

# Submission: Select Committee Hearings into Maori Wards / Ammendments



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**Paper: Local Electoral Act 2001 (the  
Act)**



# The New Zealand Maori Council Submission: Water Services Bill

Matthew Tukaki, Executive Director of the New Zealand Maori Council 2<sup>nd</sup> of March 2021

*This omnibus bill will implement the Government's decision to comprehensively reform the drinking water regulatory system, with targeted reforms to improve the regulation and performance of wastewater and stormwater networks.*

*“Maori interests and rights in water must be protected and those rights must be recognised. The days of Maori being ignored are clearly over, but ignorance may also appear through the setting up of Maori Advisory Groups that appear to offer insights and guidance on key issues that is later ignored. In essence there also needs to be a great understanding that water itself, in the context of the Te Ao Maori world takes on many different meanings and we often run the risk of ignoring the presence of Hapu Tanga and Marae Tanga” Matthew Tukaki, Executive Director of the New Zealand Maori Council*

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## About the New Zealand Maori Council

The New Zealand Maori Council operates under the Maori Community Development Act (1962) and represents hundreds of Maori Committees across sixteen Districts around Aotearoa. The Council is one of the oldest and largest Maori representative organisations in Aotearoa. The New Zealand Maori Council requests an appearance before the Select Committee, specifically on this bill.

## Context of the Council’s Response

In broad terms the Council supports significant water reform and has, for many years, played an active role in Maori proprietary rights and interests when it comes to water (see the landmark recommendations made in relation to the Waitangi Tribunal Report on water) and has been a significant advocate on water on reform of the Resources Management Act, Local Government

water infrastructure reviews and investment and the surety of both clean water, clean waterways, freshwater ecology and much more

Of course, the New Zealand Maori Council broadly welcomes the need to improve the regulation and performance of wastewater and stormwater networks, but we are cautious in lending support to this Bill without added assurances that the entity being established to monitor what is essentially safe water, Taumata Arowai—the Water Services Regulator, is truly representative of Maori interests in the Kaupapa of water safety and security. To be frank the New Zealand Maori Council is not convinced that any recommendations made by the Maori Advisory Group in relation to matters outlined in that Bill that have effect in this Bill are binding to the extent that Maori interests will be enforced as opposed to considered:

### Relation to Taumata Arowai

In relation to the governing Board of the Taumata Arowai it is left to the Minister to appoint members (no fewer than five and no more than seven) which in essence could see appointments who are in fact not Maori, even through subpart two (12) of the Taumata Arowai—the Water Services Regulator Act 2020 indicates they will have “perspectives of Maori and tikanga Maori”. This lack of surety is also out of line with legislation such as the Crown Forestry Rentals Trust where Maori Organisations, as a way and means of protecting Maori interests and rights have a specific appointment role. The reason for raising these concerns in light of the previous Bill establishing the regulator itself in this Select Committee review is very much about some of the core elements of what is being proposed – and that is the lack of Maori, Iwi, Hapu and even Marae oversight of the actual on the ground implications of the Act and its requirements.

### Protection of Maori Interests and Rights

#### **For example: Section 61 Special powers of Taumata Arowai during drinking water emergency**

*If a drinking water emergency has been declared under section 58(1), Taumata Arowai may exercise all or any of the powers in subsection (2) for the purpose of preventing, reducing, or eliminating the serious risk to public health.*

*(2) The powers are to—*

*(a) take immediate action, or direct any person to take immediate action, that Taumata Arowai believes, on reasonable grounds, will prevent, reduce, or eliminate the serious risk to public health:*

*(b) direct any person to stop, or prohibit any person from starting, anything that Taumata Arowai believes, on reasonable grounds, is a cause of, or contributes to, the serious risk to public health:*

*(c) requisition any property in order to prevent, reduce, or eliminate the serious risk to public health:*

*(d) destroy any property or any other thing in order to prevent, reduce, or eliminate the serious risk to public health:*

*(e) require all persons within a specified area to use an alternative drinking water supply:*

*(f) do emergency work, or direct a territorial authority to do emergency work, to ensure that an alternative supply of drinking water is available to affected persons:*

