



# **Tāngata Whenua Provisions Workshop Report**

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## Executive Summary

This document provides a summary of material presented to Council Members throughout workshops undertaken to progress development of the Draft Freshwater Plan Change, particularly as this relates to the advice and recommendations that Council received from the Tāngata Whenua Water Advisory Group endorsed by Te Taitokerau Māori and Council working party (TTMAC). This report should be read in conjunction with “*FW Plan Change Attributes Workshops Summary*” and “*FW Plan Change Vision, Values and Objectives Workshop Summary*”. TWWAG are a group of Māori technical advisors that whakapapa back to Te Taitokerau. TWWAG have provided a regional approach to their report and recommendations, and it does not seek to override the individual mana motuhake and rangatiratanga hapū and iwi have in Te Taitokerau.

The National Policy Statement for Freshwater Management 2020 (NPS-FM) requires council to engage with tāngata whenua and communities to identify values for freshwater and develop a vision and environmental outcomes for freshwater to give effect to Te Mana o te Wai (TMotW). Outcomes are to be achieved through the management of underlying attributes for each value; the management of which by Regional Council must be through either setting limits on resource use or through the implementation of action plans.

The Tāngata Whenua Water Advisory Group (TWWAG) have made a series of recommendations to council in their report:

1. *Ngā Roimata o ngā Atua: The Tears of Ranginui and Papatūānuku - A Recommendation Report to support the Implementation of Te Mana o Te Wai in Te Taitokerau* (also known as the Stage 2 report, but hereon referred to as “TWWAG’s report”).

This report is supported by other TWWAG reports:

2. *Te Mana me to Mauri o te Wai; A Discussion Document for Te Taitokerau* (also known as the Stage 1 report)
3. *Voices of Nga Wai Māori ki te Tai Tokerau: A Case Study Report*

TWWAG reports are available here: [www.nrc.govt.nz/TWWAGreports](http://www.nrc.govt.nz/TWWAGreports). A glossary of key Māori terms is included in **Appendix 1**.

## Scope of recommendations

TWWAG’s report includes many recommendations. The focus of this report is TWWAG’s advice on:

- The 40 recommendations as set out in Section 1 (pages 2-5) of TWWAG’s report.
- Recommended attributes (the measures for the Māori freshwater values and related objectives) – refer section 8.8 (pages 69-84 of TWWAG’s report)
- Recommended policies – refer Section 8.7 (pages 53-69 of TWWAG’s report)
- Recommended rules – refer Section 8.7 (pages 54-68 of TWWAG’s report – see **Appendix 2**).

TWWAG’s report also includes recommendations on the vision, te mana o te wai statement, values and objectives. These are addressed in a separate report (see “*FW Plan Change Vision, Values and Objectives Workshop Summary*”).

## Staff approach

This report details the staff response to TWWAG's recommendations. The staff role has been to assess the workability of the proposed recommendations from an RMA plan implementation and a western-based approach to resource management.

Staff have worked to a principle of adopting TWWAG's recommendations unless there is (in staffs' view) good reason not to. Staff have also erred on adopting TWWAG recommendations if there is uncertainty or a lack of information, so that they can be tested through the engagement process on the draft freshwater plan change.

Staff have not made any judgement on whether the proposed provisions appropriately reflect a Māori perspective as it is not our role to do so, nor are we qualified to do this. We have relied on the expertise of TWWAG.

TWWAG have been very clear that their advice does not represent the views of all, and that council needs to engage much more to ensure that whanau, hapu and iwi have opportunity to describe their values, vision, targets etc in regard to freshwater management in their respective rohe/hapori wai. What TWWAG has provided is a 'placeholder' at a region-wide level that others can add to. Staff have taken this into consideration and acknowledge that future plan changes will be required to address some of TWWAG's recommendations.

## Challenges

The process of TWWAG developing their recommendations and then staff reviewing these and presenting their own recommendations has come with challenges:

- TWWAG's process was very compressed to meet council freshwater plan change timeframes – for example, there was little time to test and involved no engagement with tāngata whenua beyond TTMAC.
- TWWAG's recommendations reflect their experiences with the RMA over many years, and the current regional plan rules relating to freshwater have only recently become operative. Nor have TWWAG had opportunity to see what other changes council is considering.
- Without a much greater level of engagement with tāngata whenua to determine specific places, values, aspirations, etc at local level, TWWAG's proposed provisions have had to provide a blanket approach that can apply regionally that others can add to.
- Some of the recommendations TWWAG are making are a major shift away from the status quo, and there hasn't been the time to talk through with TWWAG the practicalities, legalities and costs (in terms of time and resources) that staff foresee requiring further consideration.

# Recommendations

## TWWAG's 40 Recommendations

These are the recommendations set out in Section 1 (pages 2-5) of TWWAG's report. The recommendations fall into four categories:

- 1) **Plan provisions** – provision(s) (e.g. a policy or rule) to go into the freshwater plan change or Regional Policy Statement (7 recommendations). These have either been addressed at a previous workshop (where they relate to vision, values and objectives) or are picked up later on in this report in the 'Policies' or 'Rules' section.
- 2) **Freshwater actions** - action(s) to go into the action plan (14 recommendations). These tend to be non-regulatory actions that are only relevant to freshwater and are not already committed to or being implemented. (See **Appendix 3** for list of those actions staff are recommending).
- 3) **Broader actions** – actions broader than just freshwater (5 recommendations). Staff propose that any TWWAG recommendations broader than freshwater are provided to TTMAC as a package to seek direction on how to address (see **Appendix 4**).
- 4) **Underway** - council is already implementing or committed to (e.g. actions in Tāiki ē) (14 recommendations). No further action is required on these recommendations as they are already covered by existing work or commitments.

