



Te Wai Māori

TE WAI MĀORI TRUST SUBMISSION TO THE ENVIRONMENT
SELECT COMMITTEE ON THE RESOURCE MANAGEMENT
(CONSENTING AND OTHER SYSTEM CHANGES) AMENDMENT BILL



Te Wai Māori Trust Submission to the Environment Select Committee on the Resource Management (Consenting and Other System Changes) Amendment Bill

Introduction

1. This submission is Te Wai Māori Trust's response to the Resource Management (Consenting and Other System Changes) Amendment Bill (the Consenting Bill).
2. Te Wai Māori Trust (Te Wai Māori/the Trust) was established under the Maori Fisheries Act 2004 to advance Māori interests in freshwater fisheries. Protecting Māori interests in freshwater fisheries ultimately means protecting habitat to ensure quality water and abundant species. We are a product of the Deed of Settlement (Māori Fisheries Settlement) 1992 and an entity of Te Ohu Kai Moana Group.
3. Te Wai Māori works on behalf of 58 mandated iwi organisations (MIOs), who represent all iwi throughout Aotearoa. Te Wai Māori's submission does not usurp or detract from any submissions made independently by iwi or hapū, or any other pathway iwi and hapū may pursue to affirm their rights that may be affected by the Consenting Bill. In that regard, Te Wai Maori Trust's submission is targeted to Te Wai Māori's key concerns.
4. Our submission addresses:
 - (a) the background to Te Wai Māori Trust;
 - (b) our position in opposition to the Consenting Bill in its current form;
 - (c) a statement of key matters of concern; and
 - (d) recommendations to retain existing environmental protections.
5. In providing this feedback we are not expressing support for the Consenting Bill or the policy intent behind it.
6. We do not wish to be heard on this submission (we would prefer time is afforded to iwi and hapū groups who wish to be heard orally).

Te Wai Māori Trust

7. Te Wai Māori is an independent Māori Trust established under the Māori Fisheries Act 2004 (the Māori Fisheries Act). The purpose of Te Wai Māori is to advance Māori interests in freshwater fisheries.
8. Protecting Māori interests in freshwater fisheries ultimately means protecting habitat to ensure quality water and abundant species and empowering our people to uphold their responsibilities regarding freshwater fisheries. The long-term outcomes the Trust works toward include:
 - enhancing the health and wellbeing of indigenous fisheries and their environment;
 - increasing iwi and hapū capacity and capability in freshwater fisheries and their ability to take responsibility for the health and wellbeing of freshwater fisheries;
 - promoting and sharing indigenous fisheries expertise, knowledge and understanding; and;
 - increasing the quality and range of information to iwi and hapū on freshwater fisheries and their interests thereof.
9. Our core values are te mana o te wai, whakapapa, and kaitiakitanga. These values stem from the natural order of the Te Wai Māori worldview and they guide our mahi.
10. First and foremost, we value freshwater and all that is encompassed in its ecosystems. The inherent right for water in its own state must be respected. Each water body has its own mauri. Whakapapa recognises our interdependence which binds us as tangata of the environment; and kaitiakitanga, our obligation and responsibility to care for Papatūānuku and ngā atua.
11. Māori do not distinguish land from lakes, lagoons, rivers, wetlands, freshwater species and their associated beds. They are considered part of an undivided living whole. Ensuring the health and wellbeing of freshwater is essential for the continued health and wellbeing of freshwater fisheries. Healthy waterbodies are a direct source of mahinga kai for Māori and the use of mahinga kai is an important expression of cultural identity and values, passed down through generations.

12. Healthy freshwater fisheries depend upon the upholding of responsibilities to ensure the health and wellbeing of freshwater environments (including surrounding terrestrial and riparian habitats).

Our Position

13. Te Wai Māori **opposes** the Consenting Bill.

The Consenting Bill

14. The stated intent of the Consenting Bill is to continue the coalition Government's "commitment to reform the resource management system, to drive economic growth and to increase productivity by making it easier to get things done in New Zealand." It follows on from fast-track legislation and the first resource management amendment bill¹, which was passed into law in October 2024.²
15. Key aspects of the Consenting Bill that Te Wai Māori are concerned about are amendments to the existing regime that purport to reduce the regulatory burden on farming, the primary sector and infrastructure and energy. These include:
 - (a) Relaxing the discharge rules contained in section 70 of the RMA so that regional councils can make rules permitting discharges with significant effects on aquatic life where there are already significant adverse effects on aquatic life in receiving waters.
 - (b) Amending Part 9A of the RMA so that farm plan certification and audit services are delivered by industry organisations.
 - (c) Inserting a default 35-year duration for time-limited consents for renewable energy generation (including hydro and geothermal energy) and long-lived infrastructure.
16. We also note, as part of the "Phase Two" reforms, the Government has signalled significant amendments to at least 14 existing National Policy Statements (NPS) and National Environmental Standards (NES). These are proposed to be part of a comprehensive package of national direction changes which will also include new NPS/NES documents to be

¹ The Resource Management (Freshwater and Other Matters) Amendment Bill.

