

Kahui Wai Māori meeting minutes, 6 August 2019

Venue: Terrace Conference Centre, 114 The Terrace, Wellington

Attendees:

Kāhui Wai Māori: Kingi Smiler (Chair), Hon. Dover Samuels, Mahina-a-rangi Baker, Riki Ellison, Dr Tanira Kingi, Traci Houpapa

Kahui Wai Māori contractors: Lyn Harrison, Maia Wikaira

Ministry for the Environment (MfE) officials: Adrienne Larsen, Amanda Moran, Andrew Wharton, Bryan Smith, Janice Rodenburg, Dr Matthew Cunningham, Simon King

Te Arawhiti officials: Taimania Clark

Te Puni Kōkiri (TPK) officials: Tikitu Tutua-Nathan

Ministry for Primary Industries (MPI) officials: Ms Maia Warren, Mr Soren Moller

Crown lead: Tā Wira Gardiner

Apologies: Annette Sykes, Prof. Jacinta Ruru, Dr James Ataria, Millan Ruka, Paul Morgan

Karakia

Strategic planning (closed session)

1. The members held a strategic planning session in the morning. Officials were not present for this session.

Communications and engagement update

2. Mses Rodenburg, Clark, Larsen, Mr Tutua-Nathan, and Dr Cunningham arrived.
3. Ms Rodenburg handed out a powerpoint presentation which provided an update on MfE's communications and engagement planning for consulting with Māori on the Essential Freshwater package. She advised the members that MfE are planning a mixture of broad and targeted hui:
 - a. *Broad hui:* 20 regional hui are being arranged across the country. These hui, which are the second quarterly hui being held as part of MfE's 'engagement reset' (the first having been held in May 2019), will include targeted workshops on all of the policy reforms that are being proposed at present (including freshwater, product stewardship, and the Department of Conservation's biodiversity strategy), although the focus is likely to be on freshwater. Invitees were identified from Te Kāhui Māngai and MfE's own contact lists.

- b. *Targeted workshop hui*: Hui focusing specifically on freshwater are being arranged with:
 - i. National level Māori organisations (such as the Freshwater Iwi Leaders Group (ILG) and the New Zealand Māori Council (NZMC));
 - ii. Iwi/hapū with Treaty settlement arrangements that require the Crown to engage on freshwater policy development (including Te Awa Tupua, Waikato and Waipā River iwi); and
 - iii. Māori groups with specific freshwater expertise.
- 4. Ms Rodenburg agreed to provide Te Kāhui Wai Māori with a confirmed list of hui dates once these had been finalised.
- 5. The members and Ms Rodenburg discussed the importance of getting a seasoned facilitator for the hui. MfE is hoping to employ Tā Wira to facilitate, subject to his availability. Tā Wira suggested that it may be better to have a single team conducting all hui with Māori rather than multiple teams to ensure that the messaging is consistent across all hui.
- 6. Ms Rodenburg discussed the package of material that MfE plans to release for public consultation. This will include the discussion document, the advisory groups' reports (including Te Kāhui's *Te Mana o te Wai report*), and drafts of the National Policy Statement for Freshwater Management (NPSFM) and National Environmental Standard (NES). MfE is also drafting a paper summarising the issues in the Essential Freshwater package that Māori may wish to focus on, which Ms Rodenburg offered to send to Te Kāhui in draft form for their comment.
- 7. Ms Rodenburg discussed the communications strategy, which will include social media, regional media articles, and television coverage (in particular Māori TV).
- 8. Ms Rodenburg advised that the plan for the launch was to hold a media conference with Ministers Parker, O'Connor and Mahuta, the four freshwater advisory group Chairs, and our Secretary for the Environment Vicky Robertson. This will be preceded by a media lockup, which advisory group members are welcome to attend. Minister Parker also intends to hold a function with advisory group members to thank them for their service.
- 9. Ms Rodenburg reiterated that, once the package has been released for consultation, Te Kāhui members are free to express their views about what is in the package, including through their own channels. She asked that the members keep MfE informed of their communication plans through Ms Harrison.
- 10. Ms Baker asked if the Three Waters proposals would be part of the consultation package. Ms Rodenburg replied that the Government will be seeking initial feedback on parts of the Three Waters proposals which relate to environmental outputs. Ms Baker expressed a concern about engaging on some parts of the Three Waters proposals without the others. Ms Baker and Rodenburg agreed that it is important that the discussion document is clear about what parts of Three Waters are and are not being consulted on in this package.

