

TE MANA O TE WAI GUIDELINES FOR MANA WHENUA

NATIONAL POLICY STATEMENT FOR FRESHWATER
MANAGEMENT 2020





He Mihi Aroha

These guidelines were informed by the generous time and work of the following iwi/roopu in preparing case studies outlining their aspirations and journey through Te Mana o te Wai:

- Ngāti Rangiwewehi - Te Tari Taiao o Ngāti Rangiwewehi
- Ngāti Raukawa – Raukawa Charitable Trust
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- Ngāti Koata
- Ngāti Kuia
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He Wai Ora - Karakia mō te Wai

He ruruku, he karakia i whakahā e Che Wilson mō te kiriata a te Freshwater Iwi Leaders Group, 2015.

This was composed recognising that each iwi has its narrative of creation and provides a view of the source of fresh water.

Matua te pō! Matua te ao!
Whakaputa mai ana i a Rangī rāua
ko Papa e takoto ake nei
Ko te kawa ora, he wai ora!
Tū mai Tangaroa, Atua matua o te
takapau hora nui o Papa.
Tāreia te Papa e hora nei
Ko Rū, ko Rū-nuku, ko Rū-rangi
Ko Rū-papa, ko Rū-take, ko Rū-
kerekere
Ko te pūpukenga i te au-pūpū, i te
au-pūhā, i te au-pīpī
Ka puta te ia, he wai nui, he wai roa,
he wai ora
Honoa Tāne kī a Tū-maunga ka
puta ko Parawhenuamea
Tānikotia ngā hukahuka, ngā
karure o Papa
Ko Rū-nuku, ko Rū-rangi
Ko Rū-papa-wai, ko Rū-papa-
pāheke
Ko Rū-papa-mania, ko Rū-papa-ū
He wai-whiwhia, he wai-rawea
He wai-ki-tipua, he wai-ki-tawhito
Ka tere i te kauhanga-nunui
Ka tere i te kauhanga-roa
Ka tere i te kauhanga-māro
Ki a Kiwa ki te takapau o Tangaroa.
Ko Ranginui e tū iho nei
Ko Papatūānuku e takoto ake nei
He kawa ora! He wai ora!
Tēnei te pō, nau mai te ao
Hara mai te toki...

Behold the source of water!
Through the emergence of Sky
Father and Mother Earth
Establishing the order of water and
life.

The ocean (Tangaroa) resides over
the surface of Mother Earth
Carving out her surface through
water
and its interplay with volcanic
movement and growth resulting in
the welling up of water from the
core of the earth.

This water gains momentum,
flowing and sustaining life (Tāne)
and mountains (Hine-tū-maunga)
through the God of Fresh Water.
Decorating the earth with valleys,
gully's, waterfalls and other features,
this is enhanced through tectonic
movement of land through glacial,
geothermal activities and slips.
This gives respect to the place of
water,

this gives deference to the place of
water, as it gains momentum,
flowing and descending, expanding
out to the ocean,
reaching to the depths (Kiwa) of the
ocean
where the horizon reaches the
heavens,
where the sky becomes land.
We confirm our universal order to
water in our reality.
Let this be engraved in our hearts...



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2 HOW TO READ THESE GUIDELINES

These guidelines are part of a larger project commissioned by Our Land and Water – the National Science Challenge (Toitū te Whenua Toiora te Wai) to investigate and support giving effect to Te Mana o Te Wai through mātauranga Māori.

The overall aim of the project is to ensure the National Policy Statement for Freshwater Management 2020 (NPSFM) is implemented by local authorities in such a way which supports mana whenua, and which supports Te Mana o Te Wai to achieve its central purpose – to ensure our waterways and the mauri of those waters are regenerated, healthy, and can sustain themselves and their taonga for generations to come.

These guidelines have been developed for a range of users; however, it is primarily focused on guidelines that would benefit whānau, hapū and iwi. Local and central government staff and governors may also gain important insights into the implementation of Te Mana o te Wai.

However, so different parties can access and discuss all parts of the policy, we have ensured that there is information for everyone to consider.

The document has been broken into 2 parts. The parts flow roughly in the same order as the legislation and the process likely to be followed by parties addressing Te Mana o te Wai within the NPSFW.

We have included sections from the NPSFW where helpful to provide easy access to the specific wording.

Text from the NPSFW is in a green shaded box or highlighted in **green**.

These guidelines are not intended to be a strict template. Core to Te Mana o te Wai is the essential role of each hapū and iwi in defining what Te Mana o te Wai is for them. Only those in their own takiwā can define for them what the implementation of Te Mana o te Wai will look like. The power must be in the hands of those who whakapapa to the wai.

However, what we have seen from our hapū and iwi around the country is the need for some support in understanding what a process **could** look like and how the NPSFW will impact mana whenua. These guidelines are intended to demonstrate how Te Mana o te Wai in the NPSFW was developed, a potential process to support mana whenua to participate, and where in the NPSFW to influence the system to give effect to kaitiakitanga.

It is also intended to highlight some key areas for consideration by councils and central government and where resourcing will need to be considered to ensure equitable and meaningful participation from mana whenua.

3 RESOURCE MANAGEMENT REFORM

At the time of drafting these guidelines, the Government plans to repeal the (RMA) and replace it with three new pieces of legislation. The three proposed new pieces of legislation to replace the RMA are as follows.

3.1 NATURAL AND BUILT ENVIRONMENTS ACT

The proposed Natural and Built Environments Act (NBA) is intended to be the primary piece of legislation to replace the RMA. Like the RMA, the National and Built Environments Act will be an integrated statute for land use and environmental protection. It will work in tandem with the proposed Strategic Planning Act (SPA).



3.2 STRATEGIC PLANNING ACT

The Strategic Planning Act provides a strategic and long-term approach to how we plan for using land and the coastal marine area. The regional strategies will enable more efficient land and development markets to improve housing supply, affordability and choice, and climate change mitigation and adaptation.

3.3 CLIMATE ADAPTATION ACT

This Act will support New Zealand's response to the effects of climate change. It will address the complex legal and technical issues associated with managed retreat and funding and financing adaptation.

3.4 OBJECTIVES OF RM REFORM

Together this suite of legislation will:

- protect and restore the environment and its capacity to provide for the wellbeing of present and future generations
- better enable development within natural environmental limits
- seek to give proper recognition to the principles of Te Tiriti of Waitangi and provide greater recognition of te ao Māori including mātauranga Māori
- better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change
- improve system efficiency and effectiveness and reduce complexity while retaining appropriate local democratic input¹.

It is unclear at this point in time how this reform process will impact the NPSFW and Te Mana o te Wai. These guidelines have focused on what currently, as of October 2020, is enabled.

To see the whole NPSFW and the Resource Management Act 1991 (RMA) please visit the following websites;

- <https://environment.govt.nz/publications/national-policy-statement-for-freshwater-management-2020/>
- <https://www.legislation.govt.nz/act/public/1991/0069/latest/DLM230265.html>

