



Te Wai Māori

TE WAI MĀORI TRUST'S SUBMISSION ON THE
RESOURCE MANAGEMENT (FRESHWATER AND OTHER
MATTERS) AMENDMENT BILL



Te Wai Māori Trust Submission to the Primary Production Committee on the Resource Management (Freshwater and Other Matters) Amendment Bill

Introduction

1. This document provides Te Wai Māori Trust's response to the Resource Management (Freshwater and Other Matters) Amendment Bill (the RM Amendment Bill).
2. Te Wai Māori Trust (Te Wai Māori/the Trust) works on behalf of 58 mandated iwi organisations (MIOs), who represent all iwi throughout Aotearoa. This document is not intended to usurp or detract from any responses made independently by iwi or hapū or any other pathways iwi and hapū may pursue to affirm their rights.
3. The submission covers:
 - (a) the background to Te Wai Māori;
 - (b) our position [**strongly opposed**]; and
 - (c) a statement of key matters of concern; and
 - (d) recommendations to retain existing environmental protections.
4. In providing this feedback we are not expressing support for the RM Amendment Bill or the policy intent behind it.
5. We wish to make an oral submission.

Te Wai Māori Trust

6. Te Wai Māori Trust is an independent Māori Trust established under the Māori Fisheries Act 2004 to advance Māori interests in freshwater fisheries. The Trust is a product of the Deed of Settlement under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and is an entity of the Te Ohu Kaimoana Group.
7. The purpose of Te Wai Māori Trust is to hold and manage trust funds on trust for the

beneficiaries under the Deed of Settlement, in order to advance Māori interests in freshwater fisheries¹. This includes protecting and restoring the health and wellbeing of instream habitat so that it supports abundant fish life and empowering our people to uphold their responsibilities regarding freshwater fisheries.

Our Position

8. Te Wai Māori is **strongly opposed** to the RM Amendment Bill.
9. On 23 May 2024, the RM Amendment Bill was introduced to Parliament and has now been referred to the Primary Production Select Committee. Submissions close on 30 June 2024.
10. We note that the objective of this Bill is to reduce the regulatory burden on certain sectors by making targeted amendments to the Resource Management Act 1991 (RMA) and national direction. Key aspects of the Bill that we want to submit on include amendments that:
 - (a) Exclude the hierarchy of obligations in the National Policy Statement for Freshwater Management (NPSFM) from resource consent applications and decision-making processes.
 - (b) Repeal the low slope map and associated requirements from stock exclusion regulations.
 - (c) Repeal the permitted and restricted discretionary activity regulations and associated conditions for intensive winter grazing from the National Environmental Standards for Freshwater (NESF).
11. Freshwater in this country is already severely degraded and many of our indigenous freshwater fish species are threatened with extinction. There are major risks pending from climate change and the cumulative and legacy effects from intensified land development and resource use. Māori interests in freshwater and freshwater fisheries have been directly adversely impacted as a result.
12. The NPSFM, stock exclusion regulations and NESF have involved extensive evidence, Māori

¹ The Māori Fisheries Act defines “freshwater fisheries” as including the species, habitat, surrounding land, water column, and water quality and quantity. Sports fisheries or unwanted aquatic life or activities conducted under the Freshwater Fish Farming Regulations 1983 are excluded from this definition.

and stakeholder engagement and compromise prior to their enactment. This Bill undermines the work already done at a national, regional and local level and creates a pathway to approve projects that unacceptably degrade our environment and economy and undermine the rights and interests of iwi and hapū.

13. Te Wai Māori also has fundamental concerns about the way in which the RM Amendment Bill has been developed at speed, without appropriate consultation and engagement with iwi and hapū, and with inadequate opportunity for public scrutiny.

Statement of Concern

Amendment to exclude the hierarchy of obligations in the NPSFM from resource consent applications and decision-making processes

14. Te Mana o te Wai remains a fundamental principle for iwi, hapū and the wider community. Giving effect to Te Mana o te Wai ensures that the reasonable expectation of safe and clean freshwater is prioritised over other interests and enables **sustainable** economic development. This Bill directly undermines this.
15. Water quality is in a very poor state in New Zealand and many regions are overallocated and are experiencing low and **no flow** in key rivers and streams. There are significant existing pressures on freshwater and freshwater fisheries and some indigenous fish species and populations are verging on total collapse. Low flow caused by irrigation and over-abstraction is one of the biggest problems facing rural communities and intensive farming has caused a rapid decline in water quality and elevated toxicity levels.
16. The continued degradation of the taiao has had a direct impact on the social, cultural and economic wellbeing of iwi and hapū. This includes the exercise of kaitiakitanga, the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations.
17. Following the world's largest recorded campylobacter outbreak in Havelock North in 2016, the National-led Government established a formal inquiry into what went wrong.² The NPSFM was then rewritten to strengthen the protection of source water and prioritise the

² Public Health Communication Centre Aotearoa, M Prickett, S Hales, T Chambers, M Baker and N Wilson, "Another Havelock North? Govt undoing protections for drinking water safety" 7 May 2024, page 2.

health and wellbeing of waterbodies (and freshwater ecosystems) and human health needs over commercial interests. These changes included introducing Te Mana o te Wai, the central decision-making framework in the country's national freshwater policy. Te Mana o te Wai is the national korowai (cloak) that frames and informs policy development and freshwater planning in Aotearoa New Zealand. It is a concept that encompasses the integrated and holistic health and wellbeing of waters as a continuum from the mountains to the sea.³

