level to 1860's.)

This submission does not respond to all the questions posed in the discussion document.

The questions that the submission responds to are noted below.

3. OPTIONS FOR PROVIDING FURTHER NATIONAL DIRECTION

3. Do you agree that amending the NPS-FM would solve the problems identified in section 2?

Yes, provided that:

- Tāngata Whenua values concerning freshwater are given appropriate weight and priority through the amendments (i.e. that of a Treaty of Waitangi partner with the Crown).
- There is sufficient priority given to developing additional national bottom lines.
- There is true collaboration in developing standards for fresh water management units.
- Collaboration is resourced sufficiently so that no barriers to tāngata whenua, community and other stakeholder participation exist.

4. PROPOSED AMENDMENTS TO THE NPS-FM

4.1 ACCOUNTING

6. Do you agree with requiring councils to account for all water takes?

Yes and this should include effective monitoring of water allocated against water actually taken.

7. Do you agree with requiring councils to account for all sources of contaminants?

Yes, it is impossible to manage what is not measured.

8. Do you think that the requirements in policies CC1 and CC2 of the proposed NPS-FM amendments have the right balance between national prescription and regional flexibility?

Policy CC1 should be written to ensure that comparison can be made between freshwater management units of different councils. It is important that where iwi plans, policies and objectives are implemented, or given effect to by councils, this implementation or consideration can be measured and compared between regions. We suggest that there needs to be national consistency in the way that regional councils implement the NPS-FM and think that the national objectives framework facilitates this consistent approach.

9. Do you think the time period allowed for councils to develop accounting systems is appropriate?

Yes.

4.2 NATIONAL OBJECTIVES FRAMEWORK VALUES

10. Should there be a national set of values as outlined in appendix 1 of the proposed NPS FM?

Yes. This gives the community a starting point to discuss their specific values for each water management unit and should provide national consistency. We support the inclusion of te reo in the national set of values and ask that the use of te reo is retained.

11. Are there any additional values that should be included? Why are these values nationally significant/important (recognising that councils can use other values if they wish)?

We are concerned that 'contributes to Te Mana o te Wai' appearing as a compulsory and an additional national value could create confusion. Te Mana o te Wai is critical to Waahi. We recommend that 'contributes to Te Mana o te Wai' should be a compulsory value with each region providing specific detail of what Te Mana o te Wai means for each water management unit.

12. Are there any values that should be deleted from appendix 1 of the proposed NPS-FM and why?

No, the values in appendix 1 are critical for survival, for human and ecosystem health.

13. Do you agree with the descriptions of the national values in appendix 1 of the proposed NPS FM?

We are concerned that the national values could be interpreted too narrowly and be seen as a maximum aspiration. Councils could stop at the compulsory values and community debate would focus on and potentially stall at determining whether additional values should be included for a water management unit. This could undermine the overarching purpose of the NPS. While the values are supported, the implementation of the NPS should create compulsion for councils and communities to achieve the NPS purpose. There should be flexibility to allow regions to further define values used for specific water management units and exceed the minimum.

ATTRIBUTES

14. Do you agree with the attributes associated with the values in appendix 2 of the proposed NPS FM?

We agree with the attributes but have not undertaken the necessary analysis to determine if there are sufficient attributes or additional attributes are required. Importance has been placed on *mātauranga Māori* and *Cultural Health Indicators* and we believe that further work should be supported to develop numerical and narrative states for these attributes. There could also be further qualitative work done to see if qualitative attributes and attribute states can be developed. For example, the attributes and attribute states that measure tāngata whenua and the community's relationship with a water management unit.

15. Do you agree with the numeric attribute states in appendix 2 of the proposed NPS FM?

We have not undertaken a technical analysis of the attributes or their states, therefore we are unable to comment on the numeric attribute states. However, we are comfortable with the methodology described in the consultation hui and accept that the numeric attribute states are likely to have sufficient rigour. The numeric attribute states should be amendable if further evidence becomes available.

16. Do you agree with the narrative attribute states in appendix 2 of the proposed NPS FM?

Yes, the narratives generally make sense when considering the state being described.

TIMING

17. Do you agree with putting a NOF in the NPS-FM now, including only the attributes for which there is adequate evidence, and updating it as the scientific basis for further attributes and states become available?]

