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Ngāti Kahungunu Iwi
INCORPORATED

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NGATI KAHUNGUNU SUBMISSION

Water Services Entity Bill

INTRODUCTION

1. **Ngāti Kahungunu Iwi Incorporated** (Ngāti Kahungunu) is the mandated Ngāti Kahungunu authority with interests in all aspects of Ngāti Kahungunu development. Ngāti Kahungunu has the third largest iwi population (85,000) in the country and approximately 38,000 registered members. The rohe of Ngāti Kahungunu extends from Paritu, north of Wairoa to Turakirae in South Wairarapa; geographically the second largest tribal rohe in the country.

The mission of Ngāti Kahungunu Iwi Incorporated is:

“To enhance the mana and well-being of Ngāti Kahungunu”.

2. The natural environment has guided shaped and characterized Ngāti Kahungunu tāngata whenua, iwi, hapū and whānau, who have always been strategically located near important waterways resources. Māori have made great use of the environment and worked in conjunction with it to develop their physical world (resources) sustainably, bringing certainty and safety to their communities and those of future generations. These practices and way of life have been eroded drastically by contemporary resource management practices and policies.
3. The iwi authority maintains an independent position to advocate for the interests and rights of Ngāti Kahungunu, underpinned by the values, beliefs and practices of whanau and hapū. Tāngata whenua hold significant cultural, social, economic and spiritual connection to the taiao. This includes a responsibility and obligation as kaitiaki of care and protection for future generations. This has led to many responses from tangata whenua concerned with adverse effects on the taiao, that have developed since the advent of western values, practices, management and science and accumulation of the adverse effects upon tangata whenua values, practices, management and mātauranga.
4. Ngāti Kahungunu invests considerable amount of time, resources and energies in drawing together and considering the views and objectives of Ngāti Kahungunu mai Paritu ki Turakirae.

Discussions have highlighted the commonality amongst tāngata whenua in terms of their values. However, despite the best efforts of tāngata whenua to work with Councils, there has been little positive change to the outcomes over the years. It also highlighted that the same frustrations and disappointments in terms of natural resource management that has inadequately and continually failed to address the long standing concerns of tāngata whenua.

5. The following objectives were the outcome of a series of hui across Ngāti Kahungunu from 2010 – 2015, and have been subsequently developed further in response to the evolving policy and impacts on our waterways:
 - i. The revitalisation of the **Mauri** of waterways.
 - ii. Repatriation of our values, practices and customs – enabling access and use of waterways and resources.
 - iii. Water quality and quantity provides for safe and reliable drinking water.
 - iv. Maintain, enhance restore water quality.
 - v. Managed for aquatic ecosystem purposes. Maintaining water flow and quantity for ecosystem health.
 - vi. Avoid adverse causes and effects of unsustainable land use.
 - vii. Manage water and land use at the sub-catchment scale and provide and resource for effective hapū input.

BACKGROUND

6. The following background provides context to the rights, responsibilities and values of Ngāti Kahungunu in relation to 3 waters and the water services bill. Also, highlighted is a glimpse as to the relevant experiences, trials and tribulation Ngāti Kahungunu has had to face to uphold the iwi's mana and te Mana o te Wai and that we have been ignored yet proven right repeatedly.

Te Tiriti o Waitangi

7. Ngāti Kahungunu mana whenua have never relinquished rights and responsibilities over our water and waterways. The Treaty of Waitangi confirmed and guaranteed our interests over these extremely important taonga. Since the Treaty of Waitangi, the Crown has wrongly and progressively acted as the owner, under the assumption of exclusive rights of control, without the free, prior and informed consent of Ngāti Kahungunu.

8. The Waitangi Tribunal found that Māori had proprietary rights and interests in freshwater and that those rights are sufficiently linked to commercial developments and companies that use water, without paying.¹
9. Ngāti Kahungunu agree with the Waitangi Tribunal's interim findings and as the mandated iwi organisation we have a constitutional duty and obligation to:
 - promote, protect and assert the mana, rangatiratanga and kaitiakitanga of ngā hapū o Ngāti Kahungunu;
 - act in the beneficial interests of all descendants of Kahungunu, particularly where the interests and rights of Ngāti Kahungunu tāngata whenua, hapū and whānau have been unfairly subjugated.
10. On September 3rd 2012 Ngāti Kahungunu lodged a contemporary statement of claim on behalf of ngā hapū o Ngāti Kahungunu.