² See comments by Hon Chris Bishop in Hansard (Debates): https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20241217_20241217_28

consulted on in early 2025.

17. 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.
18. The National Policy Statement for Freshwater Management 2020 (NPS-FM), the Resource Management (Freshwater Farm Plans) Regulations, and Part 9A of the RMA involved extensive evidence, and Māori, stakeholder and community engagement over many years. This Bill (combined with the fast-track legislation and the first resource management amendment bill) undermines the work already done at a national, regional, and local level and creates a pathway to approve projects that unacceptably degrade the environment and economy and undermine the rights and interests of iwi and hapū.
19. Overall, the swathe of legislative reform introduced by this coalition Government represents a powerful constitutional shift that undermines collective interests, environmental protection and Te Tiriti o Waitangi. Te Wai Māori also has fundamental concerns about the way in which the Consenting Bill has been developed at speed, without appropriate consultation and engagement with iwi and hapū, and with inadequate opportunity for public scrutiny.

Key Concerns

Proposed amendment to relax the discharge rules contained in section 70 of the RMA so that regional councils can make rules permitting discharges with significant effects on aquatic life where there are already significant adverse effects on aquatic life in receiving waters

20. Clause 15 of the Consenting Bill will amend section 70 of the RMA (which relates to rules about discharges) to enable a regional council to include a rule in a regional plan that allows, **as a permitted activity**, certain types of discharges that may allow significant adverse effects on aquatic life. This would enable a discharge to be permitted where the discharge may contribute to significant adverse effects on aquatic life, if the consent authority:
 - a. is satisfied that there are already adverse effects of that kind in the receiving waters;
 - and

- b. the rule includes standards for the permitted activity; and
 - c. the council is satisfied that those standards will contribute to a reduction of those adverse effects over a period of time specified in the rule.
21. Giving regional councils the power to permit the discharge of contaminants to water despite significant adverse effects on aquatic life is extraordinary and unacceptable. It goes even further than the changes this coalition Government made to section 107 of the RMA in its first resource management amendment bill, which still requires a local authority to grant consent for a discharge permit to polluted receiving waters. The stated aim of aligning the previous change to section 107, through this further amendment, is misleading.
 22. Clause 15 will significantly impact on freshwater ecosystems and freshwater fisheries by undermining the requirement that councils improve water quality to meet environmental bottom lines (as set out in the National Objectives Framework). It could also render obsolete any targets and limits already set by communities and community catchment groups in regional plan processes to improve degraded waterbodies at a local level.
 23. The increased degradation of freshwater bodies puts at risk already threatened ecosystems and the public health of communities. It 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.
 24. The proposed changes to section 70 will also enable commercial and private interests to pollute waterways and water sources without appropriate limits more easily and will inevitably result in a further decline in water quality and elevated toxicity levels.
 25. We understand that this amendment is a response to the Court of Appeal decision in *Southland Regional Council v Southland Fish and Game Council & Ors* [2024] NZCA 499 in which the Court upheld the RMA concept underlying section 70 that contaminants cannot be discharged as of right where they would have significant adverse effects on aquatic life. Southland Regional Council's position is that a rule in a plan should permit certain farming discharges if covered by other rules in the plan, acknowledging that the plan is created under the NPS-FM "which is specifically about designing plans to improve water quality over

time”.³

26. However, Southland Regional Council’s position is only sound if supported by an NPS-FM that prioritises the health and well-being of water bodies and freshwater ecosystems. Amendments to the NPS-FM to date to sideline and limit the application of the NPS-FM, particularly the concept of Te Mana o te Wai, and announcements that foreshadow further dilution, demonstrate that the proposed amendment to section 70 is deeply problematic and misguided. The outcome of permitting significant adverse effects on aquatic life, in the context of an NPS-FM that does little to preserve freshwater ecosystem health, cannot be saved by a reference to rule standards contributing to a reduction in such effects over a specified period of time.
27. Te Wai Māori note that Te Mana o te Wai remains the fundamental principle for iwi, hapū and the wider community in freshwater management. 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.

Amendment sought

28. Retain section 70 of the RMA in its entirety and delete clause 15 from the Consenting Bill.

Proposed amendment to Part 9A of the RMA so that farm plan certification and audit services is delivered by industry organisations

29. The purpose of Part 9A of the RMA is to better control the adverse effects of farming on freshwater and freshwater ecosystems through the use of certified freshwater farm plans. Freshwater farm plans are a regulatory tool that require farmers to identify and manage the potential impact of farming activities on freshwater.
30. Freshwater farm plan certifiers and auditors are appointed by regional councils. A person may apply to a regional council to be a certifier or auditor, and regional councils must be satisfied that the applicant meets the criteria set out in the Resource Management (Freshwater Farm Plans) Regulations 2023.
31. Clauses 54-58 of the Consenting Bill propose to amend Part 9A of the RMA to “make farm

³ [RMA technicality could create a 'terrible waste of time and effort' for farmers - council | RNZ News.](#)

plan certification and audit services more practical and cost-effective”, by allowing industry organisations to deliver those services. Clause 57 replaces section 217KA, providing for the Minister to approve industry organisations to provide certification and audit services under Part 9A. The approved industry organisations may also appoint certifiers and auditors.