Yes. To wait until all attributes have supporting evidence to set states will delay the effective implementation of the NPS. Adequate evidence could come from mātauranga Māori as a basis for determining further attributes and states.

PROCESSES FOR FRESHWATER OBJECTIVE SETTING

19. Do you agree with having the process requirements to link values and freshwater objectives directed in policy CA1 in the proposed amendments? If not, why not?

Yes. While this appears to be a cumbersome process, it should save the time, resources, and costs of a litigious process that does not include sufficient tāngata whenua, community and stakeholder input.

20. Do you think the process outlined will work? If not, why not?

Yes. However, it may take longer than expected to work through the process. There may be sectors of the community that have previously been in more adversarial relationships who will need to find ways to work together. Part of this understanding is to ensure that the community representatives are mandated by their people and have ahi kā and kaitiaki relationships with the area in question.

21. Do you agree with the proposed matters in policy CA1(e) that must be considered when establishing freshwater objectives? If not, why not?

Yes. The supporting narrative must be clear enough to be measurable and achievable.

22. Is it clear that setting freshwater objectives is an iterative process which involves consideration of the impacts of the limits, management methods, and timeframes required to meet a potential freshwater objective?

Yes.

23. Do you agree that regions should have discretion to determine timeframes for meeting freshwater objectives?

Yes. But not to the detriment to the health and wellbeing of waterways.

24. Are there any aspects of the process that are not clear?

No. However, in implementing the NPS there may be debate about aspects of the process and the relative weight, time, and resources that regions should allocate to the process. There should be sufficient national oversight to ensure that regions appropriately implement the process.

4.3 COMPULSORY VALUES

25. Do you agree that ecosystem health should be a compulsory value?

Yes.

26. Do you agree that human health for secondary contact recreation (such as boating and wading) should be a compulsory value?

Yes, as a minimum. Waters should be drinkable.

27. Do you think there should be more compulsory values? If so, what should they be, and why? What attributes should be associated with them?

We are concerned that setting values for water bodies for other uses, in particular swimming, mahinga kai, and ceremonies involving water or specific sites could prove to be difficult when the compulsory value relates only to secondary contact. However, these practices are long established within our whānau, hapū and iwi and across other parts of the community. We suggest that Te Mana o te Wai is made a compulsory value. As part of setting objectives councils are then required to take into account current and historical uses of water by tāngata whenua and the community. If tāngata whenua or the community express a desire to continue to use or restore their use then councils should be required to consider it an objective for that water management unit. Councils should provide a robust argument why the use/objective should or should not continue or be restored. Councils should also consider attributes like the tangible and intangible value that tāngata whenua and the community place on the desired use. This should focus on the current or historical use of the water body/management unit. Any new objective that is desired should be considered through the proposed collaborative process.

4.4 NATIONAL BOTTOM LINE

28. Should there be numeric bottom lines for attributes of the compulsory values?

Yes and as more attributes are developed the bottom lines could be in the form of a narrative. This may be tied to a numeric bottom line (e.g. a state that notes that 60 – 75% of the community are happy with the relationship they have with the water management unit).

29. Do you agree with the proposed level at which bottom lines would be set for each attribute of ecosystem health? If not, at what level should they be set?

We have not had the benefit of a review of the technical analysis that led to setting the bottom lines. We are committed to a bottom line that provides the best practical level when considering the compulsory values proposed in the NPS-FM. However, the attribute states should be set as a minimum, at the higher of the bottom line or the current state. In no case should future attribute states be set to allow a nett decrease in the quality of the attribute.

30. Do you agree with the proposed level at which bottom lines would be set for each attribute of human health for secondary contact recreation? If not, at what level should they be set?

As above, we have not had the benefit of a review of the technical analysis that led to setting the bottom lines.

31. Do you agree that transitional arrangements should be provided to allow councils and communities to set objectives below a national bottom line for a short time?

No. Other than for genuine, defensible exceptions as discussed in section 4.5, the objectives should be set as a minimum at the higher of the bottom line or the current state. Councils and communities have flexibility in setting the timeframes so transitional arrangements with respect to objectives are unnecessary. For water management units that are not granted exceptions, no future attribute states should be set so there is a nett decrease in the quality of the attribute.