WAI 2379: A Contemporary Treaty Claim to Freshwater and Geothermal Resources within their respective rohe on behalf of the iwi, hapū, whanau and marae of Ngāti Kahungunu.

11. In line with the Waitangi Tribunal's recommendation for meaningful discussion with iwi, Ngāti Kahungunu have and continue to invite the Crown to come and talk with us, *kanohi ki te kanohi (face to face)*, to develop mutually beneficial pathways forward *pokohiwi ki te pokohiwi (shoulder to shoulder)* in terms of resource management.
12. The Water Service Entity Bill (Bill) allows for a user pays system across the country to supply drinking water and arguably expropriates the rights of Kahungunu who maintain rangatiratanga in our rohe. This includes potential for private entities that are not treaty partners to manage water supply with no onus to recognise tangata whenua indigenous and Te Tiriti o Waitangi rights.

Taonga

13. Water is a taonga to tāngata whenua. The relationship between tāngata whenua and the water is supposed to be protected in resource management legislation. Management by regional councils is directed by the National Policy Statement for Freshwater Management (NPS-FM), which acknowledges the importance of the Treaty Partnership in freshwater management and the national significance of water through 'Te Mana o te Wai'. Despite this, management of water, waterways, rivers, aquifers, lakes, wetlands and coastal waters in general is seldom undertaken in a way that is consistent with Te Ao Māori view, tikanga or kawa.

¹ Wai 2359, *Waitangi Tribunal Interim Report on Freshwater*

Havelock North Gastro Outbreak – Brookvale Bores and Mangateretere Stream

14. The catalyst for the Water Services Bill is the gastro outbreak in Havelock North. This was in the back yard of Ngāti Kahungunu. This outbreak occurred despite the iwi doing all it could do to prevent this catastrophe through spending considerable time, resources, energies and advocating for better resource management and application of our mātauranga.
15. In 2008, Ngāti Kahungunu challenged the consent application of Hastings District Council (HDC) to place the domestic community drinking water bores at the Havelock North location. Due to the location being on the old river bed of the Tukituki and its connection and the adverse impacts on the nearby Mangateretere stream - HBRC reports that an estimated 85% of that streams natural flow is lost due to nearby groundwater takes². Facing the probability of being unsuccessful the iwi accepted a compromise through a formal “Side Agreement” where HDC agreed to move away from Brookvale and relocate the bore elsewhere in 10 years’ time, in 2018.
16. In 2016, was the largest gastro outbreak in country’s history; an embarrassment and blight on the mana of Ngāti Kahungunu and was totally avoidable but, not due to the lack of efforts of Ngāti Kahungunu.
17. Had the submissions and mātauranga of Ngāti Kahungunu been given due respect the gastro outbreak could have been avoided. Had the timelines for relocation of the Brookvale bores been shorter the gastro outbreak would have been avoided.

Ngāti Kahungunu vs Hawkes Bay Regional Council Decision [2015] NZEnvC 50. ENV-2013-WLG-000050

18. In 2014, prior to the outbreak Ngāti Kahungunu Iwi Incorporated challenged Hawke’s Bay Regional Councils (HBRC) proposed changes to the Regional Policy Statement (Plan change 5). HBRC proposed to remove policy that protected the Heretaunga Aquifer, with an ambition to allow for degradation treat contaminated water and enhance water quality elsewhere³. Prior to council’s management, the Heretaunga Aquifer has provided people, hapū, marae and communities with clear pristine untreated drinking water for over a 1000 years.
19. Hawkes Bay District Health Board was an interested party in this court case and has built a close working relationship and collaborated with the iwi in regards to policy and strategy over the years, due to alignment of values and basic human rights.

² Page 33, HBRC 2018, HBRC report 5018, Heretaunga Aquifer Model Scenarios Report.

³ MfE, Implementation of NPS FM guidance.