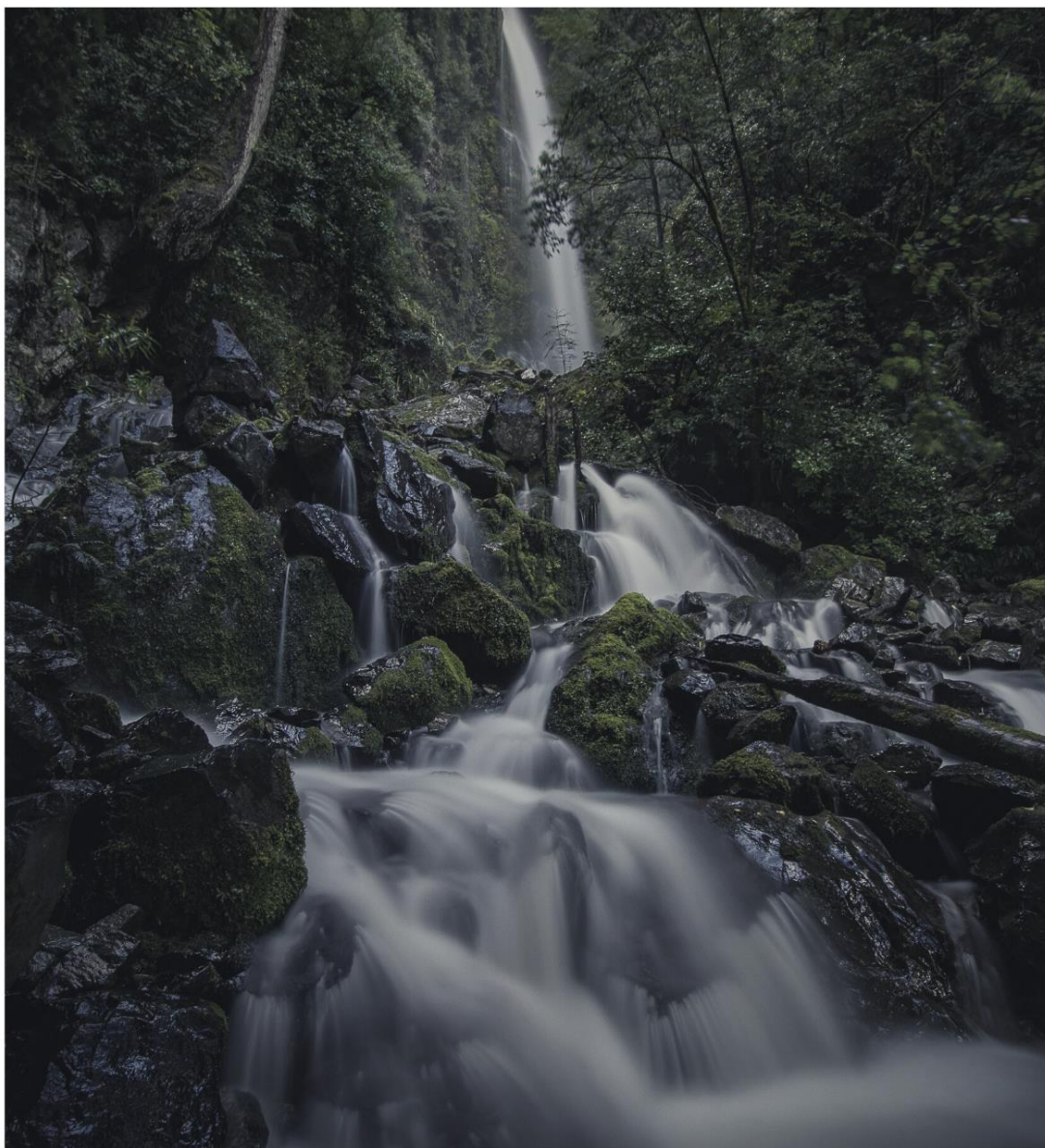
These guidelines have not addressed freshwater rights and interests for hapū and iwi. We are primarily focused on how to implement the NPSFW, however that is not to ignore the broader matters raised by many tangata parties, including Iwi and the Freshwater Iwi Chairs Group. We recognise these issues continue to be a priority for hapū and iwi.

¹ <https://environment.govt.nz/what-government-is-doing/key-initiatives/resource-management-system-reform/overview/#about-the-proposed-new-legislation>



PART ONE

TE MANA O TE WAI





Te Mana o te Wai

An Introduction

E kore tātau e mōhio ki te waitohu nui o te wai kia mimiti rawa te puna
We never know the worth of water until the well runs dry

Professor Te Wharehuia Milroy

4 TE MANA O TE WAI: AN INTRODUCTION

At its simplest, the principle of Te Mana o te Wai reflects the paramountcy of the health and wellbeing of wai.

Te Mana o Te Wai represents a paradigm shift. It speaks to the need to re-balance and approach freshwater management from first principles – what does the water need to be healthy and well; what does the water need to sustain itself? Once that is provided for, then we are able to determine what is available (both in terms of quality and quantity) for essential human health needs (the second right) and the social, economic, and cultural well-being of people and communities (the third right).

This approach is not ‘new’ but rather reflects a Te Aō Māori approach to freshwater management which puts te mauri o te wai² at the heart of all decision-making. It also requires people to think about the water as a living breathing tāonga in its own right that needs to be looked after rather than a commodity to be taken until it is gone or pushed to its limits until it can no longer survive. It is about operating from a place of abundance, not abstraction.

Importantly, what Te Mana o Te Wai means in respect of each waterbody and freshwater ecosystem must be defined by mana whenua and continually informed by mana whenua.

This includes ensuring mana whenua have a specific role in monitoring Te Mana o Te Wai and all of its component parts in the National Objectives Framework.

As noted earlier, these guidelines do not seek to define (nor could it) what Te Mana o Te Wai means for mana whenua. However, what the guidelines aim to do is lay a foundation for:

- mana whenua to have the necessary information to assist with articulating their definition of Te Mana o Te Wai;
- constructive discussions between mana whenua and local authorities, as well as with the wider community, including ensuring that conversations start from a place of common understanding; and
- clear expectations based on technical experience to inform the implementation of the NPSFW.

² The life force of water.



Given the often-scarce resources of mana whenua in the taiao space, these guidelines have focused on those sections we have identified as of most importance for hapū and iwi practitioners. However, we strongly recommend that the NPSFW is always referred to for matters of detail.

4.1 THE OPPORTUNITY

What we have heard from whānau across the country is Te Mana o te Wai is an opportunity to be more deeply involved in the management of our waterways. There have been concerns however that hapū and iwi have not been supported to participate equitably and fairly within this process. Implementation has been difficult with councils finding it complex to give effect to Te Mana o te Wai where they do not have strong partnerships with hapu and Iwi.

The latest iteration of the NPSFW is also very new so we appreciate that councils will also be dealing with multiple pressures at this time, particularly with significant reform also underway currently. Councils have a limited time to address the changes expected by the NPSFW with deadlines looming in 2024.

4.2 DEFINITION OF TE MANA O TE WAI

Te Mana o te Wai is a concept that is derived from mātauranga Māori. As such it cannot be defined without the leadership of hapū and iwi in their respective takiwā (tribal areas). These definitions are shaped, by the unique mana whenua (indigenous people of Aotearoa within their takiwā) who belong to each type of water, of each spring, of each river, of each puia (geothermal spring), of each expanse of ocean.

The way in which hapū and iwi define and implement Te Mana o te Wai will be aligned with the tikanga and kawa of those specific areas.

How hapū and iwi describe Te Mana o te Wai comes from a place of whakapapa and mātauranga, not driven by a national policy statement outcome, so the way in which it is defined within a takiwā may be far more expansive than the limitations of the policy intervention.

Councils will need to recognise that although the NPSFW uses kupu Māori (Māori words) the definitions in the policy are limiting and do not reflect the depth of the concepts for mana whenua. Councils will have to ensure there is flexibility to enable mana whenua to define all terms from their own tikanga and whakapapa.

Without an effective Te Tiriti partnership between hapū, iwi and councils, Te Mana o te Wai will falter. So, in implementing the NPSFW councils will need transform their partnership approach, not merely establish collaborative groups or advisory committees. Te Mana o te Wai requires adequate investment, reframing the infrastructure of council and co-designing approaches with hapū and iwi as part of the solution.

The views of hapū and iwi around their dissatisfaction with partnerships with Council are not new, there are some several examples that are delivering good outcomes, however there are many more examples where the hapū and iwi are feeling marginalised and under resourced to participate effectively.

Te Arawhiti, the office for Māori Crown Relations, carried out 33 hui across the country in 2018³. Their report from the hui and submissions saw issues with local government being a common theme. In particular the view that is heard often from local council bodies that they are not the Crown and as such are not Te Tiriti partners. This perspective will need to change if we are to give effect to Te Mana o te Wai. In order to appropriately support mana whenua to define Te Mana o te Wai, a

³ <https://www.tearawhiti.govt.nz/assets/Maori-Crown-Relations-Roopu/3ca45b2b2b/Final-Submissions-Summary-Report.pdf>

transformative approach to power sharing will be needed, and this will take time to apply across the whole system.

4.3 DEVELOPMENT OF TE MANA O TE WAI

Te Mana o te Wai was developed as a result of wānanga conducted by the Freshwater Iwi Chairs in 2017. These hui gathered the views of iwi and hapu across the country on Te Mana o te Wai with a particular focus on water allocation.

Te Mana o te Wai was included in the National Policy Statement on Freshwater (NPSFW) in 2014 and furthered in 2017 by the advocacy of the Iwi Chairs and the current version in 2020 was extended through Te Kahui Wai Māori an advisory group to the Crown on policy options which was established in 2018.