*(g) direct a territorial authority to supply drinking water to affected persons (whether in the district of that territorial authority or in the district of another territorial authority):*

*(h) direct a drinking water supplier to make arrangements to ensure that an alternative drinking water supply is available to affected consumers (for example, by water carrier):*

*direct the closure of any public place, or any part of a public place:*

*(j) direct the cancellation of any public event, function, or gathering at any place:*

*(k) take any other action that Taumata Arowai believes is reasonably necessary to prevent, reduce, or eliminate the serious risk to public health.*

*(3) Taumata Arowai must consult the Minister before exercising a power under subsection (2)(f) or (g) in relation to a territorial authority.*

### **Consultation with Maori, Iwi, Hapu, Marae**

Firstly, this section requires no consultation with Iwi, Hapu or Marae in relation to the exercising of such power and yet we know that Maori, aside from rights and interests in water, have significant infrastructure that relies on safe water and water ways. The classic example are our Maraes that are mostly in regional or provincial areas whereby they have little power or ability to exercise power over upstream water ecology or how that translates downstream in terms of freshwater ecology – in other words Marae would be forced to comply as opposed to being consulted – and its important to understand that while Iwi itself may be a central entity for dealing with the Crown and its Agencies in fact Marae and Hapu are the ones that manage and maintain much of our Maori infrastructure.

### **Accreditation Body**

Secondly Section 73, the appointment of the accreditation also sees Maori rights and interests ignored by Maori, having no appointment rights in terms of the Accreditation Body (which we note can be either an individual or an entity (this should be much clearer and rely more on the use of the word “entity” as opposed to “person”) nor does enacting of this particular regulation have any policy, signal or requirement that a workforce development plan for Maori be instigated to build capacity towards accreditation. In our view funding and resources should be set aside for Maori entities to build capability and capacity in this area.

*73 Taumata Arowai may appoint accreditation body*

*Taumata Arowai may, by notice in the Gazette,— appoint a person as a laboratory accreditation body; and*

*(b) revoke the appointment at any time.*

*(2) A reference in this subpart to a laboratory accreditation body is a reference to—*

*(a) the person appointed under subsection (1)(a); or*

*(b) if no person is appointed, Taumata Arowai.*

### **As the explanatory note’s states:**

*The Bill requires all persons who perform or exercise functions, powers, and duties under the legislation to give effect to Te Mana o te Wai. This parallels requirements imposed on local*

*authorities under the National Policy Statement for Freshwater Management, and on Taumata Arowai under the Taumata Arowai—the Water Services Regulator Bill.*

*As part of its governance arrangements, Taumata Arowai will have a Maori Advisory Group that is charged with advising on Maori interests and knowledge as they relate to the objectives, functions, and principles of Taumata Arowai. This includes—*

- *developing and maintaining a framework that provides advice and guidance on how to interpret and give effect to Te Mana o te Wai:*
- *providing advice on how to enable mātauranga Maori, tikanga Maori, and kaitiakitanga to be exercised.*

The Bill itself does not go far enough in terms of this advice and guidance being binding and as such runs the risk of setting aside or ignoring Maori rights and interests.

This is further challenged by the note also expressly stating: *“There has been a lack of Maori input within decision-making frameworks. As a result, the current drinking water regulatory system is failing to provide necessary assurances that drinking water supplies across New Zealand are safe and reliable.”*

## Summary

As the New Zealand Maori Council has stated we broadly support the intent of the Bill in terms of water safety and the health implications for all New Zealanders, especially Maori, when it comes come’s to safe and clean water – whether that be for drinking or general use.

However, the Council continues to advocate for strong and binding interests and rights when it comes to Maori and this includes representation and a strong voice. In addition to this the Council would like assurances that the implementation and execution of this Bill provides Maori with a pathway to respond. By Response we mean investment in capacity and capability, workforce, and infrastructure to ensure those very rights and interests are not just protected but are enabled. I would be happy to verbalise what that looks like in an appearance before the Select Committee or take questions on notice and provide further written responses.