20. In 2015, the Environment court ruled in favour of Ngāti Kahungunu Iwi Incorporated. Including, retaining the policy of “No degradation to the Heretaunga and Ruataniwha Aquifer Plains System”. This ruling also set national case law on the interpretation of water quality policy within the National Policy Statement for Freshwater Management 2011 and 2014. Ministry for Environment and Hawke’s Bay Regional Council promoted the rationale of managing water quality through averages (‘under’s and overs’), that is, allowing one water body to degrade if another was improved. Ngāti Kahungunu and many others disagreed. The Environment Court viewed the Councils rationale as “fundamentally flawed”. The Heretaunga Aquifer is the largest aquifer in Hawke’s Bay servicing the drinking water needs of two major cities, how would another equivalent body of water be enhanced to fulfil the proposed balancing averaging scenario suggested by the proposed policy?
21. Despite this Court decision and aside from retention of policy, in practice nothing much has changed, in fact the officer’s report to Council suggested that “...it would be a tough ask for the iwi to get this policy approach during catchment development with stakeholders”. The iwi also experienced continual challenges, debates and minimization from Hawke’s Bay Regional Council regarding the exact same argument after the Environment Court decision was in favour with our argument. This occurred over subsequent years of relevant plan development and council led “stakeholder engagement” for TANK waterways, including from the ‘independent’ facilitator employed by regional council.
22. Amazingly, the RMA reforms reportedly look to change the act; as an attempt to reinstate the illogical water quality averaging approach Ministry for Environment promoted. This will also undermine the Environment Court decision, water quality case law and the position and matauranga of Ngāti Kahungunu. More importantly this resource management approach will enable further gastro outbreaks and “more” communities⁴
23. Councils approach was to essentially treat any contaminated water and viewed it no longer necessary to “avoid” or protect source water bodies from contamination. The Environment Court ruled this approach as being “illogical”.
24. Had the Environment Court submissions and mātauranga of Ngāti Kahungunu been given due respect the gastro outbreak could have been avoided.

⁴ In additiona to Bridge Pa and Ongaonga who currently run out of water due to over allocation and irrigation water takes. NB: allocation is on paper, issues occur based on actual use that can be less than allocated volumes.

25. Had the submissions and mātauranga of Ngāti Kahungunu in regards to the Tukituki Catchment Plan Proposal and the Heretaunga-Ahuriri (TANK) Catchment Plan proposals been given due respect, weak water quality polices, poor policies and natural resource management that contributed to the gastro outbreak could have been avoided.
26. Amazingly, many of the same poor polices and management practices continue to exist and exacerbated through local and national policy both operative and proposed.
27. This submissions exists as another example for the record of the efforts of Ngāti Kahungunu to warn of future gastro breaks and the loss of water (quantity) to our communities that could be avoided but not addressed in the 3 water reforms and made worse in the RMA reforms.

Hastings District Plan

28. Ngāti Kahungunu also opposed the Hastings District Council proposed plan as it proposed to remove a whole chapter on the significance of the Heretaunga aquifer and relevant policy in the proposed Hastings district plan. This proposed changed seemed to align with the HBRC proposed plan change. However, this took place after environment court decision and as a result an amicable resolution was reached with Hastings District Council where policies related to the Heretaunga Aquifer were retained.

Bridge Pa and Ongaonga

29. The Hawkes Bay and Ngāti Kahungunu communities of Bridge Pa and Ongaonga private drinking water supplies ran out of water due to the over abstraction and increases in groundwater takes in the relevant groundwater catchments predominantly due to irrigation. Despite the best efforts of Ngāti Kahungunu and the local District Health Board including successfully challenging proposed policy for the Tukituki (Ongaonga) catchment to include the word 'quantity'⁵, the community of Ongaonga still lost their drinking water. The rationale given is due to a Hawkes Bay Regional Plan rule that prioritizes commercial water takes in this case irrigation over human drinking water needs.

WATER SERVICES ENTITIES BILL

30. Ngāti Kahungunu reserves the right to speak for its own affairs and is opposed to submissions from Councils that claim to speak for our interests unless authorized. This includes but is not limited to Council engagement through Māori standing or advisory committees. Specifically, we

⁵ "OBJ TT1, To sustainably manage the use and development of land, the discharge of contaminants including nutrients, and the taking, using, damming, or diverting of fresh water in the Tukituki River catchment so that: (ba) water quality and quantity enables safe and reliable human drinking water supplies";

do not support the “Cultural case” made for tangata whenua of Hawke’s Bay by local councils that has had no direct engagement with Ngāti Kahungunu Iwi Inc. nor to our knowledge any tribal authority in our rohe. Ironically, it actually highlights poor engagement in an effort to highlight good engagement.