4.4 CURRENT STATE OF PLAY

To date, there has been a perceived lack of understanding across the country as to what Te Mana o Te Wai means in freshwater management. This has been a common theme in feedback provided to the Government throughout the development and reforms of the NPSFM since 2014. It was also a common theme from our engagement with iwi/hapū and iwi technicians for this project.

Key roadblocks to successfully implementing Te Mana o Te Wai include:

- A lack of capacity and capability to implement Te Mana o Te Wai across the motu, including within Māori communities and local authorities.
- This lack of capacity is exaggerated by significant underfunding for Te Mana o Te Wai implementation (including training programmes). Both mana whenua and local authorities need to be adequately resourced to participate in implementation discussions, particularly where that implementation needs to occur at speed.
- The views of local authorities towards Te Mana o Te Wai varies across the country:

At best, local authorities have a genuine desire to learn and understand Te Mana o Te Wai but often may lack understanding on how to appropriately incorporate Te Mana o Te Wai into regional planning documents in partnership with mana whenua or how to apply the hierarchy of Te Mana o Te Wai at the consenting stage.

The danger in this space is that local authorities rush to define Te Mana o Te Wai via a western lens or simply note it exists and continue to assess consents in the same manner prior to the NPSFW.

At worst, councils are choosing to ignore the NPSFW and push the issue down the track or simply maintaining the current status quo.

In areas where overallocation is at issue, there is pressure on regional councils to maintain current baselines for water quantity, or flow levels to maintain current rates of abstraction. There is also pressure on regional councils from within and from other stakeholders to first ensure security of supply for users and then turn to the hierarchy of obligations.

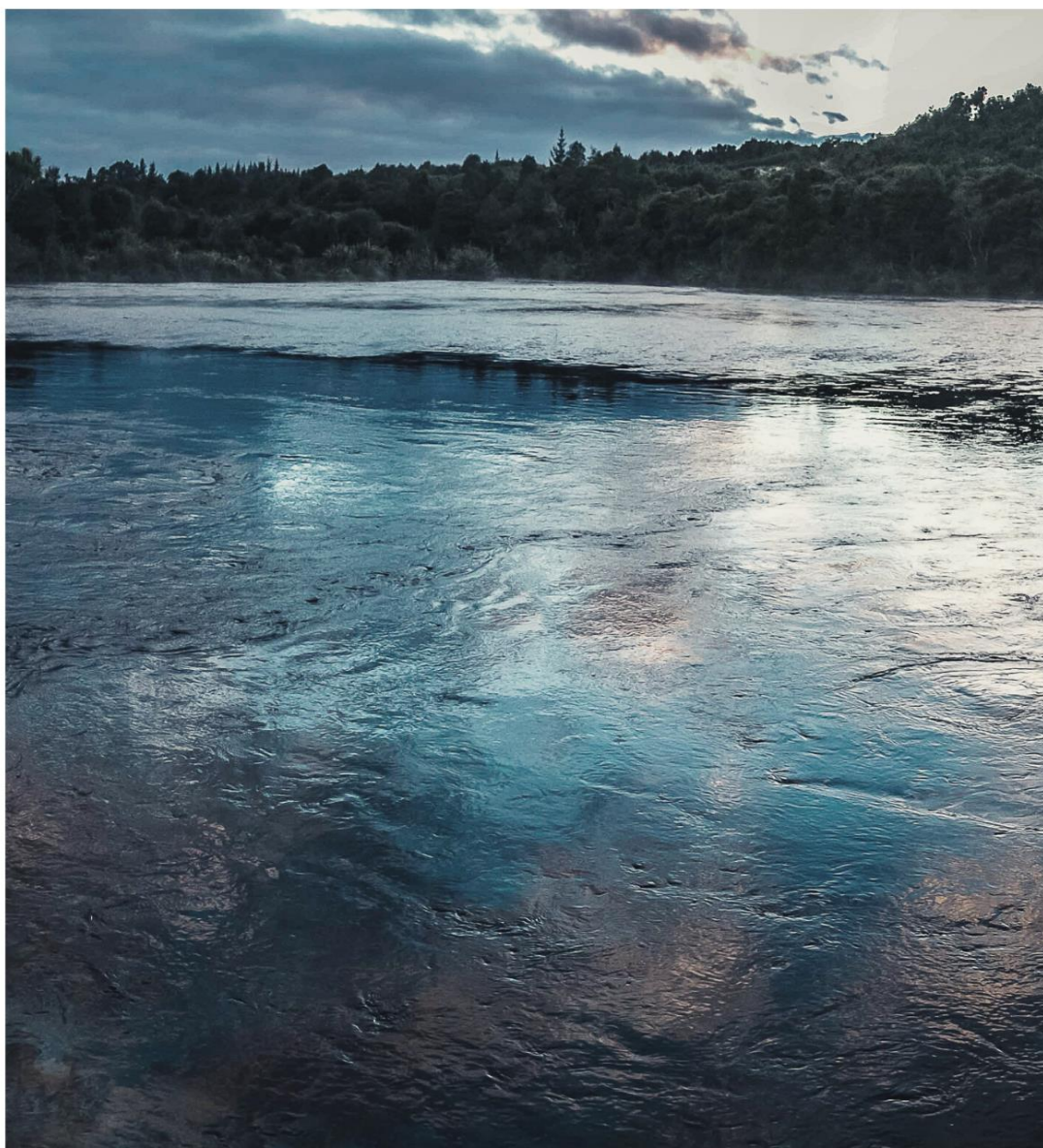
Given the degraded state of our freshwater, there is a race against time (and against well-resourced users of freshwater) to reverse damage and restore our wai.

However, time is also required to ensure mana whenua have the space to articulate their understandings of Te Mana o Te Wai in their rohe, for their taonga, and between themselves. Critically, in order to talk about Te Mana o Te Wai, whānau need the space to wānanga the whakapapa of the wai.



PART TWO

NATIONAL POLICY STATEMENT FOR FRESHWATER 2020





Part 1: Preliminary Provisions

This section looks at how the 'Concept' and the 'Framework' are described in the NPSFW and from a hapū and iwi perspective what this may mean for implementation considerations.

1.3 FUNDAMENTAL CONCEPT – TE MANA O TE WAI

- (1) Te Mana o te Wai is a concept that 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. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.
- (2) Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this National Policy Statement.

5 FUNDAMENTAL CONCEPT TE MANA O TE WAI

What is important for hapū and iwi to note, is that Te Mana o te Wai applies to the whole NPSFW, this is a “fundamental” concept, not something that only applies to high level strategy. It must apply to everyone who participates in the system, and there is an expectation that there should be a trickle-down effect which will apply in time, to all those who are participants in water use and management. This will include consent applicants, Māori landowners, current water and land users and existing resource consent holders.

Mauri has been included in this section and hapū and iwi will need to consider how they want to ensure the cultural integrity of mauri, its use and how this may be protected in this framework. It will be essential for hapū and iwi to develop frameworks that are consistent with their own views of mauri to be incorporated where appropriate.

Mauri is a concept that comes from Te Aō Māori. It is **not** a concept that can be used or defined by those who are not the mana whenua of the waters themselves. We have seen examples of those who are not mana whenua ‘measuring’ mauri where they do not have the cultural knowledge or depth of understanding of mauri and how it fits in a wider Te Aō Māori paradigm.

As mauri is a central part of Te Mana o te Wai, local and central government will need to provide adequate resourcing to enable hapū and iwi to develop these tools appropriately.



Framework

(3) Te Mana o te Wai encompasses 6 principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater, and these principles inform this National Policy Statement and its implementation.

(4) The 6 principles are:

- **Mana whakahaere:** the power, authority, and obligations of mana whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater
- **Kaitiakitanga:** the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations
- **Manaakitanga:** the process by which tangata whenua show respect, generosity, and care for freshwater and for others
- **Governance:** the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future
- **Stewardship:** the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations
- **Care and respect:** the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.

(5) There is a hierarchy of obligations in Te Mana o te Wai that prioritises:

- first, the health and well-being of water bodies and freshwater ecosystems
- second, the health needs of people (such as drinking water)
- third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

6 FRAMEWORK

These 6 principles of Te Mana o te Wai provide an important platform for building strong and effective partnerships between hapū, iwi and councils.

