TE RUNANGA O TE RARAWA

Submission

To

Ministry of Environment

In respect of the

Consultation on proposed amendments to the Resource Management (Marine Pollution) regulations 1998 to give effect to changes made to the International Convention for the Prevention of Pollution from Ships.

<table>
<thead>
<tr>
<th>Submitter:</th>
<th>Abraham Witana, Te Rarawa Anga Mua (A subsidiary of TRoTR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organisation:</td>
<td>Te Runanga o Te Rarawa</td>
</tr>
<tr>
<td>Representative population:</td>
<td>Approximately 16,000.¹</td>
</tr>
<tr>
<td>Postal Address:</td>
<td>[Redacted]</td>
</tr>
<tr>
<td>Phone:</td>
<td>0275222116</td>
</tr>
<tr>
<td>Fax:</td>
<td>[Redacted]</td>
</tr>
<tr>
<td>Email:</td>
<td>[Redacted]</td>
</tr>
</tbody>
</table>

Signed:

Date: 22 April 2016

1.0 INTRODUCTION

¹ Based on the 2006 Census iwi population count. Te Runanga o Te Rarawa estimates our iwi population is nearer to 30,000.
1.1 Te Runanga o Te Rarawa is the Iwi authority representing the interests of the marae and hapu that make up the Iwi of Te Rarawa. The Runanga consists of one representative Trustee and one alternate Trustee for each of the 23 affiliated marae within the Te Rarawa rohe. The traditional Te Rarawa rohe is described as the area from Hokianga to Maungataniwha, down through Victoria Valley river to Maimaru, across from the Awanui Bridge west to Te Oneroa a Tohe (the Ninety Mile Beach) at Hukatere, then south to Mitimiti and Hokianga.

2.0 SUBMISSIONS

Freshwater in New Zealand

The Government's long-term vision for fresh water

- Our lakes, rivers, wetlands and aquifers are suitable for the local and national values and aspirations of all New Zealanders, including tāngata whenua
- Fresh water is used efficiently and productively
- Freshwater quality is maintained or improved
- Te Mana o te Wai is respected and provided for with healthy freshwater resources supporting our long-term well-being and prosperity
- Our freshwater bodies are healthy places for aquatic plants and animals
- Our use of fresh water respects iwi/hapū values and honours the Treaty of Waitangi (Te Tiriti o Waitangi)
- Outstanding lakes, rivers and wetlands are protected
- New Zealanders take responsibility for their impact on fresh water and our environment

The Government’s vision presented here is broadly consistent at a high level with the Ngā Mātāpono framework developed by the Freshwater ILG. However, Te Runanga’s assessment of the government’s proposals outlined in the consultation document is that while some make positive steps towards this vision they generally do not go far enough, especially in recognizing and providing for the full range of iwi rights and interests.

For example, the section titled The pressures on our fresh water notes that iwi, hapū and whānau interests and values are not adequately considered in planning and resource management decision-making.
While acknowledging the need to recognise iwi and hapū values in decision making is positive, this still fails to acknowledge the broader range of iwi rights and interests, in particular the rights of iwi to access a share of allocable water and discharge rights.

**Improving the way we manage fresh water**

The consultation document notes the importance of the National Policy Statement for Freshwater Management (NPS-FM) in improving freshwater outcomes. While the NPS-FM has laudable goals, including improving freshwater quality, integrated catchment management and improving iwi and hapū participation in freshwater management, in most instances these have yet to be realized. Te Runanga believe significant further work is required to achieve the aspirations of iwi and the wider community, and also outlined in the Government’s long-term vision for water.

These include:

- recognising and providing for the full range of iwi rights and interests, including the right to access an allocation of water and discharge capacity
- participation in governance and decision making regarding fresh water
- increased recognition of iwi values and mātauranga Māori in freshwater decision making

**Iwi and hapū are playing an important role**

‘The Government recognizes that iwi have rights and interests in fresh water.’

We welcome the government recognition that iwi have rights and interests in fresh water. However, we also believe that the categorization of the core objectives for iwi and hapū as being limited to the active protection of Te Mana o Te Wai, and upholding their guardianship (kaitiaki) obligations towards the water bodies in their rohe is significantly under representing the full range of iwi rights, interests and aspirations for fresh water. While both Te Mana o Te Wai, and Kaitiakitanga (albeit the concept is much broader than just guardianship as referred to in the consultation document) are core underlying principles of the Ngā Mātāpono model and supported by the Iwi Leaders Group, this representation limits iwi rights to ‘cultural’ considerations and ignores the full range of iwi rights and interests, including iwi rights to an equitable share of the allocable quantum and discharges.

**Iwi rights and interests in fresh water**

The Government’s view of iwi rights and interests in fresh water in the consultation document is:

> The Government’s position is that no-one owns fresh water – it is a resource that we must look after for the benefit of all New Zealanders. At the same time, our freshwater management system can be improved to recognise and provide for iwi and hapū rights and interests. From the Government’s perspective this means ensuring:

- freshwater management gives effect to Te Mana o te Wai
• the relationship of iwi and hapū with, and values for, particular freshwater bodies is recognised
• iwi and hapū are able to participate in decision-making about fresh water in their rohe
• marae and papakāinga have access to clean, safe drinking water.