Te Tiriti o Waitangi – Clause 4

31. The Bill should be compliant with Te Tiriti o Waitangi. Ngāti Kahungunu rangatira signed Te Tiriti o Waitangi not ‘the principles of’. **RECOMMENDATION:** remove reference to the ‘principles of’ and require giving effect to Te Tiriti o Waitangi.

Improvements, Prevention and Transformational

32. The Bill is underwhelming in terms of offering improvements and transformational reforms. Importantly there is no clear indication or confidence that previous practices and structures will be any different in terms of outcomes; in other words status quo and business as usual may prevail.
33. Water services, drinking water, storm water and wastewater have suffered poor outcomes through lack of investment, poor planning, low priority and disregard for tangata whenua tikanga and mātauranga. Better outcomes require transformational change. Greater regard for Te Mana o Te Wai; that is mana, health and well-being of water and ecosystem health as a first priority and human health as a second priority, provides a pathway to better outcomes. A balancing approach is a common misnomer that prioritizes nothing and offers more poor outcomes.

Te Mana o te Wai - Scope

34. Te Mana o te Wai is a tangata whenua term and concept that most New Zealanders can identify with. Te Mana o te Wai recognises the inherent mana, authority, reverence and mauri waterways have or ‘should’ have. Support of this concept, protection and restoration is growing amongst the national populace.
35. If water management within the Ngāti Kahungunu rohe is to be more inclusive of Māori values and interests, an appropriate and inclusive planning mechanism needs to be put in place to deliver outcomes that reflect the status and philosophy of existing tangata whenua rights. Of primacy to this philosophy is the promotion of waimāori (naturally clean water) rather than disinfection of water. As kaitiaki it is our responsibility to ensure water is clean with mauri intact, rather than trying to clean and disinfect contaminated water.
36. The implementation of current regulatory framework doesn’t recognise Te Mana o te Wai nor the preservation of Mauri, Mahinga Kai and rights of tangata whenua in general. These outcomes,

Māori values, te Mana o te Wai etc. can be beneficial to the whole community. Ngāti Kahungunu experiences, hearings submissions and Environment Court outcomes are testament to this and should be promoted and embraced by the Crown and Government departments; used as a basis for transformation and education, not as impediment to undermine through resource management reforms.

37. The hierarchy of water management is provided within the NPS FM 2020 and Te Mana o te wai. Clearer direction and guidance is needed to provide and recognize for Te Mana o te Wai in an appropriate way and there must be a more positive obligation to the entities in delivering services to communities without the current **without** condition i.e. give effects to “Te Mana o te Wai” to the extent that it applies to the duties ...”. Te Mana o te Wai must be strengthened to apply to all persons performing or exercising duties, functions or power under the Bill at all times.
38. The burden of up holding the mana of the terminology, ironically the “mana” of Te Mana o Te Wai should not rest on tangata whenua not should be dismissed and ignored to the extent it currently is. Alternatively, this term and concept should be removed from policy if recognition is not meaningful and it is being referred to in a tokenistic manner. Te Mana o te Wai as an indigenous term should not be bastardised; tangata whenua are best placed to understand Te Mana o Te Wai and ensure its due recognition in natural resource management.
39. The Bill as it stands refers to NPS FM 2020, meaning of Te Mana o Te Wai, that meaning is insufficient for 3 waters purposes as it only considers “freshwater” and omits appropriate consideration to coastal waters and any waters and waterways that may be applicable in the context of 3 waters management. For example, wastewater or storm water discharges into the coastal marine area.
40. At a practical level, Ngāti Kahungunu are also of the view that the proposed amendments to the definition of Te Mana o te Wai will also provide a bridge and connection to resource planning and consenting on water take and discharge – helping underpin consistency in the overall system and which will guide behaviours to a common sense of purpose.
41. Ngāti Kahungunu supports a more integrated whole-of-system approach to wai, from mountains (maunga) to the sea (moana), or ‘ki uta, ki tai’. This all-of-system approach also recognises the fundamentals of tikanga, mātauranga and kaitiakitanga Māori, which provide a unique, inclusive and transformative approach to the management of water and water-related infrastructure in Aotearoa for the benefit of all New Zealanders.