Of most interest for mana whenua will be principles a-c, so we have focused on these. The principles of Te Mana o Te Wai define obligations of tangata whenua, for those in decision-making roles and broadly for all New Zealanders. Mana whenua have specific obligations defined in respect of mana whakahaere, kaitiakitanga and manaakitanga. Accordingly, a fundamental consideration for implementation is how to ensure definitions and or mechanisms for Te Mana o te Wai enable and provide for mana whenua to uphold these obligations and importantly what power is given to mana whenua to ensure they themselves are able to uphold these obligations.



Mana whakahaere includes creating hapū and iwi roles of decision making, not only consultation and engagement.

When implementing the NPSFW, councils will need to consider if the partnerships they have with hapū, and iwi provide the appropriate vehicle to enable mana whakahaere. Hapū and iwi may consider working with their Councils to essentially, ‘audit’ the quality of their relationships to ensure they are of the type that will give effect to the description of mana whakahaere in the NPSFW. This may be a difficult process as sharing power has never been easy in the dynamics of local government. The focus should be on ensuring that where there are decisions to be made at all layers of the water management system, mana whenua are represented fairly. This means within plan development, policy implementation and in consent applications. Space should be made for this to occur. A proposed audit tool is part of the suite of deliverables that have been undertaken under this broader Our Land and Water programme of work.

The principle of mana whakahaere considers how the relationship between hapū, iwi and freshwater manifests itself. Iwi management plans or other iwi planning documents will need to consider the characteristics of that relationship to guide councils into how practically to implement and be held responsible for delivering on these principles’ when managing freshwater.

Kaitiakitanga and Manaakitanga: All of these principles must be determined by the hapū and iwi of the takiwā. These definitions should be considered as guidelines, but the depth of these concepts will be found in the practices and mātauranga of mana whenua. **Both these concepts are to be implemented exclusively by mana whenua.**

6.1 HIERARCHY OF OBLIGATIONS

Central to the success of Te Mana o te Wai is the hierarchy of obligations. These obligations were designed by the Freshwater Iwi Chairs in 2018 and focus on putting water at the centre of all decisions. This is arguably the most important section for transforming our water system using the NPSFW.

We have heard from some iwi technicians that some councils are seeing Te Mana o te Wai as a relationship tool, which it is, but at its heart should be the wellbeing of water.

For hapū and iwi, ensuring that the hierarchy is applied will be a core activity to consider. Some of our iwi technicians highlighted their view that when making decisions for water, particularly around limit setting, users of water for commercial purposes should not be enabled to participate. Only those with the health of the water as their priority should be involved in the hierarchy at the top. This ensures that the health is first as is required in the policy.

In practice, the aspiration is to see less focus on economic drivers and more on environmental outcomes. This will mean councils will be required to assess who has water allocation consents differently and to create plans which are making it clear to water users that they must adhere to Te Mana o te Wai.

If hapū and iwi are not seeing that occur, their influence will be crucial in re-balancing the approach of council decisions, of which they should now be a part of. However it should be clear, once the Te Mana o te Wai outcomes for the waters are secured, or in progress, commercial opportunities which operate within these limits should be welcomed. It is essential for our overall well-being to enable economic sustainability for our whānau.



6.2 OTHER SECTIONS OF NOTE IN PART ONE

1.4 Interpretation

There are a range of definitions in this section which will be helpful to note in using the NPSFW. However, where there are many Māori words and concepts, we would strongly recommend that mana whenua hold their own definitions and that these should be used instead where mana whenua have identified them.

1.5 Application

This section states that the NPSFW including Te Mana o te Wai applies to all freshwater, including groundwater and geothermal waters. Nothing is to be excluded.

6.3 ACTIONS TO CONSIDER

- Review the formal relationships otherwise known as iwi participation agreements, held between hapū, iwi and councils. Consider whether in their current state they can give effect to these principles.
- Consider wānanga or collating information already developed to provide some clear guidelines as to what your hapū and or iwi mean when and how these Te Aō Māori concepts should be used. These can be used to guide relationships with council. Written guidelines should not replace direct engagement; however, they can assist in setting the scene. These wānanga will be essential in creating a vehicle for the wider implementation of the NPSFW and how it can support mana whenua roles and responsibilities. More importantly they will provide time to kōrero amongst whānau of the whakapapa of wai, the connections we have through our relationship and how traditional practices and mātauranga grow this hononga (connection). These conversations are ultimately far more important than those driven for policy and enables the mana whenua to shape the relationship with wai they need, rather than one defined by policy. More detail on these processes are provided later in this document.
- Consider amending current iwi management plans or developing a clear position statement on the particular expectations of the hapū and iwi in regard to Te Mana o te Wai. This could include specific sections on;
 - How mana whenua understand Te Mana o te Wai;
 - How best to engage with mana whenua on this kaupapa;
 - How the principles should work across the system; and
 - What further principles should be considered that are mana whenua based.
- Consider a funding plan for these actions and engage with council and central Government to agree resourcing.
- Consider how hapū and iwi will ensure that the hierarchy of Te Mana o te Wai is applied in every level of the system and how to ensure Council are demonstrating this change. That may be in form of an annual report to hapū and iwi where the template is agreed with both parties.



Part 2: Objective and Policies

How do the objective and policies of NPSFW (which have specific reference to tangata whenua) could be considered in the roles, responsibilities and activities of hapū and iwi.

2.1 OBJECTIVE

(1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

- first, the health and well-being of water bodies and freshwater ecosystems
- second, the health needs of people (such as drinking water)
- third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

7 PART TWO: OBJECTIVES AND POLICIES

The overall objective is focused on the hierarchy of obligations. As discussed earlier, the speed by which this hierarchy is practically applied will require significant investment of time and people by mana whenua to the partnership process with Councils.

7.1 POLICIES

The next section focuses on those policies that will be of particular interest to mana whenua, however all of the policies are crucial to delivering on Te Mana o te Wai.

It is recommended that hapū and iwi practitioners review this whole section as there are multiple tools of significance to kaitiakitanga.

In particular these are focused on wetlands, integrated management, climate change, wetlands, river extents and ecosystem monitoring.

Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai

Policy 1 of the NPSFW requires that all freshwater must be managed in a way that gives effect to Te Mana o Te Wai. Further, the National Objectives Framework (NOF) must have Te Mana o Te Wai imbedded into its fabric and throughout its implementation. In our view, this means that the hierarchy of obligations, the six principles, and the interpretation from mana whenua on what Te Mana o Te Wai means in their rohe and for their waterbodies, must also be given effect to in all freshwater management.



Policy 2: Tangata whenua are actively involved in freshwater management (including decision making processes), and Māori freshwater values are identified and provided for.

Tangata whenua are expected to be at all levels of water management. This policy requires that Māori freshwater values are identified and provided for. It is important for hapū and iwi to define how this occurs. For some mana whenua this has seen council provide facilitation services to determine values, other hapū and iwi are seeking ways to determine their own process. This has seen a need for resourcing from the councils to enable mana whenua to hold their own wānanga with their own experts to determine their values in a way that is most appropriate for them. We have expanded on this process later in the guidelines.

Policy 5: Freshwater is managed through a National Objectives Framework (NOF) to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.

The NOF will be important for mana whenua to ensure that the values setting part of the process is not relegated to sitting in plans without teeth. Core to the implementation of Te Mana o te Wai is ensuring that limits are set for the wellbeing of wai. Within the NPSFW the NOF is the main tool to achieve this. The NOF can be daunting, particularly for those without a mainstream science background. Mana whenua will need to partner with experienced practitioners to support their work within this framework. The NOF will be discussed later; however, we have highlighted this policy as it links mātauranga Māori and mainstream science and there will be considerable capacity and capability building required in this space to ensure that the outcomes of Te Mana o te Wai can be achieved.

Policy 8: The significant values of outstanding water bodies are protected.

Hapū and iwi may identify waterways that are of specific importance to their whānau, this process of identification should also be considered when holding wānanga for Te Mana o te Wai. This may be considered as a tool when wanting to protect particular sites. Other mana whenua may not want to single out waterways and prefer a blanket approach. Both are meaningful and as long as mana whenua have carried out the decision-making process themselves, the outcomes will be appropriate.

Policy 9: The habitats of indigenous freshwater species are protected.

