

River & freshwater management proposal for Te Tau Ihu

Background

On 11 February 2009 the Crown signed Letters of Agreement (Agreements in Principle) with three groups of iwi mandated to negotiate historical treaty claims in Te Tau Ihu and the lower North Island. Included in all three agreements in principle were commitments to explore redress relating to the management of rivers & freshwater.

The Crown requires any redress to be consistent with the purpose and principles of existing statutory frameworks and seeks local authority agreement to any such redress.

Initial discussions regarding river management redress were held between iwi and the Crown, mindful of the findings of the independent Waikato River Review Panel. A proposal has been developed which is of a much smaller scale than the Waikato River model, but which is considered to provide a framework that enhances the involvement of iwi in the management of rivers and freshwater in the region.

Settlement date

The Crown intends to sign Deeds of Settlement with Te Tau Ihu iwi in March 2010. In order to achieve this deadline, the Crown seeks agreement from the three unitary authorities in the region as soon as possible next year. Following the signing of the Deeds of Settlement, the Crown will introduce settlement legislation to give effect to the settlement.

Terms of Reference/Key objectives

The proposed river and freshwater management model provides a vehicle to enhance iwi participation in the sustainable management of rivers and freshwater in the Te Tau Ihu region. The key objectives of the proposed river and freshwater management model are listed below.

Health & wellbeing

The purpose of the proposed model is to enhance iwi participation in resource management planning decisions, with the aim of promoting the health and wellbeing of rivers and freshwater in the Te Tau Ihu region.

Meaningful input for iwi

The proposed model provides iwi with a meaningful and certain opportunity for this participation through the delivery of advice to local authorities at various stages of the planning process.

Single-function focus

The proposed model is focused on the preparation/review stages of plan and policy development under the Resource Management Act, with participation by the proposed body at three particular stages (see Diagram 1):

1. Prior to making decisions on the review of plans and policy statements under Section 79 of the Resource Management Act
2. Prior to the preparation of plans and policy statements under Schedule 1(2) of the Resource Management Act.
3. Prior to the notification of plans and policy statements under Schedule 1(5) and with reference to Section 32 of the Resource Management Act

Single-forum engagement

The proposed model focuses iwi participation with regards to river and freshwater management in a single forum, which:

1. Consists of one member from each iwi (8 members in total)
2. Operates on the basis of consensus decision making
3. Sets its own meeting procedures in accordance with consensus decision-making

Advisory role

The proposed body will provide advice to local authorities. Local authorities will be required to have regard to that advice in the review, preparation or notification of plans and policy statements.

The way in which this process is triggered, and the form that this process takes, will be determined by the advisory committee and the various councils post-settlement.

In the interests of maximising effective relationships between the advisory body and councils, it is expected that iwi would appoint to the committee members with proficiency in river and freshwater management and RMA processes.

Minimising costs for Local Government

It is proposed that representatives on the body will be appointed and funded by the post-settlement government entities for each iwi. It is also proposed that the functions of the body will be funded by these post-settlement government entities.

In addition to the body being able to contract its own specialist advice, we propose that the body may request advice from local authorities with regards to the statutory processes of review, preparation and notification of plans and policy statements.

Clauses 1.1.6 to 1.1.8 propose a limited role for councils in the provision of this advice, and we have attempted to constrain the extent and frequency of this involvement.

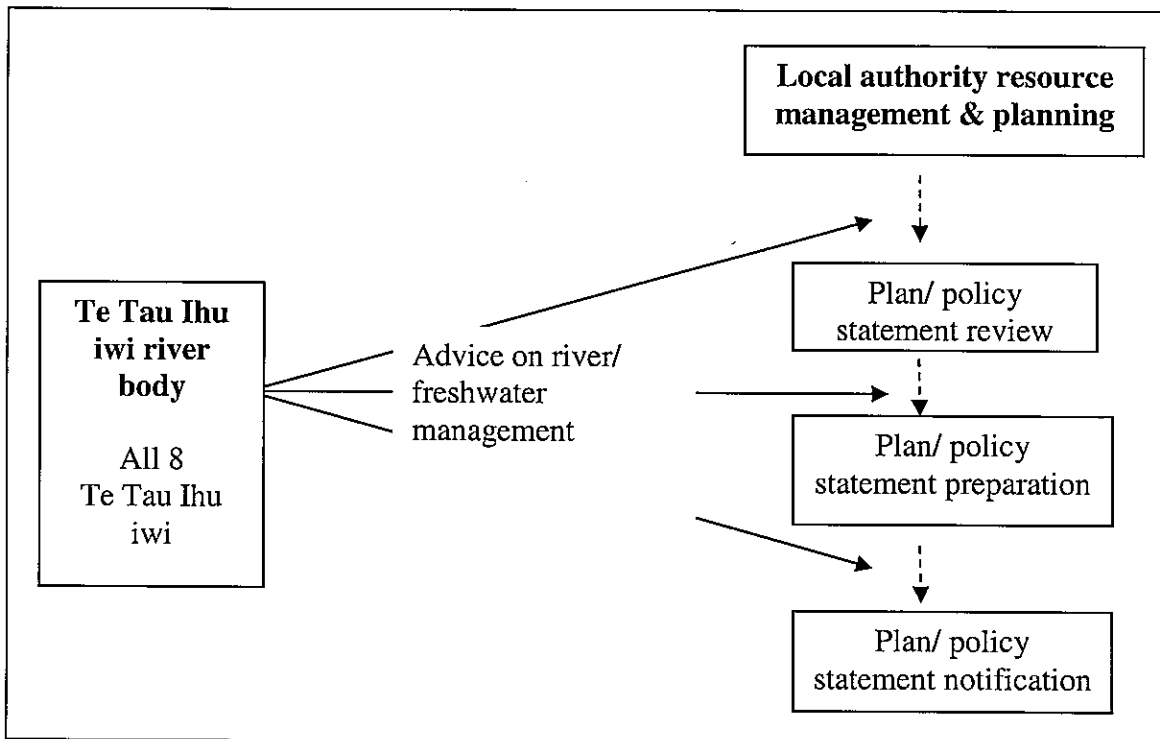


Diagram 1: Illustrating Te Tau Ihu iwi body relationship to local authority planning

Draft text for deeds and settlement legislation

In order to assist Council's consideration of this proposal, detailed draft text for the deeds of settlement and settlement legislation is attached as Appendix 1.