42. **RECOMMENDATIONS:**

- a. For Water Services Entity Bill reference to Te Mana o Te Wai, to widen the scope to apply to waters and waterways that are not freshwater e.g. coastal waters.
- b. Te Mana o te Wai must be strengthened to apply to all persons performing or exercising duties, functions or power under the Bill at all times.
- c. Water Services Entities must goals must align within a wider framework of recognizing and giving effect to Te Mana o te Wai and the established hierarchy.
- d. Te Mana o Te Wai being given effect to by the Minister in developing the Government Policy Statement;
- e. Te Mana o Te Wai being given effect to by the Regional Representative Group in the development of the Statement of Strategic and Performance Expectations and Statement of Intent;
- f. Te Mana o Te Wai being given effect to in asset management plans; and
- g. Te Mana o Te Wai being given effect to in infrastructure strategies.

Existing Mana Whenua Arrangements

43. There currently exists a significant number of varying arrangements mana whenua have with local Councils regarding existing service provision of 3 waters: Storm water, waste water and drinking water: Committees, Joint committees, boards, advisory groups, working parties, monitoring arrangements, cultural surveys, impact assessments, operations, management and review groups, water wardens, advice and much more. Ngāti Kahungunu examples include but limited to: the Hastings and Napier Tangata Whenua Wastewater Committees and the Māori Wastewater Working Committee and Body Representing Māori Interests of Wairoa.
44. There are formal arrangements through treaty settlements, joint management agreements, Mana whakahono agreements, consent negotiated constructs as well as other formal or informal arrangements. **All existing Mana whenua arrangements in regards to 3 water must continue.** Consideration should be given to formalize informal arrangements if mana whenua wish to do so. Informal arrangements and relationships should not automatically be given less regard; particularly we're they have developed into a meaningful relationship naturally as opposed to being forced through a formal direction e.g. hearings or court decision.

45. Also, recognized and protected customary fishing rights and arrangements should be given effects and protected, and engaged by the Water Services Entities, particularly where those services could potentially threaten the customary fishing rights and interests of Ngāti Kahungunu. An example of this is the repeated discharge of Hastings industrial storm water into the Ruahapia Stream, that has directly caused the death of hundreds of eels on multiple occasions in recent years. Hawkes Bay Today headline read '*Endangered long-fin tuna (eels) found dead in Ruahapia Streams*'⁶.
46. Ministry of Fisheries, Te Ohu Kaimoana and Department of Conservation should also be engaged in these matters.

Shares in Water Services Entities (clause 16)

47. Ngāti Kahungunu supports the direction that three waters assets must remain in public ownership and the ownership model must help protect against privatisation. These are legacy assets that must remain publicly owned for the benefit of both current and future generations.
48. Ngāti Kahungunu also supports the express prohibition on local authorities providing financial support (such as guarantees or indemnities) or lending money or providing credit or capital to water services entities. This will help ensure the ownership model is not seen by the credit rating agencies as a form of parent-company support. However, it is not intended to restrict what is likely to become business as usual arrangements such as service agreements or potential joint ventures.
49. Alternatively, Ngāti Kahungunu is a natural partner if there are opportunities to ensure the assets remain in New Zealand ownership and potential joint venture opportunities arise.
50. Ngāti Kahungunu acknowledges the multi-level requirements that a proposal for a WSE to divest its ownership in a water service or sell or lose control of significant infrastructure. Another layer of protection could include a potential offer to iwi/Māori through a right of first refusal mechanism. Again, the intent is that this will ensure public ownership of water services in retained within New Zealand.

Mana whenua representation (clause 27)

51. Governance across any new system will be critical. It is accepted that there will be a two-tier governance structure comprising:

⁶ <https://www.nzherald.co.nz/hawkes-bay-today/news/endangered-long-fin-tuna-eels-found-dead-in-ruahapia-stream/D6O4QESUQ27AX4JUMSIFICNHOE/#:~:text=More%20than%20100%20dead%20eels,stream%20had%20caused%20the%20deaths.>

