



Submission on Waikato – Tainui Raupata Claims (Waikato River) Settlement Bill

Introduction

A not for profit incorporated society, the New Zealand Water and Wastes Association (NZWWA) promotes and enables the sustainable management and development of the water environment. With 1500 members the NZWWA's membership is large and diverse, including Territorial Authorities (TAs), Council Controlled Organisations (CCOs), water and wastes services providers, the major consultancies involved in providing engineering, planning and research services to the industry, Crown and other Research Institutes involved in the water and wastes environment, academia, members of the legal fraternity and training providers.

New Zealand is blessed with an abundant supply of freshwater. In a world where this resource is becoming increasingly scarce, it should be regarded as a strategic asset. It is not being managed efficiently at the moment.

We have identified five key matters that require resolution if long term safe, affordable, efficient and sustainable water management is to be achieved. Our submission evaluates the Bill in the context of these issues.

We wish to appear before the Maori Affairs Select Committee to submit in person on the Bill. Our contact person is:

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Five key issues

Institutional reform:

With a comparatively small population of 4.29 million, 73 separate entities are responsible for water infrastructure, land - use planning and development. Another 12 are responsible for among other matters, flood management and water quality. At a central level at least seven Government agencies are involved in water. None hold primacy. Fragmentation such as this is not conducive to efficient management of a strategic resource.

Almost all other comparable OECD countries have central water agencies setting policy and strategy, along with line control and accountability. Until such time as New Zealand establishes a central agency undertaking such activity the present inefficient muddle will continue, and the resource will not be managed wisely.

Infrastructure investment deficit:

An analysis of the 2006-2016 Long Term Council Community Plans (LTCCPs) has determined that collectively councils project a total capital and operating expenditure of \$22 billion for water delivery and disposal over the ten year period.

There is currently no unified strategy to address the affordability issues inherent in this figure. In many areas water infrastructure is aged and requires upgrading or rebuilding; a particular problem for smaller utilities. The next iteration of LTCCPs for 2009-2019 are currently under development with indications being that this figure could well increase.

The funding issue was recognised by the Shand Rates Inquiry and a number of measures were proposed to address it. These have yet to be actioned.

Water Efficiency:

We are not using water efficiently in New Zealand. While we ample supplies of freshwater, a recent report suggests that by 2012 in a number of areas of the country the resource will be fully allocated¹.

The proposed National Policy Statement (NPS) on Freshwater Management gives specific attention to this issue. Throughout the document use of water has the proviso that demonstrable efficiency measures and technologies must be employed. While such direction is welcome we question how within the current regulatory environment and charging mechanisms this can be achieved.

In the absence of any central guidance the measures proposed could well result in 73 different versions of “demand management”.

New Zealanders at large do not have an appreciation of the value and cost of supply of water. Many view it as a “right”, and there is limited understanding of the need to use it efficiently, which is compounded by the current non-volumetric charging methods used by the majority of TAs.

Demand management should encompass the complete water cycle. NZWWA fully supports the work being done to ensure widespread adoption of water measuring devices for abstraction, believing this to be an essential tool in having the information to effectively manage and monitor supply of the resource.

Measures such as these are critical to achieving water use efficiencies.

Water quality and land use:

¹ *A Best use Solution for New Zealand's Water Problems*, NZBCSD, July 2008

Water quality is of intense interest to New Zealanders. It is inextricably linked to land use. Over the past 20 years the general trend has been for point source discharges to be cleaned up. Likewise, non-point source discharges are contributing to declining freshwater quality through intensification of land use. The quality and reach of current policy instruments are not adequately addressing this matter. If point source discharges can be cleaned up so can non-point sources. More effective central direction is required.

The proposed NPS on freshwater devolves controls to TAs and RAs. These institutional arrangements along with the instruments available to them have been in place for almost 20 years. They are not achieving improved water quality, rather the reverse.

The Treaty partner and co-management:

The preamble to the proposed NPS on freshwater cites the Treaty of Waitangi as the foundation of the Crown – Maori relationship with regard to freshwater resources. Developing a framework for a partnership between Crown and Maori on water management is essential for grievances to be put to bed and the nation is to move on.