11. Hon. Samuels noted that the members are highly unlikely to support the package, or agree to be part of public consultation, if they do not believe that the package has integrity from a Māori perspective (in particular the way Te Mana o te Wai is represented). He stressed that Te Kāhui have compromised on some issues, and asked that the Crown be willing to do the same.
12. Ms Baker cautioned that Te Kāhui Wai Māori has concerns about several components of the current form Essential Freshwater package which relate to Māori, including Te Mana o te Wai, Farm Environment Plans, Three Waters, and compulsory Māori values. Tā Wira replied that the members had still had input into developing those policies, even if the Crown had not gone as far as Te Kāhui would have liked.
13. The members stressed that the Essential Freshwater package as currently constituted does not go far enough in addressing the twelve recommendations in their Te Mana o te Wai report. In particular, it does not commit to a process to address Māori rights and interests in freshwater. The members noted that they are unlikely to support the Essential Freshwater discussion document if it does not acknowledge this issue and commit to a process and a timeframe to address Māori rights and interests. Officials agreed to convey this to Minister Parker. The members also noted that they will raise this matter with representatives from the Green and New Zealand First Parties.
14. The officials departed.

Budget and work plan (closed session)

15. The members held a session on their future work plan and budget. Officials were not present for this session.

General matters (closed session)

16. The members held a session on general matters. Officials were not present for this session.

Session with officials

17. Tā Wira, Mses Clark, Moran and Warren, Messrs Tutua-Nathan, King, Wharton and Moller, and Dr Cunningham arrived.
18. Mr Smiler raised three points with Mr Smith:
 - a. The members consider it vital that the proposal to make mahinga kai a compulsory value in the NPSFM is embedded. They are also concerned that officials have provided incorrect information to Minister Parker on the cost of this proposal.
 - b. The members still have significant concerns with the proposals concerning Te Mana o te Wai in the NPSFM, which they do not believe go far enough to embed the concept. They also do not think there is enough expert legal

advice to support officials' argument that the current proposals will sufficiently embed Te Mana o te Wai.

- c. The members want the public discussion document to include a timetable for how this Government intends to address Māori rights and interests in freshwater.

19. Mr Smiler noted that Te Kāhui Wai Māori is unlikely to support the Essential Freshwater package if these three matters are not substantively addressed.

20. Mr Smith replied that:

- a. He suspects Ministers may end up deciding to support a compulsory mahinga kai value over the second option proposed by officials.
- b. He will advise Minister Parker of any incorrect advice.
- c. Officials maintain that the Te Mana o te Wai proposals significantly strengthen and embed the concept in the NPSFM without the stronger legal wording that Te Kāhui recommended. However, officials are committed to continuing to work with Te Kāhui during public consultation to try to resolve matters in disagreement.
- d. Minister Parker has yet to speak to his Cabinet colleagues about agreeing to a plan to address Māori rights and interests, as his attention is currently focused on getting the Essential Freshwater package through Cabinet. However, he is not backing out of his commitment to have that discussion with Cabinet.

21. Hon. Samuels expressed his concern that, unless stronger legal weighting is applied to Te Mana o te Wai in the NPSFM, regional councils will not give effect to it.

