

Kahui Wai Māori meeting minutes, 25 June 2019

Venue: Terrace Conference Centre, 114 The Terrace, Wellington

Attendees:

Kahui Wai Māori: Kingi Smiler (Chair), Annette Sykes, Hon. Dover Samuels, Prof. Jacinta Ruru, Dr James Ataria, Mahina-a-rangi Baker, Millan Ruka, Riki Ellison

Kahui Wai Māori contractors: Lyn Harrison, Maia Wikaira

Ministry for the Environment (MfE) officials: Dr Lucy Bolton, Dr Matthew Cunningham, Sam King, Taimania Clark, Will Murray

Crown lead: Tā Wira Gardiner

Apologies: Paul Morgan, Dr Tanira Kingi, Traci Houpapa

Karakia i timata

Response to the Integration Working Group (IWG) (closed session)

1. The members held a session to consider the outputs of the IWG, and to prepare their response where needed. Officials were not present for this session.

Preparation for meeting with Minister Parker (closed session)

2. The members prepared for their meeting with Minister Parker. Officials were not present for this session.

Update from officials

3. Drs Bolton and Cunningham, Ms Clark, and Messrs King and Murray arrived.

Comprehensive resource management system reform

4. Dr Bolton advised that the Cabinet paper on the scope and process for a comprehensive review of the resource management system are scheduled to be considered on 1 July.
5. The resource management reform team are keen to discuss the Minister's preferred scope for the review with Te Kāhui and/or a Kāhui sub-group after Cabinet decisions are made.

At-risk catchments

6. Dr Bolton provided a brief update on the at-risk catchments work stream. She advised that the at-risk catchments team intends to commission several research

projects to gather information on Māori values and outcomes in freshwater management planning, decision-making and implementation.

7. Dr Bolton advised that the team are happy to re-engage with the sub-group that informed the original scope and direction of the work stream, particularly concerning the projects they plan to commission, if Te Kāhui consider it appropriate.

Wai 262 – Ko Aotearoa Tēnei

8. Dr Cunningham advised the members that MfE has been informed that Minister Mahuta will make a public statement about the government's proposed approach to the Waitangi Tribunal's Wai 262 report in the near future.
9. Ms Sykes asked how this will relate to concerns raised by Māori about the Comprehensive and Progressive Agreement for Trans-Pacific Partnership in the Waitangi Tribunal's stage two Trans-Pacific Partnership Agreement inquiry. Dr Cunningham replied that he would try to find out more information.

Mandatory Māori measures of freshwater system health

10. Dr Bolton provided an update on the collaboration between officials and a Kāhui subgroup on introducing mandatory Māori measures of freshwater system health into the National Policy Statement for Freshwater Management (NPSFM). She advised that officials had recommended consulting publicly on two options, whereas the subgroup recommended that only the first option be progressed because they believed that the second lacked the necessary compulsion in its current form to be effective:
 - a. Making mahinga kai a compulsory value in the National Objectives Framework (NOF); and
 - b. Creating a new 'tangata whenua' category of values in the NOF.
11. Dr Bolton noted that, as regulatory impact analysis had not been completed for either option, consulting on both options allowed more time for the analysis to take place. It would also allow officials to collect information on what option is likely to work better, or if there are additional options that have not been considered.
12. The members and officials discussed several points, including:
 - a. The need for sufficient resourcing to ensure that there is an adequate national-level data set concerning Māori values and measures of freshwater system health;
 - b. Whether a similar level of testing was carried out for previous changes to the NPSFM, such as strengthening Te Mana o te Wai and adding the two existing compulsory values;
 - c. The Freshwater Leaders' Group's support for a compulsory mahinga kai value;
 - d. The members' desire to have a package of freshwater reform that they can stand behind; and

- e. Ensuring that a Māori lens is placed over the impact testing.
13. Mr Smiler noted that the compulsory mahinga kai value is a bottom line for Te Kāhui Wai Māori.
 14. Ms Baker noted that Te Kāhui want to provide input into the impact testing methodology.
 15. Mr Smiler asked what the impact analysis had revealed about the proposed package of rural reforms. Dr Bolton replied that she was not familiar with the detail; however, she advised that Te Kāhui will be provided with a copy of the Regulatory Impact Statement for the entire package once it is completed.
 16. The members and Tā Wira discussed how Te Kāhui could best place their advice before Minister Parker.

