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Iwi Leaders support recommendations of Waitangi Tribunal to address Freshwater rights and interests

The Freshwater Iwi Leaders Group welcomes the recommendation of the Waitangi Tribunal that the Crown must act to recognise Māori rights in freshwater, including the proprietary and economic interests of Iwi and hapū.

The Waitangi Tribunal released their report on stage 2 of its Wai 2358 National Freshwater and Geothermal Resources inquiry today. The initial claim was filed by the New Zealand Māori Council in February 2012 and supported by a number of Māori parties including the Freshwater Iwi Leaders Group.

“Iwi have invested considerable time and resources over the past 12-years working with the Crown and stakeholders to promote the co-development of a durable and robust freshwater management framework,” says Freshwater Iwi Leaders Group chairperson, Rukumoana Schaafhausen.

“We have actively engaged in good faith with the Crown on every freshwater reform initiative the Crown has announced since 2007, with successive governments committing to progress the resolution of freshwater rights and interests. However, while we have made some progress on improving elements of freshwater management, the Crown has constantly stopped short of taking the fundamental steps needed to address Iwi and hapū rights and interests.”

In its report the Waitangi Tribunal has found that the outcomes of reform by successive governments are not Treaty compliant with essential reform options being either omitted or not followed through, including no reforms to the RMA’s participation provisions, no reforms to address resourcing and capacity (other than a training programme), no enhancement of iwi management plans, no strengthening of key parts of the National Policy Statement for Freshwater Management, no agreement in principle on an allocation to Iwi and hapū, no recognition of Māori proprietary rights and no funding for marae water supplies.

“Iwi and hapū are tired of being told by the Crown that “no one owns water” or that “everyone owns water” while we see our taonga tuku iho being mismanaged and in a highly vulnerable state throughout the motu”, Ms Schaafhausen says. “The Tribunal has confirmed what we all know to be the case; that New Zealand’s freshwater resources are under pressure, with degraded water bodies and over-allocation in many catchments and the situation is only getting worse. The Crown must act now and engage with Iwi and hapū and other parties to co-develop meaningful reforms that will both address Māori rights and interests and improve the health and wellbeing of our waterways.”

The Tribunal has commended the Crown’s previous collaborative approach with the Freshwater Iwi Leaders Group and recommended that such co-design of policy and reform options was an important innovation which should become a standard part of Government policy making from now on.

Ms Schaafhausen says, “The Freshwater Iwi Leaders Group looks forward to engaging with the Crown in relation to the findings and recommendations of the Tribunal. We are ready and committed to working collaboratively with the Crown and other parties to develop enduring solutions to both the challenges facing our taonga waterways and to the challenges facing our Iwi and hapū in terms of participation in freshwater management and decision-making as identified by the Tribunal.”

In addition to recognising and providing for Māori proprietary interests, the Tribunal has urged the Crown to act faster on the serious situation facing many taonga water bodies, and to provide more effectively for co-governance and co-management in freshwater decision-making. The Tribunal has also found that the present law in relation to fresh water does not comply with the principles of the Treaty, with inadequate provision for the tino rangatiratanga and the kaitiakitanga of iwi and hapū over their freshwater taonga and Māori interests all too often being outweighed altogether in decision-making.

Key recommendations of the Tribunal include that the Crown:

- recognises Māori proprietary rights and arranges for an allocation on a percentage basis to Iwi and hapū according to a regional, catchment-based scheme;
- provides for an allocation for Māori land development;
- considers the feasibility for royalties and investigates other forms of proprietary redress;
- establishes a national co-governance body for fresh water with 50/50 Crown – Māori representation to ensure that Treaty principles and Māori values, rights, and interests are fully incorporated in freshwater policy and management (with the details to be arranged between the Treaty partners);
- urgently reforms the current freshwater allocation regime to recognise and provide for Te Mana o te Wai;
- replaces the current first-in, first-served system of allocation phases out over-allocation;
- devises a new allocation regime in partnership with Māori, including through the national co-governance body;
- provides for freshwater resourcing measures be developed, and their effectiveness monitored, by the national co-governance body (and if the national co-governance body has not been established, for that role to be performed by the Crown in partnership with the Iwi Chairs Forum and NZ Māori Council);
- provides for water policy (including water quality standards and national bottom lines) be decided by or in conjunction with the national co-governance body (with the details to be arranged between the Treaty partners);
- urgently promulgates national stock exclusion regulations;
- considers, with the national co-governance body, the promulgation of National Environmental Standards, including a standard for ecological and cultural flows (which has been on hold for some years);
- urgently devises, with the national co-governance body, measures and standards for the absolute protection of wetlands;

- amends section 6 of the RMA to include Te Mana o te Wai as a matter of national importance that must be recognised and provided for by RMA decision makers;
- amends section 8 of the RMA to require that the duties imposed on the Crown in terms of the principles of the Treaty of Waitangi are imposed on all those persons exercising powers and functions under the RMA;
- amends the RMA's participation provisions (transfers to iwi, Joint Management Agreements, and Mana Whakahono a Rohe arrangements) to provide effectively for co-governance and co-management of freshwater taonga;
- urgently reforms the National Policy Statement for Freshwater Management to make its water quality standards compliant with the principle of active protection;
- urgently takes action to ensure that under-resourcing no longer prevents Iwi and hapū from participating effectively in RMA processes, including freshwater management and freshwater decision-making;
- provides urgent assistance, including funding and expertise, for water infrastructure and the provision of clean, safe drinking water to marae and papakāinga (which may need to be developed and implemented with or alongside a scheme for safe, clean rural water supplies that should be developed in partnership with Māori, including the national co-governance body);
- institutes monitoring of the Treaty performance of councils;
- considers retaining and expanding the Te Mana o te Wai Fund as a long-term fund for the restoration of degraded freshwater taonga; and
- makes co-design of policy with Māori a standard Government process where Māori interests are concerned.

ENDS.

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