22. Ms Baker noted that Te Mana o te Wai is about more than the hierarchy of three obligations – it also includes the three key principles identified by Te Kāhui, one of which is mana whakahaere / governance. If the Government intends to use Te Mana o te Wai as a korowai for all freshwater policy, then the role of Māori in governance needs to be recognised. This applies to the Three Waters Review as well as the NPSFM.

23. Mr Smith accepted Ms Baker's comment. However, he added that Minister Parker has advised Te Kāhui Wai Māori on several occasions that he cannot address governance through the NPSFM. The question of who has responsibility to govern water is more appropriate for the comprehensive review of the resource management system.

24. Ms Wikaira noted that the Cabinet paper approving the comprehensive review of the resource management system suggests that co-governance is out of scope. Ms Baker also noted that only Māori have the capability to implement a Māori

- compulsory value in the NPSFM. She also argued that not considering governance in the NPSFM is only partially upholding Te Mana o te Wai.
25. Ms Moran (MfE Deputy Secretary Natural and Built Systems) introduced herself. She thanked Te Kāhui for expressing their concerns about the scope of the comprehensive review. She advised that officials are keen to hear any issues that Te Kāhui have with the scope of the review. She also encouraged Te Kāhui to provide their views in whatever form they wish, including directly to Minister Parker. She also offered to arrange for the Chair of the Resource Management Review Panel to meet with Te Kāhui or a sub-group.
 26. The members and officials discussed the extent that the Essential Freshwater package addresses Te Kāhui Wai Māori's more fundamental recommendations for systemic reform, such as addressing Māori rights and interests in freshwater. The members reiterated their concern that the package does not go far enough.
 27. The members and officials discussed the role that the new hearing panels would play in ensuring that regional councils follow the direction in the NPSFM concerning Te Mana o te Wai. Mr Smith also suggested that there needs to be more central oversight of regional councils' performance in the future.
 28. Mr Ellison asked whether officials have received legal advice that confirms that their proposals to embed Te Mana o te Wai (especially the use of the new 'core concept') will be stronger than how it is represented in the current NPSFM. Mr Smith reiterated the advice of MfE's legal team that the core concept was a new idea that had not been implemented in other National Policy Statements before, but that they were confident that the new NPSFM structure would better embed Te Mana o te Wai.
 29. Mr Smith confirmed that a draft NPSFM would be released as part of the Essential Freshwater package for public consultation. The members expressed some concern that Māori would consider that the draft NPSFM has been endorsed by Te Kāhui Wai Māori.
 30. Tā Wira noted that the members and officials appeared to be at an impasse regarding Te Mana o te Wai and the broader issue of addressing Māori rights and interests in freshwater. He noted that Te Kāhui had meetings scheduled with the Green Party, New Zealand First, and the Prime Minister over the following two days, and suggested that this gave them the opportunity to raise their concerns directly with them. He also noted that officials would raise these issues with Ministers.

Karakia whakamutunga

Appendix A: Action points

No.	Action	Responsibility	Date
1	Upload Ms Rodenburg's powerpoint presentation 'Consultation, Engagement and Communications update' to the portal.	Dr Cunningham	20/08/2019
2	Circulate a copy of MPI's powerpoint presentation on the Productive and Sustainable Land Use agriculture initiative	Dr Cunningham	20/08/2019
3	Send Te Kāhui Wai Māori a confirmed list of hui being arranged with Māori as part of the Essential Freshwater public consultation programme	Dr Cunningham	
4	Send Te Kāhui Wai Māori a draft paper summarising the issues in the Essential Freshwater package that Māori may wish to focus on (intended to assist public consultation).	Dr Cunningham	
5	Schedule a session with Mr Smiler to record Te Kāhui's position on the package (to be released as part of public consultation)	Ms Rodenburg	
6	Send an invitation to Te Kāhui members for Minister Parker's function with advisory group members, once a date has been locked down	Ms Rodenburg	
7	Arrange a session between the Chair of the Resource Management Review Panel and a working group of Te Kāhui Wai Māori	Ms Moran / Mr King	