

House of Representatives

Supplementary Order Paper

Tuesday, 22 November 2022

Water Services Entities Bill

Proposed amendments

Simon Court, in Committee, to move the following amendments:

Clause 6

In *clause 6*, replace the definition of **Te Mana o te Wai** (page 16, lines 20 to 23) with:

Te Mana o te Wai means the objective of keeping freshwater in a safe and suitable condition

In *clause 6* (page 19, after line 8), insert as *subclause (2)*:

(2) For the purposes of the definition of **Te Mana o te Wai** in **sub-clause (1)**,—

safe means in a condition in which, in terms of its intended use, is unlikely to cause or lead to illness or injury to human life or public health

suitable means that the water—

- (a) is not in a condition that—
 - (i) is offensive:
 - (ii) is damaged, deteriorated, or perished to the extent of affecting its reasonable intended use:
- (b) does not contain, or have attached to it or enclosed with it, any damaged, deteriorated, perished, or contaminated substance or thing to the extent of affecting its reasonable intended use:
- (c) does not contain a biological or chemical agent, or other substance or thing, that is foreign to the nature of the water and

the presence of which would be unexpected and unreasonable.

Explanatory note

This Supplementary Order Paper amends the Bill to insert a definition for Te Mana o te Wai.

Te Mana o te Wai is a concept included in the National Policy Statement for Freshwater Management 2020 (NPS). It refers to the fundamental importance of water, and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. This is unfortunately vague, is based on amorphous spiritual or moral concepts, and is open to endless litigation and judicial mischief. It is likely that the definition in the current NPS, as it requires the water services entity to quantify essentially spiritual or cultural views, will prove to be unworkable. Further, it means that an Act is effectively subordinate to the regulatory power of the current Government, as its definition is through a National Policy Statement. The proposed clause uses the definition derived from the Food Act 2014 for safety and suitability, to ensure that the definition of Te Mana o te Wai has a reasonable definition.