

# NGATI TUWHARETOA, RAUKAWA, AND TE ARAWA RIVER IWI WAIKATO RIVER BILL

## Regulatory impact statement

### *Executive summary*

The framework includes a vision and strategy for the Waikato River, which will be—

- (a) incorporated into the Waikato regional policy statement; and
- (b) a statement of general policy for the purposes of conservation legislation.

It is anticipated that the costs associated with reviewing, and if necessary amending, existing plans or policies to reflect the vision and strategy will be absorbed by the existing statutory decision-makers.

There will be a contestable fund for the clean-up of the Waikato River. The fund will be administered by the co-governance entity with an initial contribution made by the Crown. The total amount of the Crown's contribution will be finalised following an independent scoping study to identify clean up priorities.

### *Adequacy statement*

The Office of Treaty Settlements has prepared this statement and considers that it provides an accurate summary of the regulatory impacts associated with the deeds entered into between the Crown and, respectively, Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi in relation to the Waikato River.

### *Status quo and problem*

The deeds entered into between the Crown and, respectively, Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi reflect the commitment of the Crown and each iwi to enter into a new era of co-management over the Waikato River based on the relationship each iwi has with the Crown under the Treaty of Waitangi.

Over a prolonged period, the management of the Waikato River has failed to prevent the deterioration of the health of the Waikato River and has failed to provide for and protect the special relationship of Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi with the Waikato River.

The pollution, degradation, and development of the Waikato River, its lakes, streams and wetlands have also resulted in the decline of its once rich fisheries, which have for generations sustained the way of life of the people of Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi and their ability to meet their obligations of manaakitanga.

### ***Objectives***

The public policy objectives associated with this framework are to—

- (a) recognise and sustain the special relationship Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi each have with the Waikato River;
- (b) enter into a new era of co-management over the Waikato River;
- (c) restore and protect the health and wellbeing of the Waikato River; and
- (d) meet the Crown's obligations under the Treaty of Waitangi.

These objectives are consistent with those in the Crown's public information document entitled *Healing the past, building the future—A guide to Treaty of Waitangi claims and negotiations with the Crown*.

### ***Alternative options***

#### **Status quo**

To do nothing would fail to meet the Crown's obligations to Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi under the deeds and the Treaty of Waitangi. Preventing further deterioration of the health of the Waikato River and its fisheries and aquatic flora and fauna cannot be assured without changes to the way the Waikato River is managed.

#### ***Preferred option***

The preferred option is for the Crown to implement the framework that has been negotiated with Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi. The framework has the following regulatory impacts.

#### ***Vision and strategy***

A vision and strategy for the Waikato River has been developed and is to be given recognition in existing legislation affecting the Waikato River.

The vision and strategy will be—

- (a) incorporated directly into the Waikato regional policy statement (with legislation ensuring that no part of the regional policy statement can conflict with the vision and strategy), requiring local authorities to give effect to the vision and strategy when preparing, reviewing or changing regional and district plans and requiring consent authorities to have regard to the vision and strategy when considering a resource consent application;
- (b) a statement of general policy for the purposes of conservation legislation, which must be implemented by the Director-General of Conservation when preparing conservation management strategies and plans.

These changes will not affect existing use rights but, when new use rights are created or existing rights lapse, the decisions regarding these rights will need to take into consideration the new factors listed in the vision and strategy.

Persons performing functions or exercising powers under other legislation relevant to the Waikato River will have to have particular regard to the vision and strategy.

It is anticipated that the costs associated with reviewing, and if necessary amending, existing plans or policies to reflect the vision and strategy will be absorbed by the existing statutory decision-makers. Substantive obligations under the vision and strategy to address clean up of the Waikato River will be considered and addressed in the administration of the Waikato River Clean-up Fund.

#### *Integrated river management plan*

An integrated river management plan has been identified as a mechanism to achieve an integrated approach between iwi, relevant Crown agencies and relevant local authorities to the management of aquatic life, habitats and natural resources within the Waikato River.

This plan would apply to the upper Waikato River from Huka Falls to Karapiro. It is proposed that the plan will address—

- (a) issues related to conservation management under the conservation legislation; and
- (b) issues related to fisheries management under the Fisheries Act 1996; and
- (c) issues related to resource management, biosecurity and local government functions of Environment Waikato under the Resource Management Act 1991, Biosecurity Act 1993, Local Government Act 2002, and any other relevant legislation; and
- (d) any other matters agreed between Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi and any appropriate agency, including territorial authorities, responsible for administering or exercising functions, powers and duties under any legislation that affects the Waikato River.

The plan will have status as a conservation management plan and a freshwater fisheries management plan under the Conservation Act 1987. The plan will have status as a fisheries plan under the Fisheries Act 1996. Any local authority that is preparing, reviewing or changing a Resource Management Act 1991 planning document will have to have regard to the plan. It is expected that the plan will assist decision-makers under these frameworks to meet their obligations with respect to the vision and strategy and the overarching purpose of the settlement.

### *Iwi environmental plans*

The deeds provide that Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi may each prepare environmental plans and lodge them with relevant local authorities, the Director-General of Conservation, the Chief Executive of the Ministry of Fisheries or any other relevant agency.

A local authority with which an environmental plan has been lodged will have to recognise the plan in the same manner as would be required under the Resource Management Act 1991 for any planning document recognised by an iwi authority. A consent authority will have to have regard to an environmental plan when considering a resource consent application where a consent authority considers a plan relevant and reasonably necessary to determine an application.

Persons exercising functions, powers and duties under sections 12 to 14 of the Fisheries Act 1996 will have to recognise and provide for an environmental plan.

### *Regulations*

The framework provides for the making of regulations for the management and enhancement of fisheries and aquatic flora and fauna in the upper Waikato River, its tributaries, and lakes and wetlands within its catchment. The regulatory impacts of such regulations will be considered when they are proposed in future.

### ***Implementation and review***

The framework is intended to give effect to the deeds entered into between the Crown and, respectively, Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi in relation to the Waikato River. Each deed provides for periodic effectiveness reviews.

### ***Consultation***

The Guardians Establishment Committee (GEC) was formed in March 2008 to develop the vision and strategy for the Waikato River. Its members included representatives from the Crown, Waikato River iwi, regional and territorial local authorities, and industry.

The GEC released the draft vision and strategy for public consultation on 7 May, and received 94 submissions from a wide range of parties, before amending and recommending the adoption of the vision and strategy.

All relevant local authorities in the Waikato region and representatives of industry were consulted in the development of the framework.

The following departments have been involved in the development of the framework: Department of the Prime Minister and Cabinet, The Treasury, Ministry for the Environment, Ministry of Fisheries, Ministry of Agriculture and Forestry, Department of Conservation, Department of Internal Affairs, Land Information New Zealand, Ministry of Economic Development, and Te Puni Kōkiri. The Crown Law Office was informed about the contents of the framework.