5 December 2019

Hon Tony Randerson QC  
Chair – Resource Management Review Panel  
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Via email: rmreview@mfe.govt.nz

Tena Koutou

TE ARAWA LAKES TRUST INITIAL COMMENTS ON COMPREHENSIVE REVIEW OF THE RMA

Mai Maketū ki Tongariro  
Ko Te Arawa te waka  
Ko Te Arawa māngai-nui āpoko tū-takitaki

From Maketū to Tongariro  
Te Arawa the canoe  
Te Arawa the determined people

Introduction

Thank you for meeting with Te Arawa hapū and iwi on 21 November 2019 to discuss the comprehensive review of the RMA. We appreciate you and your college Kevin Prime ONZM traveling to Rotorua, the fruitful discussion that followed and the invitation to elaborate on comments made at the hui in writing. These comments constitute Te Arawa Lakes Trust’s initial views on the comprehensive review of the RMA based on the feedback provided at the hui.

Te Arawa Lakes Trust is the governance entity mandated to represent all registered members of Te Arawa. The Te Arawa Lakes Trust is established under the Te Arawa Lakes Deed of Settlement and the Te Arawa Lakes Settlement Act 2006. While Te Arawa Lakes Trust is the governance entity for its members, its decisions are informed by hapū and iwi contributions to decision-making through their respective Trustees.

Te Arawa hapū and iwi are tangata whenua, hunga tiaki, and significant landowners over our rohe mai Maketū ki Tongariro. Te Arawa have occupied the area for many, many generations. Te Arawa continues to occupy, own, use and manage lands, areas of significance and resources across our rohe. Te Arawa remains connected to our ancestral lands, waters, wāhi tapu sites and other taonga, even if these may now be in the hands of others and maintain our rights and interests in them. The relationships of Te Arawa with our ancestral lakes has been recognised by the Crown through to the Te Arawa Lakes Deed of Settlement 2004, Te Arawa Lakes Settlement Act 2006 and in statutory acknowledgments in the Resource Management Act 1991.
Te Tūāpapa o ngā Wai o te Arawa

Te Tūāpapa o ngā Wai o te Arawa has been adopted by Te Arawa Lakes Trust as the key guiding framework for management of the Te Arawa Rotorua Lakes for the Trust and others to follow.

The three strategic goals of Te Tūāpapa o ngā Wai o Te Arawa are:

1. **Ka rongo te Ao i te Mana o Te Arawa.**
   The authority of Te Arawa is readily recognised by all.

2. **Te mā o te wai e rite ana kia kite i nga tapuwae ā te koura.**
   The quality of the water is such that you can see the footsteps of the koura.

3. **Whakapakari ake i te waka kia pae ki uta.**
   TALT is well equipped for the journey ahead.

Te Tūāpapa o ngā Wai o te Arawa sets out who we are, our guiding values and how to connect those values to tangible actions. Te Tūāpapa o ngā Wai o te Arawa also provides the context framework and values for our engagement in the RMA comprehensive review.

To assist the Panel in understanding Te Arawa and our values six copies of Te Tūāpapa o ngā Wai o te Arawa for the Panel members are enclosed with the hard copy of this letter.

**Overview**

In the nearly 30 years since the Resource Management Act 1991 (the RMA) was enacted there is no doubt that there has been some progress in recognising Te Ao Māori in the management of natural resources and some progress in environmental outcomes. However, there is also no doubt that overall environmental degradation has continued and that hapū and iwi still struggle to have their views considered appropriately and at the decision-making table. This comprehensive review is an opportunity to address those concerns. The review must also look to the challenges that lie ahead and in particular to climate change which will bring increasing pressure both on resources and on the systems that we have in place to manage them. In this regard the review will need to be courageous and find solutions that are durable. The review is also an opportunity to align the RMA with other legislation including the Te Ture Whenua Maori Act 1993 and reflect the United Nations Declaration of Rights of Indigenous people.

We acknowledge that māori rights and interests in freshwater are excluded from the scope of the review. But they are not excluded from our thoughts and concerns. We reiterate that those rights and interests must be addressed now. A comprehensive review is an opportunity to move beyond the failed “first in first served” allocation principles of the current act. This includes introducing allocation concepts such as Te Mana o te Wai. These issues and hapū and iwi rights and interest in water cannot be separated out and must be addressed concurrently in a comprehensive review.
Preamble

The Māori world view is spiritual and holistic. It is about relationships and collective wellbeing. In our world view natural resources are created and gifted by ngā Atua [the Gods], they are taonga tuku iho connected to us by whakapapa and managed accordingly by us for many generations. A preamble to the new legislation would be able to provide both this important context and the background to māori concepts used in the legalisation. It could state the reasoning and intent of bringing dual western and māori concepts of sustainability together in the purpose of the Act. As with the Te Ture Whenua Maori Act 1993 the preamble should refer to te Tiriti o Waitangi and be in both māori and English.