- A regional representative group (which is set up to appoint the board, set performance expectations, sign-off on the entity's strategic direction, and to monitor and hold the board to account), and
 - A corporate skills-based board (which will develop the strategy, appoints the chief executive, monitors execution of strategy by the senior management, and is answerable to the regional representative group).
52. Ngāti Kahungunu supports the mandatory involvement of mana whenua representation (in particular iwi and hapū) who were previously excluded from decision making, is critical to the success of the water services entities and implementation of its related strategies moving forward.
53. In respect to each of the Entity boundaries, the following principles can be applied in relation to the governance of any new system:
- (a) The Regional Representative Group does not usurp the mana of Ngāti Kahungunu in their respective rohe.
 - (b) Membership of any Regional Representative Group must reflect movement towards Te Tiriti o Waitangi implementation and must be 50% Iwi and 50% Territorial Authority appointees as an absolute minimum:
 - (i) Iwi appointments must be determined by Iwi/hapū within the boundary of the respective entities.
 - (ii) Iwi appointees must be accountable to iwi and hapū
 - (iii) Co-chair to be appointed by each partner.
 - (c) Regional Representative Group can co-opt skill-based technical support where required (i.e. pūkenga, governance, science and mātauranga, legal, policy, etc).
 - (d) Resourcing for operation of Regional Representative Group must be provided by the Crown (initially) then the respective water services entity (long term) and include dedicated secretariat (e.g. comprised of senior officials and iwi/hapū technicians).
53. Consistent with the objective of working together with the common goal of improved water services, it is pleasing to see that consensus decision-making is a key principle for the Regional Representative Group.
54. At a specific regional level, the following principles can be applied in relation to the governance of any new system:
- (a) Mana motuhake o ia iwi, o ia iwi, i tā rātou rohe.
 - (b) Membership of Regional Advisory Panels give effect to moving towards Treaty of Waitangi implementation and must be 50% Iwi appointees and 50% Territorial Authority appointees:
 - (i) Iwi appointments made by iwi and hapū and territorial authority appointments made by Local Authorities respectively.
 - (ii) Iwi appointees accountable to iwi and hapū and territorial appointees accountable to Local Authorities.

- (iii) Co-chairs appointed by each partner.
 - (c) Composition (i.e. number of members) of Regional Advisory Panels should be designed to reflect Treaty of Waitangi settlement arrangements [where they exist], iwi and hapū rohe and Local Authority boundaries and to maintain operational effectiveness of governance arrangement (i.e. fit for purpose membership composition).⁷
 - (d) Roles of Regional Advisory Panels to guide direction and development of wider planning frameworks including those intended to be developed through the Spatial Planning Act and National Built Environment Act including the co-design of:
 - (i) Regional Spatial Strategies.
 - (ii) National Built Environment Plans.
 - (e) Resourcing for Regional Advisory Panels provided by Local Crown and include secretariat (e.g. local authority and iwi/hapū technicians, co-opted skill-based technical appointments – tikanga Māori, science and mātauranga, planning and policy, legal etc).
 - (f) Scope of role for regional roles and functions will assist to guide the principles (i.e. specific water infrastructure issues / arrangements at catchment level).
55. Ngāti Kahungunu notes that the representative process is to be reflected through a constitution (which is yet to be developed). However, to provide better certainty for iwi in decision making, the inclusion of the representation and process should be included in the legislation as mandatory requirements.

Board Appointment Committee (s38)

56. Ngāti Kahungunu supports the involvement of mana whenua representation through the Regional Representative Group to appoint board appointment committee's.

Membership of board (clause 57)

57. The Regional Representative Group is responsible for developing the strategic priorities for the water services entities, and as such, should ensure the board of the water services entities collectively have knowledge of, and experience and expertise in relation to:
- performance monitoring and governance;
 - network infrastructure industries;
 - Te Tiriti o Waitangi/the Treaty of Waitangi; and
 - perspectives of mana whenua, mātauranga, tikanga, and te ao Māori.
58. Ngāti Kahungunu believe that current and past problems in relation to water services, which have adversely affected the environment and human health in several regions, could have

⁷ Noting the 50% Local Authority and Crown composition may shift depending on the role of the Regional Governance Arrangement.

been avoided by making better use of the knowledge, skills and mātauranga available within communities.

59. While there is an obligation of ensuring board members possess these skills, Ngāti Kahungunu would advocate that there are skilled and competent iwi/Maori expertise within the communities to be able to fill these roles.
60. Therefore, in the spirit of true co-governance, Ngāti Kahungunu would advocate that the boards of the water services entities should also include 50/50 membership of iwi/Maori representation on the water services entities boards.