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy

For the protection and enhancement of mahinga kai, these two policies will have significance for mana whenua. It is noted that for some iwi consider introduced fish as an important food source.

Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

Water allocation is connected directly to hapū and iwi rights and responsibilities in freshwater. This is a continuing negotiation with the Crown on this matter. However, on the ground, it will be important for mana whenua to ensure that policies do not either further entrench the lack of access to water for hapū and iwi or encourage water allocations processes that do not support the well-being of wai. This will increasingly be important to hapu and iwi where scarcity is an issue and there is no water for the water itself, nor for drinking water or for the sustainable development of Maori lands.

Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.

This policy will need to connect to monitoring carried out by mana whenua and the inclusion of mātauranga within wider monitoring within council responsibilities.



Policy 15: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.

It is essential that mana whenua are not seen only as one-dimensional contributors to Te Mana o te Wai. Hapū, iwi and those who manage Māori land on behalf of whānau should not be restricted from developing in a manner befitting their role as kaitiaki. They have a right to develop their lands within strong environmental limits which give effect to Te Mana o te Wai. Therefore, there will need to be specific avenues created by council to have economically focused conversations, particularly with those sectors of the Māori economy that operate in each takiwā in collaboration with hapū and iwi.



Part 3: Implementation

Part 3 of the NPSFM 2020 sets out how local authorities are to implement the NPSFM 2020 and breaks this down into three subparts.

SUBPART 1 APPROACHES TO IMPLEMENTING THE NATIONAL POLICY STATEMENT - 3.2 TE MANA O TE WAI

(1) Every regional council must engage with communities and tangata whenua o determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region.

(2) Every regional council must give effect to Te Mana o te Wai, and in doing so must:

- actively involve tangata whenua in freshwater management (including decision making processes), as required by clause 3.4; and
- engage with communities and tangata whenua to identify long-term visions, environmental outcomes, and other elements of the NOF; and
- apply the hierarchy of obligations, as set out in clause 1.3(5): (i) when developing long-term visions under clause 3.3; and (ii) when implementing the NOF under subpart 2; and (iii) when developing objectives, policies, methods, and criteria for any purpose under subpart 3 relating to natural inland wetlands, rivers, fish passage, primary contact sites, and water allocation; and
- enable the application of a diversity of systems of values and knowledge, such as mātauranga Māori, to the management of freshwater; and adopt an integrated approach, ki uta ki tai, to the management of freshwater.

8 PART 3: IMPLEMENTATION

In our view, to meet the obligations under clause 3.2, regional councils must (at a minimum and subject to mana whenua views):

- Support mana whenua to articulate their interpretation of Te Mana o Te Wai across their rohe.
- Te Mana o Te Wai can only be defined by tangata whenua.

Support could include:

- Resourcing a separate process with resourced capacity of the hapū and iwi choosing, to enable the upskilling and further definition of Te Mana o te Wai. This should include the resourcing of mātauranga experts identified by mana whenua.



- Local authorities doing their own homework and upskilling on what iwi and hapū have already articulated in this space through iwi management plans or iwi policies on freshwater and previous submissions;
- Reviewing Te Tiriti o Waitangi settlements within the catchments to ensure these are given effect when developing partnership models for decision making;
- Providing information or monitoring data to inform the current health of waterbodies and freshwater ecosystems;
- Funding mana whenua to engage in this process (noting most hapū and whānau engage in these areas on a voluntary basis);
- Investing in the capacity and capability building of mana whenua to participate in Te Mana o te Wai;
- Resourcing projects that aim to contribute to the body of mātauranga Māori knowledge as long as those projects are led by mana whenua;
- Resourcing the time of mana whenua for engagement and their specialist skills;
- Resource specialist independent advice to support mana whenua participation in areas where they may not have specialist skills, i.e., in parts of the NOF or legal advice where required for the development of iwi participation agreements.
- Active involvement should cover all sectors of the water management system not just planning or strategy setting. For mana whenua, where most have small teams or rely on external consultants to support them to achieve this will be difficult. However, this section expressly makes space for mana whenua, it will be up to councils to encourage and resource this level of participation. Mana whenua will need to continue to actively grow their capacity to participate.
- Supporting mana whenua to have the space to develop their own positions before being required to enter into wider collaborative groups can be important to ensuring they are participating equitably. Collaborative groups can be marginalising for hapū and iwi representatives. Having a clear set of positions and perspectives that have been mandated by the appropriate mana whenua provides certainty in the face of sometimes overwhelming numbers in workshops.

We understand some councils are pushing on with Te Mana o te Wai and NPSFW implementation without partnership with their mana whenua. We strongly recommend that this does not occur, and that time must be taken to set up the framework to give effect to this section.



3.3 LONG-TERM VISIONS FOR FRESHWATER

(1) Every regional council must develop long-term visions for freshwater in its region and include those long-term visions as objectives in its regional policy statement.

(2) Long-term visions:

- may be set at FMU, part of an FMU, or catchment level; and
- must set goals that are ambitious but reasonable (that is, difficult to achieve but not impossible); and
- identify a timeframe to achieve those goals that is both ambitious and reasonable (for example, 30 years after the commencement date).

(3) Every long-term vision must:

- be developed through engagement with communities and tangata whenua about their long-term wishes for the water bodies and freshwater ecosystems in the region; and
- be informed by an understanding of the history of, and environmental pressures on, the FMU, part of the FMU, or catchment; and
- express what communities and tangata whenua want the FMU, part of the FMU, or catchment to be like in the future.

(4) Every regional council must assess whether each FMU, part of an FMU, or catchment (as relevant) can provide for its long-term vision, or whether improvement to the health and well-being of water bodies and freshwater ecosystems is required to achieve the vision.

9 LONG TERM VISION

Long-term visions can be set at a freshwater management unit (FMU) (or part of an FMU), or catchment level and must include goals that are ambitious but reasonable within an identified timeframe.

Every long-term vision must be developed through engagement with communities and tangata whenua. This means long-term visions should reflect the wishes of mana whenua for their waterbodies in their rohe. As a starting point, we recommend that regional councils review and take guidelines from iwi management plans and other articulations by iwi and hapū of their freshwater objectives.



Once long-term visions are set, the regional council(s) must assess whether the FMU or catchment can already provide for that vision or whether improvement is required. If improvement is required, that should be considered throughout the NOF setting process.

This section uses the term FMU, which is a Freshwater Management Unit. We will discuss these in further detail later in the guidelines. However, simply there is an expectation that long term visions will apply to bodies of water and land within ascribed boundaries.

The Ministry for the Environment guidelines provides the following explanation of FMU's.

The term freshwater management unit (FMU) was introduced to the National Policy Statement for Freshwater Management (NPS-FM) in the 2014 amendments. An FMU is defined in the NPS-FM 2014 as:

- *A water body, multiple water bodies or any part of a water body determined by the regional council as the appropriate spatial scale for setting freshwater objectives and limits and for freshwater accounting and management.*
- *By definition FMUs are made up of freshwater bodies. Managing fresh water is, however, inherently linked to managing the land that feeds into the freshwater body, or the catchment that supplies it.*
- *The NPS-FM requires councils to manage fresh water and land use in an integrated and sustainable way. Councils should therefore consider the surrounding land use and its effect on freshwater bodies when identifying FMUs⁴.*

⁴ https://environment.govt.nz/assets/Publications/Files/guide-to-freshwater-management-units_0.pdf



3.4 Tangata Whenua Involvement

3.4 TANGATA WHENUA INVOLVEMENT

(1) Every local authority must actively involve mana whenua (to the extent they wish to be involved) in freshwater management (including decision-making processes), including in all the following:

- identifying the local approach to giving effect to Te Mana o te Wai
- making or changing regional policy statements and regional and district plans so far as they relate to freshwater management
- implementing the NOF (see subclause (2))
- developing and implementing mātauranga Māori and other monitoring.

(2) In particular, and without limiting subclause (1), for the purpose of implementing the NOF, every regional council must work collaboratively with, and enable, tangata whenua to:

- identify any Māori freshwater values (in addition to mahinga kai) that apply to any FMU or part of an FMU in the region; and
- be actively involved (to the extent they wish to be involved) in decision-making processes relating to Māori freshwater values at each subsequent step of the NOF process.

