

Waitangi Tribunal critical of Crown over freshwater failures



Chief Judge Wilson Isaac, chair of the Waitangi Tribunal. Photo: RNZ / Leigh-Marama McLachlan

The Waitangi Tribunal criticised the Crown last month when it released its landmark report into National Freshwater and Geothermal Resources for letting rivers and lakes get so polluted and for essentially blocking Māori from helping to fix the problem. The report highlights a series of failures in the Resource Management Act.

Presiding officer Chief Judge Wilson Isaac said the Act and subsequent freshwater management policies had failed to meet the Treaty of Waitangi standard of active protection.

"The RMA has allowed a serious degradation of water quality to occur in many ancestral water bodies, which are now in a highly vulnerable state," he said.

He also said the Act did not provide adequately for the tino rangatiratanga and the kaitiakitanga of iwi and hapū over their freshwater taonga.

The Tribunal is calling for sweeping changes, including recognising Māori proprietary rights.

"Our view is that the Crown must now recognise Māori proprietary rights and provide what the New Zealand Māori Council called 'proprietary redress'," Chief Judge Isaac said.

The Māori Council made the original claim in 2012, and this report is Stage Two of the inquiry which has involved hearings over two years from November 2016.

The Tribunal has highlighted numerous deficiencies in the RMA, which have put Māori on the back foot for decades.

It said farmers were given special priority to water allocation over Māori and called for a new scheme allocating water to iwi, hapū and Māori landowners.

Minister accepts some criticisms, laments freshwater degradation

Environment Minister David Parker said he lamented the degradation of the country's freshwater bodies and accepted some of the report's criticisms.

He agreed the government needed to address Māori desires for access to freshwater resources.

"This is particularly important for Māori in that they are disproportionately owned underdeveloped land, and water is needed for them to meet their economic aspirations," he said.



Environment Minister David Parker Photo: RNZ / Ana Tovey

"We are upfront about acknowledging that that is a fair request from Māoridom that needs to be addressed."

The report also revealed an unwillingness from councils to work with iwi and hapū on freshwater management.

The Tribunal said there had been provisions in the law for Māori participation in freshwater decision-making, but there were many barriers to them working and no incentives for councils to work with iwi and hapū.

Since 1991, no council has transferred rights or powers to Māori and only two councils have voluntarily entered into Joint Management Agreements.

Mr Parker said it was a complex issue and he would not say how co-governance between Māori could work effectively at a local level.

"Māori have rights and interests in water that are yet to be resolved. They feel locked out of water resources which seems unfair to them and we agree those issues need to be addressed."

He said the resource management review, launched last month, would address some of the concerns raised and that he would make a new announcement on freshwater next week.

Tribunal calls for co-governance in freshwater decision making

The Tribunal has recommended a national freshwater co-governance body be set up to ensure direct, co-governance level of involvement in freshwater decision-making.

The body would arrange the allocation scheme for iwi and hapū and investigate other forms of proprietary recognition and oversee more comprehensive restoration of water bodies.

The Tribunal also recommended the Crown:

- Provide more funding to restore freshwater bodies and to help Māori participate in the RMA process
- Change the law to make council's work with hapū and iwi on freshwater management
- Make co-design of policy with Māori a standard process where Māori interests are concerned
- Monitor councils to ensure they, and those individually working within the RMA process, meet their obligations to the Treaty of Waitangi

The Waitangi Tribunal's report is now available to download: [*The Stage 2 Report on the National Freshwater and Geothermal Resources Claims* \[PDF, 6.5 Mb\]\(external link\)](#).