Development of the Constitution (sub-part 7, clause 91)

61. The Constitution for the water services entities is going to be a critical tool which will set out the processes for the Regional Representative Groups, the regional advisory panels, funding arrangement, composition of the water services entity boards and related governance processes.
62. As a result, Ngāti Kahungunu expects iwi/hapū be involved in the development and drafting of the Constitution.
63. Ngāti Kahungunu would welcome discussions with officials to work together to design the process of how the Constitution is intended to be developed and the commitment of iwi/Maori involvement.

Te Mana o te Wai statements (clause 141)

64. Ngāti Kahungunu acknowledges that wai, or water, is a taonga of paramount importance to iwi and hapū and is essential to life and identity. Every iwi will have a whakataukī or pepehā which references an expanse of water, whether it is a river, a lake or a harbour. For many iwi, a body of water is their most important self-identifying feature.
65. Therefore, Ngāti Kahungunu supports the development of Te Mana o te Wai Statements to allow iwi and hapū to reflect their relationship with their wai and ensures Ngāti Kahungunu are well positioned to:
 - (a) take advantage of the proposed Te Mana o te Wai statement mechanism;
 - (b) ensure that any plans are informed by Te Mana o te Wai statements; and
 - (c) ensure on-going compliance of giving effect to Te Mana o te Wai in all activities and operations
66. As such, Ngāti Kahungunu supports the requirement of the board of water services entity to receive te mana o te wai statements, engage with the mana whenua, as well as providing a plan that sets out how the water services entity intends to give effect to Te Mana o te Wai.
67. Therefore, Ngāti Kahungunu expects that the water services entity can draw on Te Mana o te Wai statements in a number of ways to assist with local water services delivery arrangements, including:

- development of Te Mana o te Wai statements for water services as identified by relevant mana whenua (which statements may relate to an individual iwi/hapū or catchment, or may be multi-iwi/hapū or multi-catchment);
 - regional advisory panels providing direct input into regional strategic priorities by reference to relevant Te Mana o te Wai statements; and
 - Regional Representative Groups, setting the strategic direction for WSEs (including recognising and providing for Te Mana o te Wai as a core principle that will guide service delivery).
68. In addition to the overarching commitment to recognise and provide for Te Mana o te Wai statements, Ngāti Kahungunu acknowledge that there are a number of water bodies in our rohe or takiwā which are in the service area of an entity. Therefore, the relationship between Ngāti Kahungunu and the water services entities will be critical to ensure our wai are being protected.
69. Ngāti Kahungunu would recommend that this work is undertaken during the transition phase and not wait until after the water services entity is established.
70. Ngāti Kahungunu supports that appropriate resource and funding is provided by the Crown (and water services entities) to develop Te Mana o te Wai statements and to engage with the water services entities on their response to the statement.

SUBMISSIONS ON MATTERS THAT ARE NOT INCLUDED IN THE BILL

Relationship with Resource Management Reforms

71. Improving how we plan for future growth and development within agreed environmental limits is a fundamental plank of the Resource Management Reforms but it is also a key consideration for the future operation and development of the water services entities.
72. Ngāti Kahungunu support the inclusion of Te Oranga o Te Taiao as an overarching environmental ethic for the new Resource Management reforms. Te Oranga o Te Taiao is consistent with Te Mana o Te Wai and Ngā Mātāpono o Te Wai, it is simply a more global articulation of the environmental cultural imperatives capable of application across the entire environmental space, rather than developed specifically for the freshwater estate, as Te Mana o Te Wai initially was.
73. Ngāti Kahungunu support:
- (a) the natural extension of Te Mana o Te Wai to all forms of water, as this is consistent with the mātauranga Maori base from which it is derived (and was only presented as specific to freshwater because, at that time, that was the sole focus of the Crown reform agenda) and
 - (b) the inclusion of Te Oranga o Te Taiao into wider Resource Management reforms including the Natural and Built Environments Act, the Spatial Planning Act and the climate change response legislation being developed.

74. Ngāti Kahungunu understands that the proposed Spatial Planning Act (SPA), which will require the development of long-term regional spatial strategies, will be of key importance for the new water services entities. These strategies will identify the areas that will be suitable for development, need to be protected or improved, need new infrastructure and are vulnerable to climate change effects and natural hazards.
75. The development of natural and built environment plans under the proposed Natural and Built Environments Act (NBA), which will likely also need to give effect to Te Mana o te Wai (under the NPS-FM 2020), will also be important to decision-making within regions.
76. Ngāti Kahungunu believe that attention should be given to streamlining and aligning these arrangements. Ideally the regionalisation and co-governance arrangements should conform with each other, and any differences should be kept to a minimum and only exist for very good reasons.
77. Ngāti Kahungunu must also be engaged at an early stage in any spatial planning process that is employed to develop Regional Spatial Strategies.