32. Te Wai Māori consider regulation to be an important tool to protect the environment while enabling communities to thrive. To be effective, regulations and regulatory processes should be strategic, transparent, proportionate, based on evidence, and updated as needed. No update is currently required.
33. Clause 57 effectively allows industry to police industry. Coupled with the changes in the first Resource Management Amendment Bill (to stock exclusion and intensive winter grazing regulations) this approach assumes that farming businesses will honestly and rigorously monitor themselves, and report on their compliance based on clear guidelines or rules. Self-regulation is clearly not working with negative agricultural impacts on land and water continuing to increase. In addition, the timeframes for rolling out freshwater farm plans has been extended, and the regulations are likely to be further watered down through the current reform work programme.
34. The Consenting Bill proposes to remove the protections afforded by suitably qualified and independent certifiers and auditors, overseen by councils. This is problematic as it is clear that a voluntary farm plan regime has not worked to date.
35. 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; an unintended consequence that is contrary to this Government’s stated aims with respect to international trade and export more generally.
36. Te Wai Māori again reiterates the importance of the role played by existing regulations to protect iwi and hapū rights and interests in freshwater and freshwater fisheries. This cannot be compromised through the proposed amendments.

Amendment sought

37. Retain Part 9A of the RMA in its entirety and delete clauses 54-58 of the Consenting Bill.

Proposed amendment to set a default 35-year duration for time-limited consents for renewable energy generation (including hydro and geothermal energy) and long-lived infrastructure, and to set a 10-year lapse date

38. Te Wai Māori do not support:

(a) Clause 42 of the Consenting Bill which proposes to introduce a default 35-year duration for time-limited consents for renewable energy generation (including hydro and geothermal energy) and long-lived infrastructure. This proposal is problematic as blanket consent durations inhibit innovation and disincentivise the adoption of best practice. The approach bypasses re consenting processes, sidelining iwi and hapū and diminishes the role of kaitiaki.⁴

(b) Clause 43 which increases the lapse period for these consents from 5 years to 10 years.

39. While Te Wai Māori acknowledges the importance of renewable energy generation and infrastructure, this proposal is not an appropriate way to support the industry. Many existing resource consents are decades old, and the existing conditions are likely to be significantly outdated and inconsistent with current industry and environmental standards.

40. The Regulatory Impact Statement⁵ on the consenting changes states that including hydro and geothermal activities in the proposal for extending the consent duration will likely have the greatest impact on Māori because long duration consents lock-in environmental effects. This is particularly important when considering tuna passage at hydroelectric power stations. Safe fish passage and the remediation of existing instream structures are now a requirement in the NPS-FM and National Environmental Standard for Freshwater.

⁴ Te Wai Māori acknowledge the ability of a consent authority to specify a shorter time period if requested by a "relevant group" (namely those who may be or is required to be involved in RMA processes by virtue of a Treaty Settlement, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019), or the Marine and Coastal Area (Takutai Moana) Act 2011. However, Te Wai Māori's concern about setting a blanket 35 year consent duration remains.

⁵ See Regulatory Impact Statement available at [RIS-Consenting-II.pdf](#)

41. Hydroelectric power development in New Zealand began in the 1880s, peaked between 1950 and 1980 with large scale development, essentially ending with the commissioning of the Clyde Power Station in 1992. The 100 or so stations currently in use constitute around 57% of the nation's installed generating capacity. While passage for salmonids was considered and occasionally installed as part of the initial development at some plants (for example Waitaki and Arnold) or even later retrofitted (at the Mararoa Weir), all current hydroelectric power stations remain potential migration blocks for tuna.⁶
42. Iwi have frequently expressed concern about the decline in tuna numbers, which is due to a combination of different factors, including fatalities at hydroelectric power stations and at flood pump stations. While more recent consents may have conditions that give some protection to tuna, including the use of trap and transfer, many more do not. This potentially will also significantly impact tuna who continue to die in their thousands when attempting to migrate downstream of dam sites to complete their life cycle.
43. The proposal risks locking in substandard consent conditions for time-limited consents and infrastructure for a blanket period removing the ability to monitor environmental effects and the ability to adapt to a changing climate. The proposal to extend the lapse period for these consents compounds the problem with the duration; it enables consent holders to wait longer to implement the consent therefore extending the life of the consent even further.

Amendment sought

44. Retain section 123(b) of the RMA in its current form and delete clauses 42 and 43 of the Consenting Bill.

⁶ Internal paper to Te Wai Māori Trust by Jacques Boubée (Vaipuhi Limited) titled 'Draft toolkit for whānau to optimise tuna Passage at HEPS dated 17 September 2024.' Final report pending.

Recommendation

45. Te Wai Māori recommend the Resource Management (Consenting and Other System Matters) Amendment Bill is abandoned. In the alternative, Te Wai Māori seek that the amendments proposed in this submission are accepted and the Bill is consequently amended through the Select Committee process.



Nāku noa, nā

Carly O'Connor

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