DEED OF SETTLEMENT OUTLINE

DRAFT FOR DISCUSSION PURPOSES

RIVER AND FRESHWATER ADVISORY COMMITTEE

DRAFTING FOR DEED OF SETTLEMENT (formal drafting for the settlement legislation will be undertaken by the Parliamentary Counsel Office)

RIVER AND FRESHWATER ADVISORY COMMITTEE

1.1 The parties acknowledge that:

1.1.1 the eight Te Tau Ihu iwi have agreed to form an advisory committee in relation to the management of rivers and freshwater;

1.1.2 the advisory committee is intended to work in a collaborative manner with the common purpose of promoting the health and wellbeing of the rivers and freshwater within the jurisdiction of the relevant councils;

1.1.3 in undertaking its work the advisory committee will respect and operate in a manner that recognises that while some resource management issues will be of generic interest to all members of the committee, other issues may be of interest primarily to particular iwi; and

1.1.4 the formation of the advisory committee provides a foundation for the participation of the Te Tau Ihu iwi in the management by the relevant councils of rivers and freshwater, and the relevant councils and iwi may work together to enhance that participation through other means.

1.2 The settlement legislation must, on the terms provided by sections [] to [] of the draft settlement bill, provide –

1.2.1 for the establishment of an advisory committee in relation to the management of rivers and freshwater within the jurisdictions of:

(a) the Marlborough District Council;

(b) the Nelson City Council; and

(c) the Tasman District Council;

together the “**relevant councils**”

1.2.2 subject to clause 1.2.3, for the advisory committee to be comprised of a maximum of eight members, with one member to be appointed by each of the governance entities for the eight Te Tau Ihu iwi;

1.2.3 that following the settlement date, any of the governance entities for the eight Te Tau Ihu iwi may give notice to the other governance entities of its intention to appoint a member to the advisory committee;

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- 1.2.4 for the opportunity for the advisory committee to provide timely advice to each of the relevant councils, either in response to an invitation or on its own initiative, in relation to the management of rivers and freshwater under the Resource Management Act 1991:
- (a) prior to a relevant council making decisions on the review of policy statements or plans under section 79 of the Resource Management Act 1991;
 - (b) prior to a relevant council preparing or changing policy statements or plans under clause 2 of Schedule 1 of the Resource Management Act 1991; and
 - (c) prior to a relevant council notifying a proposed policy statement or plan under clause 5 of Schedule 1 (with reference to section 32 of the Resource Management Act 1991);
- 1.2.5 that the relevant councils will, when exercising functions and powers in relation to the matters set out in clauses 1.2.4, extend an invitation to the advisory committee to provide advice in relation to the management of rivers and freshwater under the Resource Management Act 1991;
- 1.2.6 that where a relevant council extends an invitation to the advisory committee to provide advice, the advisory committee must provide any advice no later than two months after the date upon which the invitation is received by the advisory committee (or such other period as may be agreed between a relevant council and the committee);
- 1.2.7 that where the time period specified in clause 1.2.6 has been complied with, the relevant councils will, when exercising functions and powers in relation to the matters set out in clauses 1.2.4, have regard to the advice of the advisory committee to the extent that advice relates to the management of rivers and freshwater under the Resource Management Act 1991;
- 1.2.8 for the advisory committee to:
- (a) regulate its own procedure;
 - (b) operate on the basis of consensus decision making; and
 - (c) have a quorum of a majority of the members of the committee;
- 1.2.9 that the advisory committee is intended to work in a collaborative manner with the common purpose of promoting the health and wellbeing of the rivers and freshwater within the jurisdiction of the relevant councils;
- 1.2.10 that in undertaking its work the advisory committee will respect and operate in a manner that recognises that while some resource management issues will be of generic interest to all members of the committee, other issues may be of interest primarily to particular iwi;

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- 1.2.11 that the advisory committee may request information from the relevant councils on the carrying out by the relevant councils of the functions and powers referred to in clause 1.2.4;
- 1.2.12 that upon receipt of a request under clause 1.2.11, the relevant councils will, where reasonably practicable, provide information to the advisory committee on the matters contained in that request;
- 1.2.13 that the advisory committee may request that one or more representatives of the relevant councils attend a meeting of the advisory committee;
- 1.2.14 that where reasonably practicable the relevant councils will comply with a request under clause 1.2.13, and that council may determine the appropriate representatives to attend any such meeting;
- 1.2.15 that each relevant council will not be required to attend any more than four meetings in any one calendar year;
- 1.2.16 that the advisory committee will give a relevant council at least 10 business days notice of any meeting; and
- 1.2.17 that the advisory committee will provide a meeting agenda with any request made under clause 1.2.13;
- 1.2.18 that subject to the prior written agreement of the advisory committee and a relevant council, the advisory committee may provide advice to that council on any other matter under the Resource Management Act 1991; and
- 1.2.19 that any agreement between a relevant council and the advisory committee under clause 1.2.18 may be terminated by either party by notice in writing.