Water Quality, Water Quantity and Source Protection

78. Three Water services has a narrow focus on providing water that does not make people sick by treating the water rather than ensuring high quality water that promotes health by protecting it from contamination in the first place.
79. As has been described above in part Ngati Kahungunu has gone to great lengths to protect our waters including drinking water. Our view is that is extremely illogical not include protection over our waterways and aquifer as the source of our drinking water and the treatment and abeyance of storm water before it enters our waterways.
80. The Resource Management Act in particular has scant regard for the integrity and quality of our groundwater's and aquifers from which Kahungunu predominantly rely on for drinking water.
81. It is a fundamentally flawed approach to only treat or have provisions for drinking water at the end of the tap. This management approach shifts the burden and cost from polluters and land users to the general public and consumer. It is yet another example of private public subsidies and transference of responsibility. That supports exploiters of a supposedly held in common natural resource asset that is water, to continue accumulating wealth while the general public including those with less means are expected to offset the cost of that exploitation or worse accept the adverse health effects from contamination such as E.coli, and elevated nitrate nitrogen that could lead to cancer and other ailments.
82. If human health is to be taken serious and if another drinking water catastrophe is to be avoided in the very place that is the catalyst for these reforms then water quality and quantity at source needs to be included in management regime that over arches regions.

Other related reform processes

83. In addition to the Resource Management Reforms there are currently a range of interconnected reform processes underway (including the Economic Regulation, the Drinking Water regulations that will be or have been introduced as a part of the Three Waters reform package).
84. These strands of reform are connected and there needs to be cohesion including the interaction with the Resource Management Reforms. In our view, the development of the various strands of reform is currently siloed. The Department of Internal Affairs together with the Ministry for the Environment must show leadership and ensure that the dots are joining up across the various parts of the reform packages.

Transitional arrangements

85. Transition arrangements are currently unclear on how they are to work together in partnership with iwi / Māori.
86. Specifically in relation to the Local Transition Teams, the design and implementation of Te Mana o te Wai being embedded within the water services entities, the development of te mana o te wai statements, workforce development and future planning. It will be important to ensure that the involvement of Ngāti Kahungunu is involved in the development of any new system (given that many of those arrangements must be developed with iwi).

Conclusion

87. The water services entities must be transformational that would see better environmental outcomes, economic growth and job creation, housing and urban development, climate change, resilience to natural hazards, and the rights and interests of iwi and Māori recognised. Additionally, it requires transformational change in the way infrastructure is currently managed and operated and must consider outcomes that will benefit Ngāti Kahungunu and our wider communities.
88. Ngāti Kahungunu continues to be concerned at the lack of priority shown by successive Governments on the issue of recognising iwi rights and interests in water (and other taonga).
89. Treaty of Waitangi settlements must be upheld and carefully tested through the establishment of the water services entities.
 - (a) It is critical that redress provided under Treaty of Waitangi Settlements are maintained and upheld.
 - (b) Negotiated agreements under the RMA that relate to Water Infrastructure (e.g. JMAs and Mana Whakahono ā Rohe) must also be upheld.
 - (c) Iwi and hapū rights must be provided for, substantively and procedurally. These must 'follow the Treaty' in the sense that they must be anchored at place, where the customary authority derives from the land.
 - (d) Te Mana o Te Wai and Ngā Mātāpono o te Wai are the appropriate environmental safeguards for water in Aotearoa/New Zealand, and as such should be championed, elevated and socialised to ensure they are manifest in practice.

- (e) Te Oranga o Te Taiao is a concept supported as the overarching environmental ethic for wider Resource Management reforms, and there is complete conceptual consistency between Te Mana o Te Wai and Te Oranga o Te Taiao.

Ngāti Kahungunu Iwi Incorporated wish to speak to our submission. For any additional information on this submission, please contact Ngaio Tiuka, Pouarataki – Te Taiao me ona Rawa (Director of Environment and Natural Resources), ngaio@kahungunu.iwi.nz.

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