4.5 EXCEPTIONS TO BOTTOM LINES

32. Do you agree that there could be exceptions where the natural state of the freshwater management unit breaches bottom lines? Where in your region do you think this type of exception might apply?

1860's should be used as a baseline bottom line. This was the date when waterways within our region were confiscated from Waikato-Tainui and water quality degradation began to occur.

33. Do you agree that there could be exceptions where historical activities have created impacts on water quality and the reversal of those impacts is not reasonably practical, either physically or ecologically, even in the long term? Where in your region do you think this type of exception might apply?

No, the exception could be to provide those historical activities more time to allow them to comply in due course.

34. Do you agree that there could be exceptions for significant existing infrastructure (eg, dams), where a choice is made to manage a freshwater management unit below bottom lines? Where in your region do you think this type of exception might apply?

No, the exception could be to provide those significant infrastructure more time to allow them to comply in due course.

35. Do you agree that freshwater management units eligible under the first two exceptions above should be decided by regional councils?

Yes, in agreement with iwi and the community.

36. Do you agree that freshwater management units eligible for an exception due to the effects of significant existing infrastructure should be decided at a national level and included in appendix 3 of the NPS-FM?

No unless agreement to exceptions are made after consultation at the regional level with council, iwi and the community.

37. What should the criteria be for allowing exceptions based on significant existing infrastructure?

Essential infrastructure for which no sustainable alternative exists. Our expectation is that these are genuine exceptions and that infrastructure owners and operators are required to take all practical steps to improve water quality.

4.6 TĀNGATA WHENUA VALUES

38. Do you think the proposed NPS-FM adequately provides for Te Mana o te Wai?

No. We acknowledge the progress made in including Te Mana o te Wai in the proposed NPS-FM and consider this a positive step. However, we ask that Te Mana o te Wai is made a compulsory value. As part of setting objectives for that value, councils would be required to take into account current and historical uses of the water by tāngata whenua and the community. If tāngata whenua or the community express a desire to continue to use or restore their use then councils should be obliged to consider that use as an objective for the water management unit. Councils should provide a robust argument why the use/objective should or should not continue or be restored. Councils should also consider attributes like the tangible and intangible value that tāngata whenua and the community place on the desired use. This should focus on the current or historical use of the water body/management unit. Any new objective that is desired should be considered through the process proposed in the amendments.

39. Do you agree with the way tāngata whenua values are described in proposed appendix 1 of the NPS-FM?

No. It is helpful to have tāngata whenua values described and there is a broadly accepted understanding of these values. However, there is simply no 'one size fits all' definition of tāngata whenua values. The proposed NPS-FM should provide for tāngata whenua with mana whenua interests over a water management unit to have the opportunity to specifically define their values with respect to the unit.

40. Do you support adding Te Mana o te Wai to objective A1 of the amended NPS FM as a matter that must be safeguarded? What would be the implications of adding this to objective A1 in the NPS-FM?

Yes. Tāngata Whenua are required to advocate constantly for the recognition of their values in resource management matters and this wastes energy and resources for all concerned. It would be beneficial to everyone to have an objective about Te Mana o te Wai. This highlights the need to consider Te Mana o te Wai and requires tāngata whenua, councils, the community and other stakeholders to have a discussion about what Te Mana o te Wai means for a specific water management unit.

Councils would then be required to take into account current and historical uses of the water by tāngata whenua and perhaps also the community. If tāngata whenua or the community express a desire to continue to use or restore their use then councils should be obliged to consider it as

an objective for that water management unit. Councils should provide a robust argument why the use/objective should or should not continue or be restored. Councils should also consider attributes like the tangible and intangible value that tāngata whenua and the community place on the desired use.

4.7 MONITORING

41. Do you agree with the new section in the NPS-FM requiring monitoring plans? If not, why not?

Yes. It is critical that progress is monitored in a rigorous, robust and defensible way. Tāngata Whenua, councils, the community and other stakeholders must know what progress is being made towards the achievement of their objectives and the true cost and benefit of this progress.

Conclusion

Waahi thanks the Ministry for the opportunity to provide this submission and is happy to discuss further any of the points made.