



10 October 2019

Ministry for Primary Industries  
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Teena koe e te Minita,

**Waikato River Authority Submission to Proposed National Policy Statement on Highly Productive Land**

Thank you for the opportunity to attend the public meetings, at Mystery Creek (Primary Sector) and Hamilton Gardens (Taangata Whenua), to address matters outlined in Environment Aotearoa 2019. Please find attached the Waikato River Authority submission regarding the Proposed National Policy Statement on Highly Productive Land.

Should you have any queries regarding the content of this submission please contact Julian Williams, Principal Advisor, Policy and Engagement directly [REDACTED] or by [REDACTED]

Naaku iti, naa

A handwritten signature in blue ink, appearing to read "Julian Williams", is positioned above the printed name.

Julian Williams

**Principal Advisor, Policy and Engagement**

## **Introduction**

1. The Submission is from the Waikato River Authority (the 'Authority'). The Authority was established as an independent statutory authority under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The purpose of the Authority is to:
  - (a) set the primary direction through the Vision and Strategy to achieve the restoration and protection of the health and wellbeing of the Waikato and Waipaa Rivers for future generations;
  - (b) promote an integrated, holistic, and co-ordinated approach to the implementation of the Vision and Strategy and the management of the Waikato and Waipaa Rivers; and
  - (c) fund rehabilitation initiatives for the Waikato and Waipaa Rivers in its role as trustee for the Waikato River Clean-up Trust.

## **Te Ture Whaimana o te Awa o Waikato (Vision and Strategy)**

2. The Act recognises the Vision and Strategy for the Waikato River, set out in Schedule 2 of the Act. (The Vision and Strategy is **attached** as an Appendix to this Submission)

3. Section 5(1) of the Act provides:

*"the Vision and Strategy is intended by Parliament to be the primary direction-setting document for the Waikato River and activities within its catchment affecting the Waikato River."*

4. The definition, or scope, of the Waikato River is defined in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, by Waikato-Tainui iwi as (bold emphasis added):

*"The Waikato River is a single indivisible being that flows from Te Taheke Hukahuka to Te Puuaha o Waikato (the mouth) and includes its waters, banks and beds (and **all minerals** under them) and its streams, waterways, tributaries, lakes, aquatic fisheries, **vegetation, flood plains, wetlands, islands, springs, water column, airspace, and substratum** as well as its **metaphysical being.**"*

5. The Act gives the Vision and Strategy a unique and pre-eminent weight in RMA planning documents. By way of summary:

- (a) the Vision and Strategy is a central element of the unique legislation enacted in relation to the Waikato and Waipaa Rivers;
- (b) the Vision and Strategy is intended by Parliament to be the 'primary direction setting document' for the Waikato and Waipaa Rivers;
- (c) the legislation reflects a long history and recognises the mana of the rivers themselves, and the significance of the relationship between the Iwi and the rivers;
- (d) the Vision and Strategy is unique under the RMA in that it has been incorporated directly into the Waikato Regional Policy Statement (RPS), and the rest of the RPS must be consistent with the Vision and Strategy;

- (e) the Vision and Strategy prevails over any inconsistent provision in a National Policy Statement (NPS) or the New Zealand Coastal Policy Statement (NZCPS), and amendments cannot be made to RMA planning documents to give effect to an NPS/NZCPS, if that would make the document inconsistent with the Vision and Strategy; and
  - (f) a regional plan must 'give effect to' the Vision and Strategy.
6. The Act confers on the Authority broad functions relating to the Waikato and Waipaa Rivers for the purpose of implementing the Vision and Strategy. In particular, section 23(2) of the Act states that the functions of the Authority are to:
- "(a) engage with and provide advice to local authorities on amending Resource Management Act 1991 planning documents to make them give effect to the Vision and Strategy;
  - (b) engage with and provide advice to the range of agencies with responsibilities relating to the Waikato River, including, without limitation, local authorities and biosecurity, conservation, and fisheries agencies, to achieve an integrated, holistic, and coordinated approach to the implementation of the Vision and Strategy in the management of the Waikato River."
7. In addition, the Authority, as Trustee of the Waikato River Clean-up Trust, administers clean-up funding for the Waikato River.
8. The Authority makes this Submission, in accordance with its functions, in order to promote the Vision and Strategy for the Waikato River.