Purpose

Te Ao Māori and western concepts of environmental management have been in collision and convergence since the arrival of Europeans in Aotearoa. Convergence between these world views took a significant step forward with concepts such as the principles of te Tiriti o Waitangi, katiakitanga and the relationship of māori with their culture and taonga being included in the principles of the RMA. However, as the inherent concepts of sustainability that are present in indigenous culture struggle to gain traction in decision making they are often “balanced out” in the decision making process. As a result the RMA has failed to deliver on both the principle of partnership promised in the Treaty and the achievement of sustainable management in Aotearoa New Zealand.

To fully reflect that partnership of te Tiriti o Waitangi and to ensure sustainable management in Aotearoa New Zealand the purpose of the reformed act should encompass both Te Ao Māori and western concepts of sustainability. Specifically:

- The purpose of the legislation needs to enable the relationship of māori with their culture and taonga as well as the wellbeing of the wider community; and
- Sustainability should be defined to include cultural as well as environmental bottom lines and ensure these are not breached.

This would be another significant step forward, through environmental legislation, for the convergence of Māori and western world views.

Concepts, Principles and Processes

It is important that the comprehensive review build and expand on the inclusion of Te Ao Māori concepts and principles in the legislation. This is a vital yet challenging process. A concept such as kaitiakitanga is rich in Te Ao Māori. It acknowledges the gifts we have been given as taonga tuku iho and our obligations to future generations. It is a living expression of reciprocity. It is an active reinforcement of relationships past, present and future. Inevitably on filtering into the western world this concept is seen through different lenses and is changed and constrained. Once entering legislation, the concept is further constrained and defined.
However, the inclusion of such concepts in legislation provides for hapū and iwi to bring these aspects of Te Ao Māori to life when engaging in the RMA evaluation and decision-making processes. Whether the concepts are brought forth through a Cultural Impact Assessment for a particular activity, consideration of an Iwi Management Plan, consultation on proposed policies, or involvement in decision making under a mana whakahono a rohe or joint management agreement they are there for hapū and iwi to use and articulate. It is therefore vital that these concepts and process be retained and reinforced in the reviewed legislation.

This includes expanding the concepts and principles in the legislation to include Te Mana o te Wai, as currently advanced by the Proposed National Policy Statement on Freshwater Management. It includes expanding the concepts and principles to include mauri. This is an important concept and critical distinction to make, while mana is imbued by people, mauri is imbued by ngā Atua and is a fundamental element in managing resources within Te Ao Māori. For this reason its inclusion in the reviewed legislation is essential. It’s definition on the ground within rohe and areas must depend on the expression of the mātauranga and mohiotanga of the relevant hapū and iwi. Te Arawa have developed holistic approaches to monitoring and for measuring cumulative impacts upon mauri and invite MfE to include Te Arawa expertise when considering such mechanisms.

Tangata Whenua Hapū/Iwi and the Crown are partners under Te Tiriti o Waitangi. Local government is an agent of the Crown and is delegated many functions, duties and powers under the RMA. However, the current direction in the legislation is for local government to only take into account the principles of te Tiriti. This reference must be strengthened so that the Crown and its agents are required to give effect to the principles of te Tiriti. In addition, we note along with the panel, that the provision in the RMA for the transfer of powers from local government to iwi authorities has not been used. We ask the panel to investigate what the barriers to transfer of powers have been and what options may be open to overcome them.

**Conclusion**

The panel has a challenging but important opportunity in this comprehensive review to further the convergence between māori and western concepts of environmental management and advance sustainability in Aotearoa New Zealand. Te Arawa Lakes Trust sees the review as an opportunity to align legislation and introduce a preamble to the RMA (similar to that for the Te Ture Whenua Moari Act 1993) setting out, in both Māori and English, important context and background.

Te Arawa Lakes Trust seeks that the relationship of hapū and iwi with their ancestral lands, waters and taonga be brought into the heart and purpose of the Act. We seek that concepts such as katiakitanga be retained and that concepts such mauri be introduced. We seek that increased emphasis be given to these concepts in decision making through essential processes such as cultural impact assessment, consultation, engagement and involvement in decision making. Only through engagement in the engagement of local hapū and iwi in these processes can concepts such as katiakitanga and mauri be given their full meaning.
Te Arawa Lakes Trust seeks that all agents of the Crown, including local government, give effect to the principles of te Tiriti o Waitangi. We seek that allocation be addressed comprehensively, including hapū and iwi interests in freshwater.

Finally, it must be stated that while the purpose, principles and processes of the legislation may be reviewed, reinforced and improved they are of little use unless hapū and iwi have the resources to engage effectively in the processes. Though this maybe beyond the scope of legislative change we urge the panel to consider means and measures to improve the resourcing available to hapū and iwi.

Thank you again for the opportunity to make these initial comments to the panel. Te Arawa Lakes Trust looks forward to our continued engagement, together, in this process.

Ngā mihi, nā