18. Te Mana o te Wai is about the hierarchy of obligations that prioritises:
 - (a) First, the health and wellbeing of waterbodies and freshwater ecosystems.
 - (b) Second, the health needs of people (such as drinking water).
 - (c) Third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and into the future.
19. The hierarchy of obligations was introduced in 2020 to stop further degradation of Aotearoa New Zealand's freshwater resources, start making immediate improvements so that water quality was improving within five years, and reverse past damage to bring freshwater resources, waterways and ecosystems to a healthy state within a generation.
20. The RM Amendment Bill will remove these obligations from resource consenting processes. Clause 23 of the Bill amends section 104 of the RMA, so that councils are prevented from having regard to the hierarchy of obligations, and no longer need to prioritise ecosystem health or public health when making decisions on resource use.
21. Te Wai Māori are strongly opposed to this Government's U-turn. The RM Amendment Bill will sweep away these hugely important gains in the NPSFM which were built by multiple players over many decades. It is a fundamental step backwards at a time where freshwater is in dire need of protection. The Bill should be rejected in its entirety because it undermines important freshwater protections and puts at risk already threatened ecosystems and the public health of communities.
22. The access to safe drinking water should always be a priority over commercial interests. Many rural Māori draw water directly from bores or surface water which is not treated.

³ See Kāhui Wai Māori report here: <https://environment.govt.nz/assets/Publications/Files/kahui-wai-maori-report.pdf>.

Combined with the recent Fast Track Approvals Bill that would override regional plans the potential impacts on safe drinking water sources, particularly in remote rural communities, are grim and will likely have serious implications for human health.

23. Furthermore, there is no evidence that prioritising the health and wellbeing of waterbodies and freshwater ecosystems is preventing high quality resource consent applications from being granted or increasing the cost to applicants.

Amendment sought

24. Retain the hierarchy of obligations in the NPSFM in resource consenting.

Amendment to the stock exclusion regulations

25. The Resource Management (Stock Exclusion) Regulations 2020 manage the access of cattle, pigs and deer to waterbodies and include stock exclusion requirements from waterbodies on low slope land.
26. The purpose of the regulations was to prevent heavy livestock from congregating and defecating in waterbodies contaminating water and damaging the banks and aquatic habitat of rivers and streams.
27. Livestock can carry organisms like campylobacter and other bacterial pathogens associated with severe disease in humans. When standing in water they also trample the banks and beds of waterbodies increasing streambank erosion and sediment runoff, adversely affecting habitats like those used for fish spawning. This has compromised the ability of Māori (and all New Zealanders) from safely using waterbodies as a potable water supply, for recreational and customary purposes, and to grow and harvest mahinga kai.⁴
28. The RM Amendment Bill repeals these requirements and leaves the management of stock exclusion to freshwater farm plans and or regional plan rules. This is problematic as it is clear that a voluntary farm plan regime has not worked to date. Low slope land is more likely to have large, concentrated numbers of cattle grazing in small areas, particularly on dairy farming blocks. The risk of contamination of freshwater and source water by agricultural

⁴ See Ministry for the Environment Stock exclusion regulations: <https://environment.govt.nz/acts-and-regulations/regulations/stock-exclusion-regulations/>.

runoff is particularly high here and a strong regulatory framework is needed to prevent the acceleration of water contamination by sediment, pathogens and nitrates.

Amendment sought

29. Retain the low slope map and associated requirements in the stock exclusion regulations.

Repeal of NESF intensive winter grazing regulations

30. The NESF includes regulations that allow intensive winter grazing to occur as a permitted activity, provided certain conditions are met or where a farm has a certified freshwater farm plan. Otherwise, a restricted discretionary resource consent is required to undertake intensive winter grazing. The Bill repeals these requirements.
31. Te Wai Māori are concerned by the proposal to roll back intensive winter grazing regulations. This widely criticised practice can pollute waterways with faecal and sediment run-off and result in poor animal welfare outcomes for cattle standing in mud. It also has the potential to contaminate groundwater supplies, and this was evident in the 2016 water-borne outbreak of campylobacter in Havelock North caused by livestock faeces. The outbreak left an estimated six to eight thousand people sick, 42 hospitalised, and led to four deaths.⁵
32. Intensive winter grazing no longer has social licence in many rural communities, so these changes are not in tune with current best practice management. Intensive winter grazing is not good for industry or for business. It's continued use will have irreversible adverse environmental impacts on an already stressed freshwater fishery.
33. The Bill will also disproportionately penalise farmers who have moved to work within environmental limits. The framework should enable industry to operate and expand in a sustainable way to produce high integrity products for a premium. Enabling development and protecting the environment at the same time is not only necessary, but it can also be compatible. The dismantling of existing protections will likely harm New Zealand's export market and international reputation.
34. Te Wai Māori again reiterates the importance of the role played by existing regulations to

⁵ Public Health Communication Centre Aotearoa, M Prickett, S Hales, T Chambers, M Baker and N Wilson, "Another Havelock North? Govt undoing protections for drinking water safety" 7 May 2024, page 1.

protect iwi and hapū rights and interests in freshwater and freshwater fisheries.

Amendment sought

35. Retain the permitted and restricted discretionary activity regulations and associated conditions for intensive winter grazing in the NESF.

Timeframes and process

36. Process timeframes for the RM Amendment Bill are far too short.
37. Effective consultation requires engagement that is timely, inclusive, and responsive to the needs and perspectives of those affected. The rushed nature of this legislation and the inadequate opportunities for input demonstrate a disregard for these principles and undermine the legitimacy of the process.
38. Te Wai Māori note that the lack of engagement with Māori is alarming. The Government has an obligation to Māori on freshwater rights and interests and these changes will completely undermine fundamental te ao Māori concepts which are world-leading and acted as a safeguard for all New Zealanders.

If you would like to discuss this submission please contact Vanessa Tipoki, Principal Advisor Te Wai Māori Trust – Vanessa.Tipoki@waimaori.maori.nz