The ILGs model for fresh water management, including the recognition of iwi rights and interests in fresh water, is underpinned by the Ngā Mātāpono ki Te Wai model, which is underpinned by the key principles of:

- Te Mana o Te Wai
- Te Tiriti o Waitangi te tāhuhu o te kaupapa o te wai
- Te mana motuhake o ia wai o ia iwi ki te wai
- Te kaitiaki o nga hapū me ngā iwi ki te wai
- Te mana whakahaere o ngā iwi me ngā hapū ki te wai

Putting aside the issue around ownership of water, the Government’s position statement above is largely consistent with Ngā Mātāpono and the underlying principles. Te Runanga also welcomes the Government’s statement that it is committed to addressing iwi and hapū rights and interests in freshwater and recognises the relationship of Māori with water.

Unfortunately, the promise of these statements is not carried through into the more specific proposals to recognise iwi rights and interests presented in the document, and the document itself acknowledges that the proposals do not address all aspirations of iwi/hapū.

Te Mana o Te Wai in freshwater management

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.

Te Mana o Te Wai (TMOTW) is not just about the recognition of iwi rights and interests. It is a concept that places the health and well-being of the waterbody and its ability to meet the needs and aspirations of iwi and the wider community at the centre of fresh water management. This
is consistent with the statement on page 28 of the consultation document as well as within the Governments stated long-term vision for fresh water.

We acknowledge that iwi are continuing to work with Ministers and officials to ensure TMOTW is appropriately incorporated into the NPS-FM and other relevant aspects of the freshwater management regime.

Te Runanga supports Proposal 3.1 regarding the inclusion of a purpose statement in the NPS-FM to provide context and status to TMOTW. We trust that discussions will continue to agree on the appropriate wording, placement and status of this with officials.

Proposal 3.2 states that regional councils will be required to 'reflect' Te Mana o Te Wai in their implementation of all relevant policies in the NPS-FM. Previously on the same page the consultation document uses the wording ‘give effect to’ TMOTW. This creates some level of confusion as to what standard will be required to be met. Te Runanga supports the ILG to continue to work with officials to incorporate TMOTW appropriately into the NPS-FM and other relevant aspects of the freshwater management regime to ensure it has the intended effect.

Iwi and hapū relationships with, and values for, water bodies

**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.

While Te Runanga supports the intent of these proposals, there is no detail provided on how these will be implemented. It is also important to note that these requirements already exist, particularly in section 6(e) of the RMA that requires anyone exercising authority under the RMA (e.g. councils) to *recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites waahi tapu, and other taonga*. This requirement to *recognise and provide for* the relationship of Māori and their culture with their water bodies is already significantly stronger requirement than just identifying them in regional planning documents. A number of other existing RMA provisions also require similar actions such as having particular regard to kaitiakitanga (s7) taking into account iwi planning documents (s66), and consulting iwi authorities when developing a regional plan (schedule 1). What additional requirements will be placed on councils by this proposal that aren’t already required under s6(e) etc is unclear.

**Recognition of relationships**
The narrative presented in the consultation document regarding iwi relationships acknowledges the historical basis of these relationships but fails to place any current or contemporary status on iwi and hapū relationships with their water bodies.

Any proposals to reflect iwi and hapū relationships with water bodies must also acknowledge the contemporary and current nature of these relationships, not just historical context (e.g. korero tuku iho – page 28).

**Recognition of iwi and hapū values**

The consultation document states that some iwi values have already been reflected in the NOF. Despite various values in the NOF being defined in the title with the equivalent name in te reo, we know that iwi nationwide through hui have consistently advised Ministers and officials the descriptions and attributes associated with these values do not reflect iwi or hapū values.

For example, the standard for *Te Hauora o Te Tangata/the health and mauri of the people* is set at a level of wading or other secondary contact. The iwi leaders group has consistently sought that this should be set at the level of swimming/primary contact (and others have argued for drinkability).

Te Runanga recommends that the detail of these proposals must be developed in partnership with the IAG and subject to further consultation with iwi and hapū to ensure it will be effective for iwi and hapū. Further work is also required, in partnership with iwi, to ensure the values and attributes included in the NOF adequately reflect iwi and hapū values and aspirations. This also includes the development of attributes for ‘cultural indicators’ referred to earlier on page 12 under the National Objectives Framework.

**Participation in freshwater decision making**

<table>
<thead>
<tr>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>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:</td>
</tr>
<tr>
<td>• be initiated by iwi through notice to the councils</td>
</tr>
<tr>
<td>• 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</td>
</tr>
<tr>
<td>• provide for multiple iwi involvement where appropriate and agreed</td>
</tr>
<tr>
<td>• 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</td>
</tr>
<tr>
<td>• include review and dispute resolution processes.</td>
</tr>
</tbody>
</table>
Te Runanga supports the Mana whakahono-a-rohe agreement are a proposal developed by the iwi leaders group to replace the government’s proposed Iwi Participation Agreements. Ministers have committed to including Mana whakahono-a-rohe in the Resource Legislation Amendment Bill and the IAG is continuing to work with officials on the implementation of this proposal through the current Bill.

END