Water bottling proposals

17. Mr Murray introduced himself to the members. He provided some background to the current water bottling proposals, and highlighted the tension between two commitments in the current Cabinet mandate which underpin them:
 - f. No resource rentals for water in this term of Parliament; and
 - g. Introduce a royalty on exports of bottled water.
18. Minister Parker has asked for a revised Cabinet paper by 27 June. MfE have received feedback from Te Arawhiti and Crown Law, and have invited Te Arawhiti to provide a section for the advice to Minister Parker on the basis of that feedback. MfE officials are also revising the Regulatory Impact Statement for the proposals.
19. Mr Murray advised the members that officials advice to Minister Parker was that MfE does not support royalties on bottled water at this time, as this can be better dealt with through the broader Essential Freshwater programme.
20. Mr Murray mentioned two reports which MfE had commissioned on water bottling in 2018 – one by Deloitte on the extent of water bottling in Aotearoa and its economic value, and another by Isentia charting public opinion on water bottling from March 2017 – August 2018. Dr Cunningham advised that he would circulate these.
21. Ms Baker asked why Te Kāhui Wai Māori had not been involved in drafting advice to Minister Parker on water bottling. Mr Murray advised that officials provided advice to Minister Parker in 2018 before the Essential Freshwater programme (and Te Kāhui Wai Māori) began. It was parked when Essential Freshwater was launched but was recently revived by Ministers at the end of May 2019. Mr Murray also added that the proposals envision the Crown having a broader conversation with New Zealand about water bottling.
22. The members noted that the water bottling proposals represent an assumption of water ownership by the Crown. They suggested that the Cabinet paper include a

section setting out the need to address who has rights and interests, and outlining examples where Māori rights and interests have been provided for (such as commercial fisheries, forestry and radio spectrum). They noted that they can provide advice to MfE on such precedents.

23. The members asked if officials had considered the Crown's commitments before the High Court in 2012 during the Mixed Ownership Model litigation. Mr Murray confirmed that Crown Law's advice commented on this.
24. Mr Smiler asked what Te Arawhiti's position was on the water bottling proposals. Ms Clark replied that Te Arawhiti's position is the same as MfE's – they do not support the proposals. Their advice is that the Crown has substantially more work to do to address Māori rights and interests in freshwater before progressing with royalties on water bottling, which should be done as part of a programme for charging on all uses of water. Te Arawhiti has also advised against consulting on water bottling royalties at this time. One reason for this is that Māori may interpret this as the Crown assuming ownership of water.
25. Mr King noted the overlaps between the water bottling proposals and the fair allocation work stream. He advised the members that his team plan to continue the discussion with Te Kāhui Wai Māori prior to commencing public consultation on a high-level principles document in November 2019. Mr Smiler stressed that Te Kāhui wish to be involved in co-designing the material that is released for consultation.
26. Ms Sykes suggested that MfE officials work with other government agencies to develop a national register of Māori water rights and interests.
27. Mr Ruka suggested that the Crown could address Māori freshwater rights and interests quickly if there was the political will to do it.

Budget package 2019

28. Dr Bolton provided a brief overview of the provisions in the budget package relating to Māori.
29. Mr Smiler asked how much of the budget allocated to strengthening monitoring tools (\$43 million over four years) is being directed towards Overseer. Dr Bolton advised that she would ask the Ministry for Primary Industries (MPI) and report back to Te Kāhui. She also noted that she would seek further information from MPI about the budget amount concerning enabling Māori landowners and agribusinesses.

Te Kāhui Wai Māori – forward work programme

30. Mr Smiler asked officials to work with Ms Wikaira to develop a 12 month forward work programme for Te Kāhui Wai Māori.

Meeting with Minister Parker

31. The members met with Minister Parker in his office at Parliament. Some of the outcomes of the meeting were:
- h. The members endorsed the introduction of mahinga kai as a compulsory value in the NPSFM as a matter of priority; and
 - i. The members supported the proposed new planning process for freshwater to expedite plans, provided that:
 - i. Hearing panels are chaired by a retired or current Environment Court Judge, or Māori Land Court Judge with a warrant to sit as an alternate Environment Court Judge;
 - ii. Across each hearing panel, the commissioners should have the following expertise:
 1. All Commissioners must understand the principles and application of Te Mana o te Wai as the framework for managing water resources;
 2. Proven understanding of tikanga and mātauranga Māori;
 3. Experience and knowledge of local community values;
 4. Experience in judicial processes and cross-examination;
 5. Experience in freshwater planning processes;
 6. Expertise in freshwater quality, quantity and ecology;
 7. Experience in land use effects on water; and
 8. Knowledge of the RMA.

Debrief on meeting with Minister Parker (closed session)

32. The members debriefed on their meeting with Minister Parker. Officials were not present for this session.
33. Mr Smiler proposed that the next Kāhui Wai Māori meeting be held on 5-6 August 2019.

Karakia whakamutunga

Appendix A: Action points

No.	Action	Responsibility	Date
1	Provide Te Kāhui Wai Māori with more information on the government's approach to Wai 262	Dr Cunningham	
2	Provide Te Kāhui Wai Māori with the Regulatory Impact Statements that were prepared in 2014 for the two existing compulsory values in the NOF	Dr Cunningham	Done (27/6/19)
3	Recirculate Deloitte and Isentia reports on water bottling to Te Kāhui Wai Māori	Dr Cunningham	Done (27/6/19)
4	Seek clarification from MPI regarding how much of budget 2019 is being directed towards strengthening Overseer	Dr Bolton	
5	Seek further information from MPI about the budget amount concerning enabling Māori landowners and agribusinesses	Dr Bolton	
6	Develop a work programme for Te Kāhui's next 12 months	MfE officials and Ms Wikaira	