(3) Every regional council must work with tangata whenua to investigate the use of mechanisms available under the Act, to involve tangata whenua in freshwater management, such as:

- transfers or delegations of power under section 33 of the Act
- joint management agreements under section 36B of the Act
- mana whakahono a rohe (iwi participation arrangements) under subpart 2 of Part 5 of the Act.

(4) To avoid doubt, nothing in this National Policy Statement permits or requires a local authority to act in a manner that is, or make decisions that are, inconsistent with any relevant iwi participation legislation or any directions or visions under that legislation.



10 TANGATA WHENUA INVOLVEMENT

This is a progressive section of the NPSFW. It enables participation across the system. It will however require significant council institutional change to occur and a step change in capacity and capability for hapū and iwi to be able to engage effectively.

It will be essential that specific implementation plans are considered by hapū and iwi in partnership with councils to address this section. Mana whenua are already under pressure responding to consents, and other parts of the resource management system which currently is under significant change. Hapū and iwi will benefit from working this piece through with councils, looking at all the parts of the system and defining how participation will occur in the current state, and what will be needed for both organisations to rise to the level of partnership envisaged by this section.

By reviewing together, the current process and identifying the specific areas needed to transform, a change management process can be agreed to.

Both parties will need to consider;

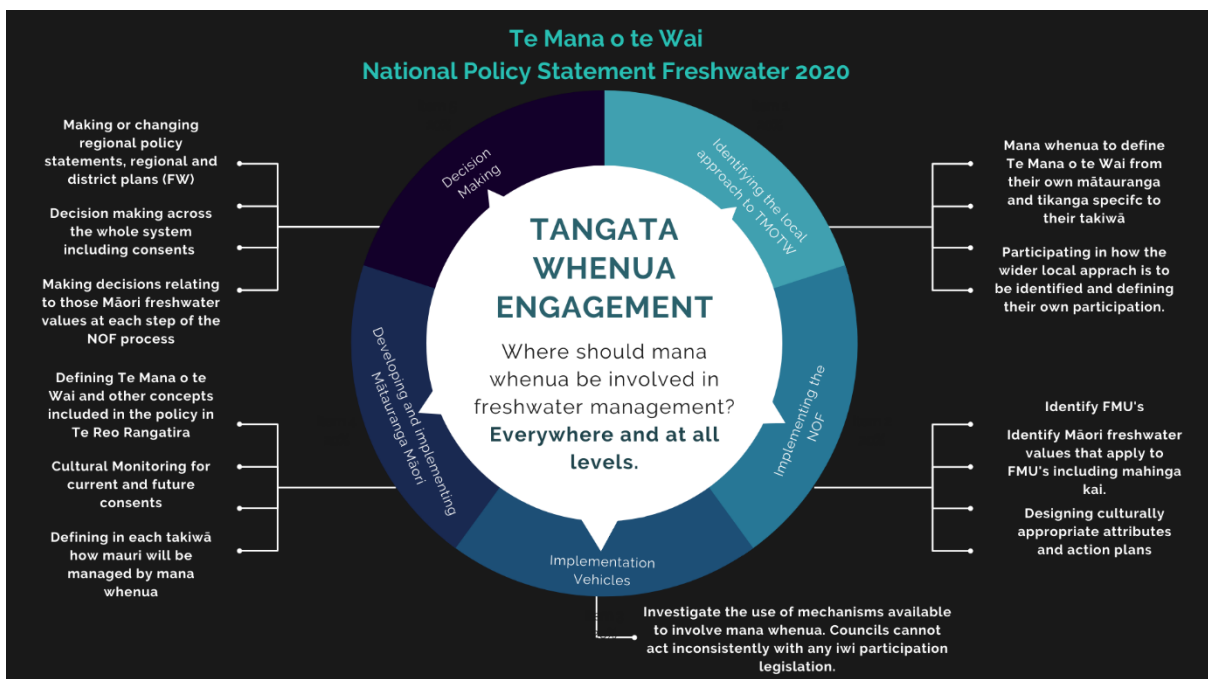
- Numbers of FTE staff needed and what skills they will require;
- Increased budgetary requirements for the changes outlined in the NPSFW particularly for Council and to access central Government funding where applicable;
- Upskilling for current staff members;
 - for mana whenua, this may be in the understanding of the NPSFW and the NOF
 - for Council staff, an understanding of Te Tiriti o Waitangi, contextual history of its hapū and iwi partners, an introduction to mātauranga Māori, Te Tiriti settlements and statutory acknowledgements in the district and cultural protocols⁵;
- An agreed process to monitor the relationship and the direction of the workplan annually, preferably with an audit process that provides for specific measures and targets. These must be transformative change, not additions to current processes that are not giving effect to Te Mana o te Wai⁶;
- Access to the Making Good Decisions course for more mana whenua participants enabling shared decision making;
- Establishment of training programmes that are focused on the components of the NOF i.e., monitoring, limit setting;
- FMU identification will require a process where mana whenua can determine what the characteristics of their FMU's would look like, in particular this could include shaping by whakapapa and relationships with overlapping hapū, by their own mātauranga and by mahinga kai. FMU's should not be identified without mana whenua so how will this occur and how will mana whenua be supported to ensure this is a process with cultural integrity?
- How will the NOF be utilised in a way that is culturally appropriate, what can be made more flexible to include mātauranga Māori and create space for a more holistic outcome rather than the silos that occur currently.
- For mana whenua, how will traditional practices like rāhui and concepts like mauri be managed across the system? Guidelines from mana whenua in this space will be essential.
- For mana whenua, determining a work programme to establish the appropriate place and use of mātauranga Māori across the system and how this will be unique to each hapū/iwi. Monitoring will be one part of this work, but there will be other aspects that mana whenua may like to develop in their own rohe;

⁵ A training programme for both mana whenua groups and councils has been developed as part of this Our Land and Water wider project.

⁶ An audit tool has also been developed. Both these documents will be available at www.poipoia.co.nz.



- Consider the use of section 33 to transfer certain powers to mana whenua to enable Te Mana o te Wai;
- For mana whenua a work programme to consider how to best determine Te Mana o te Wai and how to communicate that to support its wider implementation of the NPSFW.
- Both parties should be reviewing the ability of current iwi participation agreements to give effect to Te Mana o te Wai including decision making. If these do not currently exist it is recommended these are developed where mana whenua feel these are appropriate.
- Iwi Management Plans should be considered or updated to include Te Mana o te Wai and a process to ensure the plans are integrated into the NPSFW processes
- Te Mana o te Wai applies to all freshwater and the concept is also included in a different form in the three waters process, mana whenua will need to consider this when working to give effect to Te Mana o te Wai in multiple forms.
- Over what time period will these changes be implemented, will there need to be a space for transition and how can this work in partnership with mana whenua and councils?
- How will Te Mana o te Wai be applied to all existing and new consents? This will be a large piece of work in any takiwā so these discussions should begin as soon as possible. Consenting will need to change and mana whenua will want to be engaged on this issue, particularly in terms of water allocation, water quality and access to water.
- How may cultural impact assessments and cultural values assessments be helpful for consenting and pre-lodgement of consents to protect their values? How can these be designed as part of the infrastructure of the consenting and support achieving Te Mana o te Wai.
- How will co-design of plans become a reality? Examples like the Waiapu Catchment Plan in Ngati Porou with the Gisborne District Council and the Waikato River Vision and Strategy championed by Waikato Tainui are good examples.
- For Councils, how will they manage the public reaction to this change, how will they train their councillors and create a new way of engagement that is focused on power sharing not consultation? What internal change needs to occur and what resources will be needed to support their organisation? What are the key messages they will need to share with their community?





3.5 Integrated Management

3.5 INTEGRATED MANAGEMENT

(1) Adopting an integrated approach, ki uta ki tai, as required by Te Mana o te Wai, requires that local authorities must:

- recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea; and
- recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments; and
- manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments; and
- encourage the co-ordination and sequencing of regional or urban growth.

11 INTEGRATED MANAGEMENT

Critically, local authorities when implementing the NPSFW, must take an integrated approach – ki uta ki tai.

‘Ki uta ki tai’ is a concept within Te Ao Māori which reflects how te taiao and its taonga are connected, from the mountains to the sea, and should be managed together - not broken down into separate or distinct parts. Integrated management under the NPSFW reflects this approach.