### **Proposed National Policy Statement for Highly Productive Land – Key Points**

9. The Authority recognises the importance of protecting highly productive soils and land from the irreversible effects of uncontrolled urban expansion. This purpose of the proposed NPS aligns with Objective F of the Vision & Strategy –
- "The adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River."*
10. The Authority supports the approach of a National Policy Statement that ensures a clear framework for managing highly productive land. Highly productive lands includes those attributes identified in para 4 of this submission, and as defined by Waikato-Tainui. In relation to this definition of the Waikato River, the proposed NPS affects "minerals, substratum, wetlands, vegetation, flood plains and metaphysical being". The land, or whenua, is a significant taonga and part of the Waikato River. Restoration and protection is required for this taonga. Clear, directive policies are critical for enabling decision makers to give appropriate consideration to competing land use values.
11. The Authority supports the proposed national policy statement for highly productive land as the preferred option for addressing the problems identified in Chapter Three.
12. The NPS should apply nationally as this is a national issue and, the areas of high pressure at the present time may change or expand in the future.
13. In conjunction with para 12. The Authority recognises that the loss of highly productive land is a problem for the Waikato River catchment and has been for over 10 years now. The consultation

document acknowledges this also. Flexibility should be provided by the proposed NPS that recognises the approach to the management of highly productive land varies between regions and districts and should be managed as such.

14. Further to para 13. The application of the proposed NPS in the Waikato River catchment would be considered alongside the Vision & Strategy for the Waikato River. The highest prevailing standard would then apply. In the absence of direction from the Vision & Strategy, the proposed NPS standard would apply.
15. The Authority acknowledges the issue is broader than just protecting productive soils and it is also about the effective and efficient use of soils and productivity as a whole. This is reflected in Objectives (b), (c), (d) and (j) of the Vision and Strategy:
  - (b) The restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships.
  - (c) The restoration and protection of the relationship of Waikato River iwi according to their tikanga and kawa, with the Waikato River, including their economic, social, cultural and spiritual relationships.
  - (d) The restoration and protection of the relationship of the Waikato region's communities with the Waikato River including their economic, social, cultural and spiritual relationships.
  - (j) The recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental and economic wellbeing is subject to the restoration and protection of the health and wellbeing of the Waikato River.
16. To ensure the 'balance' required on objectives in para 11, national direction should also consider focusing on enabling the productive use of high class soils, not just protecting these soils through land use controls. As there is diversity of soils and urban development/rural lifestyle pressures throughout the Waikato River catchment, any national direction should provide a strong direction for the protection of highly productive soils and associated productive capacity.
17. Clarity on the roles of district versus regional councils should also be provided. The Authority supports that any devolution of responsibilities to local authorities is accompanied by substantial resourcing and must include resourcing for engagement with communities, Iwi, Hapuu and Marae. The Authority invests settlement funds into the restoration and protection of the Waikato and Waipaa Rivers. We do not fund regulatory responsibilities on Councils, so to ensure that Councils are able to fulfil their regulatory obligations, and to protect the spirit of the Clean-up Trust fund, the Authority requests resourcing to Councils within our catchment area of responsibility.
18. The Authority supports the Waikato Regional Council submission point that *"the proposed national direction must be informed by robust evidence and a more detailed spatial understanding of the pressures and planning approaches that are resulting in the loss of productive soils across New Zealand."*
19. The Authority wishes to note that there are other problems facing highly productive lands, including:
  - Declining soil quality (e.g. loss of organic carbon and compaction/structural degradation) under intensive use
  - Nutrient and/or sediment loss from soils under more intensive primary production

- The accumulation of diffuse contaminants (e.g. trace elements like cadmium) in soils under intensive use.
20. Within the Waikato and Waipaa River catchments are many marae and papakaainga. They were established at various sites to provide shelter, water and food for the people. Soils played a significant role in shaping the future of the Waikato region and its people. It was a key factor in determining where taangata whenua established themselves. Therefore, soils are a critical, non-renewable, irreplaceable resource for taangata whenua and these lands should also be taken into account, and protected from residential expansion or rural fragmentation.
21. The Authority appreciates the opportunity to make a submission on the proposed NPS.

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