The proposed NPS shifts the Crown's role in the relationship down to regional councils and subsequently TAs. The Treaty relationship is with the Crown, not local authorities.

Water is far too important a resource to be implicated in a series of claims resulting in continuation of fragmented regional management arrangements, without regard to national policies and strategies. National dialogue on Maori values and aspirations in regard to the resource is needed.

Specific comment

We have considered the Bill in the context of the aforementioned key issues.

Institutional reform

We have several concerns.

Firstly the Bill is predicated on the assumption that current regulatory tools and institutional arrangements will continue to be used to manage water in the future.

This cannot be assumed for three reasons:

- These tools and arrangements don't work when water is put under pressure. Surface water in the Waikato is projected to be fully or over allocated by 2012.

- The Royal Commission on Auckland Governance is about to report. The current Government has signaled that any recommendation for reform, if instituted, will be rolled out across the rest of the country.
- In part because the RMA doesn't contain sufficient tools to effectively manage the asset when water is put under pressure the Government has announced its intention to include tools for improved water management in its second tranche of RMA reforms.

Further, even with tinkering and piecemeal reform, the Local Government and Resource Management Acts will never produce an efficient management regime for water until centralized policy, strategic direction and line control is achieved.

Secondly the Bill provides for duplication of management with two new statutory bodies being established along with three new statutory instruments. If implemented this will both potentiate and augment current fragmented and inefficient regional management arrangements. This in turn may lead to decisions being delayed and resource being tied up before settlement of debate about organizational priority and standing.

Thirdly the Bill provides no clarity as to the standing of the Guardians of the Waikato River and the Waikato River Statutory Board along with the statutory instruments at their proposal, in relation to those granted to the proposed Environmental Protection Authority, under a revised RMA.

Infrastructure investment deficit

Statutory requirement for consultation on the part of local and regional authorities is costly. Increased requirement for consultation as is proposed under this Bill will add more cost under this head.

Water efficiency

Variation 6 of Environment Waikato's regional plan aims to introduce new ways of prioritising the use of water in the Waikato region so as to best protect local community need, as well as the region's nationally important renewable electricity sector during periods of low water flow. With the resource being under some pressure it allows for consents to be granted for abstraction based on an agreed hierarchy of prioritizations, and evidence of demand management.

We support this approach and would be concerned if was overridden by any of the statutory instruments used in the Bill, once enacted.

On the other hand the Bill does provide an opportunity to effectively tackle water management, using the *integrated river management plan* to create a water management plan for the region. This could take into account allocated resources, further plans and demand, both current and future. This in turn could

force discussion around the need for water charging and effective water allocation as opposed to the current status which is simply around water allocation.

Land use and water quality

We support the goal of clean waterways. However the language used in the Bill is vague and imprecise. Restoring and protecting the river's health is unquantifiable and as presently worded could present a threat in terms of restricting activity on the river as well as abstraction.

Further, the vision and strategy (an NPS) may vary from other national policy statements on freshwater. Effective benchmarking requires a standard approach. The current draft NPS on freshwater does not allow for such an approach, and is one reason why the NZWWA is opposed to it. Reference to "maatauranga Maaori and latest available scientific methods" in the vision and strategy provides no guarantee that a stand alone standard won't be applied to the Waikato River.

The function of an NPS should be to ensure that minimum standards are achieved. Any deviation (up or down) from any nationwide NPS should require detailed explanation including a full cost benefit assessment. Otherwise it could become a recipe for gold plating. That is not in the interests of Waikato – Tainui or the country.

The Treaty partner and co-management

While the Bill attempts to deal with a Treaty grievance the approach taken in this settlement is piecemeal. It does not fit within an overall strategy and policy covering use of freshwater. It may be used as a template for Treaty settlements over other waterways, perpetuating and worsening current fragmented and inefficient arrangements. That is not in the interests of Waikato – Tainui or the country.

Recommendation

We recommend delaying implementation of the water management aspects of this Bill until the second stage RMA review is complete. This would allow for a more streamlined approach incorporating Maori concerns over Treaty breaches in respect of water at a national rather than regional level.