Subpart 2 National Objectives Framework (NOF)

3.7 NOF PROCESS

(1) At each step of the NOF process, every regional council must:

- engage with communities and tangata whenua; and
- apply the hierarchy of obligations set out in clause 1.3(5), as required by clause 3.2(2)(c).

(2) By way of summary, the NOF process requires regional councils to undertake the following steps:

- identify FMUs in the region (clause 3.8)
- identify values for each FMU (clause 3.9)
- set environmental outcomes for each value and include them as objectives in regional plans (clause 3.9)
- identify attributes for each value and set baseline states for those attributes (clause 3.10)
- set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes (clauses 3.11, 3.13, 3.16) (f) set limits as rules and prepare action plans (as appropriate) to achieve environmental outcomes (clauses 3.12, 3.15, 3.17).

(3) The NOF also requires that regional councils:

- monitor water bodies and freshwater ecosystems (clauses 3.18 and 3.19); and
- take action if degradation is detected (clause 3.20).

We recommend for the NOF you also refer to sections;

- 3.8 Identifying FMUs and special sites and features
- 3.10 Identifying attributes and their baseline states, or other criteria for assessing achievement of environmental outcomes
- 3.11 Setting target attribute states
- 3.12 How to achieve target attribute states and environmental outcomes
- 3.13 Special provisions for attributes affected by nutrients
- 3.15 Preparing action plans
- 3.16 Setting environmental flows and levels
- 3.17 Identifying take limits
- 3.18 Monitoring
- 3.19 Assessing trends
- 3.20 Responding to degradation



12 THE NATIONAL OBJECTIVES FRAMEWORK

The NOF is essential as it sets the necessary values, outcomes and specific attributes required to meet the hierarchy of obligations and local definitions of Te Mana o Te Wai and enable long-term visions to be realised.

The NOF itself will be quite new for many hapū and iwi, however we feel this is where mana whenua involvement is particularly crucial. Often mana whenua, where they are engaged in planning are participating at the high level, mainly in values, or providing the 'Māori' perspectives on kaupapa but often there are barriers to participation at the levels of detail required to give effect to Te Mana o te Wai. These barriers include resourcing and capability in this space and sometimes just having the time to get into the detail.

Where possible we recommend mana whenua to consider greater engagement at this end of the planning phase.

We do understand it can be difficult to use precious resources to be sitting in rooms diving into detail around limit setting, and also difficult to demonstrate the value of committing so much time to planning work when often mana whenua have multiple priorities and whanau on the ground may not see the value of this mahi.

The NOF is where the implementation of mana whenua values will impact consenting and monitoring and enforcement. It will need careful review to ensure it does not enable 'business as usual' without the stretch needed to give effect to Te Mana o te Wai and establish transformative change.

The NOF can be broken down into 7 steps; all steps being informed by engagement with mana whenua and communities, Te Mana o Te Wai and long-term visions:

- Step 1: identifying the Freshwater Management Units in the region (clause 3.8);
- Step 2: for each FMU, or part of an FMU, identify the values for that FMU, including Māori freshwater values (clause 3.9). There are four compulsory values that must be applied to all FMU's one of which is **Mahinga Kai**. Other values that must be considered are listed in Appendix 1B and include **Wai Tapu, Tauranga Waka**;
- Step 3: for each environmental value, set environmental outcomes (these will be objectives in regional plan(s)) (clause 3.9);
- Step 4: for each environmental value, identify attributes (a measurable characteristic (numeric, narrative, or both) that can be used to assess the extent to which a particular value is provided for) and set baseline states for each attribute (clause 3.10);
- Step 5: for each attribute, set target attribute states, set environmental flows and levels, and any other criteria to support the achievement of the environmental outcome (clause 3.11);
- Step 6: for each target attribute state (including flows, levels or other criteria set), set limits and/or prepare action plans [and conditions] to achieve the environmental outcome (clauses 3.12 to 3.17); and
- Step 7: for each target attribute state (including flows, levels or other criteria set) and environmental outcome, methods of monitoring must be established, and trends assessed (clauses 3.18 to 3.20).

We have prepared a specific factsheet on the NOF process which is available with these guidelines. The following diagram includes the pre-NOF steps that we recommend are required to ensure the NOF process is most effective. This pre- process was developed through the case studies that are also available with these guidelines.

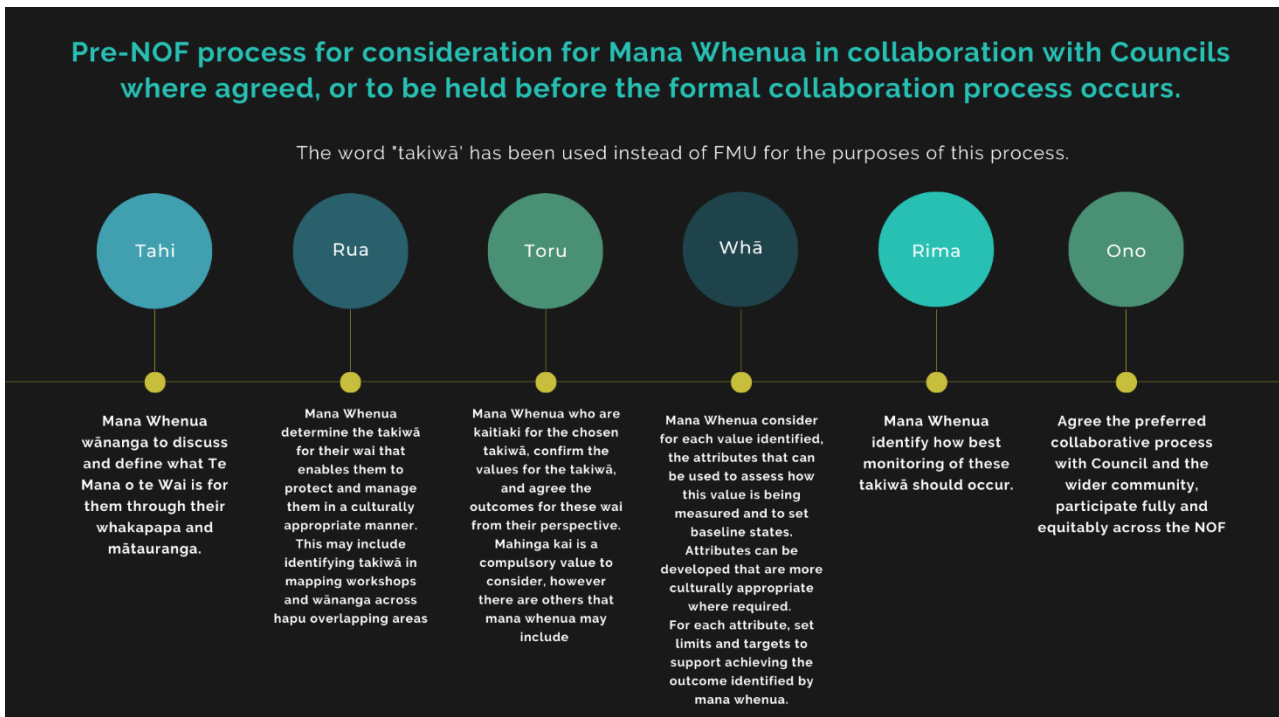
The aim of a pre-NOF process or at least a parallel approach is to ensure that mana whenua have the time and resources to understand the NOF process and ensure they can participate in an equitable



manner. This is not to override the broader collaborative process, but it does support mana whenua being able to bring their thoughts and positions to the table, rather than having to react in a broader collaborative process where they may be the minority. It also enables conversations amongst mana whenua hapu who will need to consider ‘overlap’ areas of responsibility and how this can be managed in a mana enhancing manner.

This process will require resourcing and support particularly when setting limits and mana whenua may prefer technicians who have experience in tikanga Māori and who whakapapa to their waters to support them.

We have used the word “takiwā” instead of FMU’s but recognise that every hapū and iwi will have their own way of describing an FMU. FMU was noted by many of our whānau as an impersonal way of describing waters which mana whenua whakapapa to and alternatives descriptors were preferred.



12.1 APPENDIX 1A COMPULSORY VALUES

The compulsory values listed in Appendix 1A apply to **every** FMU. There is one compulsory value at this stage that relates to Te Aō Māori, this is Mahinga Kai.

4 Mahinga kai

Mahinga kai – kai is safe to harvest and eat.

Mahinga kai generally refers to freshwater species that have traditionally been used as food, tools, or other resources. It also refers to the places those species are found and to the act of catching or harvesting them. Mahinga kai provide food for the people of the rohe, and these sites give an indication of the overall health of the water. For this value, kai would be safe to harvest and eat. Transfer of knowledge is able to occur about the preparation, storage and cooking of kai. In FMUs or parts of FMUs that are used for providing mahinga kai, the desired species are plentiful enough for long-term harvest and the range of desired species is present across all life stages.



Mahinga kai – Kei te ora te mauri (the mauri of the place is intact).

In FMUs or parts of FMUs that are valued for providing mahinga kai, customary resources are available for use, customary practices are able to be exercised to the extent desired, and tikanga and preferred methods are able to be practised.

12.2 APPENDIX 1B – OTHER VALUES THAT MUST BE CONSIDERED

A regional council may identify other values applying to an FMU or part of an FMU and must in every case consider whether the values listed in Appendix 1B apply.

These include Wai Tapu and Tauranga Waka. We recommend you review all values.

12.2.1 Wai tapu

Wai tapu represent the places in an FMU or part of an FMU where rituals and ceremonies are performed, or where there is special significance to tangata whenua.

Rituals and ceremonies include, but are not limited to, tohi (baptism), karakia (prayer), Waerea (protective incantation), whakatapu (placing of rāhui), whakanoa (removal of rāhui), and tuku iho (gifting of knowledge and resources to future generations).

In providing for this value, the wai tapu are free from human and animal waste, contaminants, and excess sediment, with valued features and unique properties of the wai protected. Other matters that may be important are that there is no artificial mixing of the wai tapu and identified taonga in the wai are protected.

12.2.2 Transport and tauranga waka

The FMU or part of the FMU is navigable for identified means of transport. Transport and tauranga waka generally refers to places to launch waka and water craft, and appropriate places for waka to land (tauranga waka).

12.3 APPENDIX 2A – ATTRIBUTES REQUIRING LIMITS ON RESOURCE USE AND APPENDIX 2B

For each value that applies to an FMU or part of an FMU, the regional council:

(a) must use all the relevant attributes identified in Appendix 2A and 2B for the compulsory values listed (except where specifically provided otherwise); and

(b) may identify other attributes for any compulsory value; and

(c) must identify, where practicable, attributes for all other applicable values; and

(d) if attributes cannot be identified for a value, or if attributes are insufficient to assess a value, must identify alternative criteria to assess whether the environmental outcome of the value is being achieved.

(2) Any attribute identified by a regional council under subclause (1)(b) or (c) must be specific and, where practicable, be able to be assessed in numeric terms.

(3) Every regional council must identify the baseline state of each attribute, using the best information available at the time.

(4) Attribute states and baseline states may be expressed in a way that accounts for natural variability and sampling error.



There are currently no attributes in Appendix 2A, Appendix 2B or Sediment classifications in Appendix 2C that are derived from mātauranga Māori, however there is the opportunity to create these attributes as noted above in clause 3.10 (1)(b). This will require some significant investment to design mātauranga Māori led attributes and sediment classifications however the growing body of work in better understanding the ebbs and flows of mauri is encouraging. Work also is growing in the whakapapa of soils by experts such as Professor Nick Roskrige, Dr Jessica Hutchings, and Garth Harmsworth, so this space exists and can greatly contribute to this kaupapa. The matauranga of hapū and iwi holds this knowledge already, so it will be an important part of giving effect to Te Mana o te Wai that this is further enabled.



Subpart 3 Specific requirements

This section focuses on mandatory requirements which regional councils must implement into regional plans. We have focused on those that we believe will be of most interest to hapū and iwi practitioners but we recommend reviewing the whole Subpart.

HIGHLIGHTED SECTIONS

- 3.21 Definitions relating to wetlands and rivers
- 3.22 Natural inland wetlands
- 3.24 Rivers
- 3.26 Fish passage
- 3.27 Primary contact sites

3.28 Water allocation

- (1) Every regional council must make or change its regional plan(s) to include criteria for:
 - deciding applications to approve transfers of water take permits; and
 - 30 National Policy Statement for Freshwater Management 2020
 - deciding how to improve and maximise the efficient allocation of water (which includes economic, technical, and dynamic efficiency).

(2) Every regional council must include methods in its regional plan(s) to encourage the efficient use of water.

13 SPECIFIC REQUIREMENTS

In addition to the steps detailed in the NOF (subpart 2 of the NPSFM 2020), subpart 3 sets out specific (i.e., mandatory) requirements which regional councils must implement into regional plan(s). This includes specific provisions for wetlands (clauses 3.22, 3.23), rivers (clauses 3.24, 3.25), fish passage (clause 3.26), water allocation (clause 3.28), freshwater accounting systems (clause 3.29) and assessing and reporting requirements (clause 3.30).



13.1 WETLANDS

Councils will be required to ensure there is no further loss of extent of natural inland wetlands, their values protected, and their restoration is promoted. This will be important to note for our Māori landowners who may need to consider this for future operations.

Within the definitions section, **loss of value**, in relation to a natural inland wetland or river, means the wetland or river is less able to provide for the following existing or potential values which includes (iv) Māori freshwater values.

13.2 RIVERS

In section 3.24 every regional council must include the following policy (or words to the same effect) in its regional plan(s):

“The loss of river extent and values is avoided, unless the council is satisfied:

- (a) that there is a functional need for the activity in that location; and
- (b) the effects of the activity are managed by applying the effects management hierarchy.”

Where there is an application for a consent for an activity that would result in the loss of extent or values of a river, the regional council must ensure that the applications is not granted unless;

- (a) the council is satisfied that the applicant has demonstrated how each step in the effects management hierarchy will be applied to any loss of extent or values of the river (including cumulative effects and loss of potential value), particularly (without limitation) in relation to the values of ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity; and
- (b) any consent granted is subject to conditions that apply the effects management hierarchy.

This clause will be helpful for mana whenua who are managing the impacts of river alterations and gravel extraction on their awa.

13.3 FISH PASSAGE

For the benefits of mahinga kai, the following section and connected clauses may be of interest to mana whenua.

Every regional council must include the following fish passage objective (or words to the same effect) in its regional plan(s):

“The passage of fish is maintained, or is improved, by instream structures, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats.”

13.4 PRIMARY CONTACT SITES

The safety of whānau is essential and mana whenua have been concerned over the impacts of the quality of some waterways on the human health for some time. The NPSFW requires that;

Every regional council must monitor primary contact sites for:

- (a) their risk to human health; and



(b) their suitability for the activities that take place in them (for example, by monitoring whether there is slippery or unpleasant weed growth, and the visual clarity of the water).

Section 3.21 covers the requirements on council and may be important for hapū and iwi where they are facing water degradation that has human health impacts.

13.5 WATER ALLOCATION

This process will be important for mana whenua to participate in. The focus here is on efficiency of water use, so making sure that there is enough water for the hierarchy of Te Mana o te Wai to be enabled. Mana whenua will need to influence this process to ensure that those who are using too much water, leaving rivers dry in some areas are managed more closely and the system discourages this behaviour.

The priority is “the health and well-being of the water bodies and freshwater ecosystems”, mana whenua will need to ensure that the application of the hierarchy does not elevate the commercial aspirations over the health and well-being of wai.

Water take applications and current consents will need to be reviewed as a result of this clause, it will be valuable for hapū and iwi to wānanga to determine their own perspectives on allocation and their concerns to feed into this process effectively. Part of the work may require having greater understanding of current water takes and use in the rohe, and availability of wai, particularly seasonally. Having this information enables a much more informed conversation when participating in consent expectations.

The accompanying case study to this guideline from Ngāti Rangiwewehi describes their experiences in establishing cultural flows, this process could be considered as an effective tool to protect wai and would be best institutionalised in this part of the regional plan.

It is recommended that hapū and iwi collaborate closely with Māori landowners who have historically been locked out of access to water in many catchments. Although rights and interests in freshwater are being addressed directly between hapū and iwi with the Crown. This does not mean that discussions cannot be held with regional councils on creating allocations systems that are aligned with hapū and iwi aspirations in this space.



Ko te wai te tuatahi Ko te wai te tuarua

**A whakatauki from Titi Tihu of Whanganui
adapted by Che Wilson**