## Attributes

Attributes are metrics that can be measured (either qualitatively or quantitatively) to determine the extent to which objectives are being achieved.

Council has already considered and provisionally agreed to including a range of Māori freshwater values and associated objectives. TWWAG have proposed nine attributes:

- 1) Cultural health
- 2) Mana me te rangatiratanga
- 3) Access to wai (physical relationship with wai)
- 4) Tāngata whenua water allocation, usage and satisfaction
- 5) Water quality for drinking water
- 6) Repo / wetland health
- 7) Awa / river health
- 8) Roto / lake health
- 9) Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health

Staff recommend that all the proposed attributes (with some amendments) are adopted for the draft Freshwater Plan Change, as a basis for seeking feedback.

Staff also recommend further work be done by TWWAG to develop methodologies for monitoring the attributes and then to apply the methodologies to understand the baseline state for each attribute.

Staff agree with TWWAG's proposal to use the bottom lines with an achieve by date of 2040 as the default target attribute states (noting staff's recommended changes to the bottom line and-band descriptions for some attributes).

## Policies

TWWAG have recommended 30 policies to be included in the Freshwater Plan Change. Staff have recommended including one as proposed by TWWAG without change, including 25 with amendments or merging, and not including four of the proposed policies.

The following is a summary of the most significant policy recommendations (in terms of change to the status quo) that staff recommend be included in the draft freshwater plan change/action plan for consultation and the staff's advice:

Policy Recommendation	Staff advice
<p>1. Cultural impact assessments to be undertaken for any resource consent that may affect wai (water) (Policy 1.4)</p>	<p>Staff recommend that this be included in the draft plan for public engagement. TWWAG have provided advice on which activities require consideration of effects on tāngata whenua values and practices and these are reflected in the proposed rules.</p>
<p>2. 20% of water available for water takes being set aside for specified purposes (e.g. environmental enhancement, for use by marae and papakāinga or Māori land development) or other uses (where a financial contribution is made to a TMoTW fund managed by council). (Policy 5.3)</p>	<p>While there are some issues to work through, staff are in principle supportive of the recommendation because:</p> <ul style="list-style-type: none"> <li>a) it is consistent with the TMoTW hierarchy which puts environmental and human basic needs above commercial needs.</li> <li>b) It is consistent with the principles of Te Tiriti o Waitangi in terms of recognising Māori interests in, and rangatiratanga over, water.</li> <li>c) 20% as a percentage allocation is consistent with commercial fishing interests and aquaculture space.</li> <li>d) It helps to address equity of access to water – for various reasons Māori have not been able to access water (e.g. waiting on return of Treaty Settlement land).</li> <li>e) It does not exclude other uses.</li> </ul> <p>Whilst there is no definitive case law to assist with considering this policy, council may lawfully include regional plan provisions that allocate a proportion of water for tāngata whenua, both as a group and for specific activities provided that this is required to give effect to the objectives and policies relating to the NPS-FM and the TMoTW hierarchy which puts the health of waterbodies first, and allocation is not from freshwater bodies that are fully allocated.</p> <p>This is a complex issue but that there is scope for council to consider inclusion of such a policy.</p> <p>There are some practical issues to consider, for example:</p> <ul style="list-style-type: none"> <li>a) What happens where there is less than 20% of allocable water left or if a catchment is fully allocated?</li> <li>b) Who would determine whether a proposal meets the prescribed purpose?</li> <li>c) How much the financial contribution might be?</li> </ul> <p>However, staff don't believe these practical issues need to be answered before putting out the draft. The draft is a platform to test with the community and tāngata whenua council's potential approaches for implementing the NPS-FW.</p> <p>In that regard, it is the concept of a 20% allocation that requires feedback.</p>

Policy Recommendation	Staff advice
<p>3. Waterbodies be given legal personhood (Policy 1.3)</p>	<p>There is no legal mechanism for council to apply legal personhood to wai. The 'legal personality' approach is where a natural resource (eg. protected area, river, mountain) is given the status of a 'legal person' through Treaty settlement legislation. There have been two legal personalities created through Treaty settlements, in relation to Te Urewera (Tūhoe) and Te Awa Tupua (Whanganui River), and one is proposed for Mt Taranaki. Different approaches have also been taken in other parts of the world (not involving Treaty Settlement)<sup>1</sup>.</p> <p>Whilst there is currently no legal mechanism for council to apply legal personhood, staff recommend an action be included in the Action Plan to investigate the concept of water being a 'living entity' and its rights (to be healthy and flourishing) being represented by someone.</p>

## Rules

TWWAG has recommended all activities affecting wai (e.g. discharges, water takes and land disturbance) should be non-complying, discretionary or restricted dictionary activities, with the exception of surface water takes for uses such as environmental enhancement, papakāinga and marae being controlled. There would be no permitted activities.

On the one hand staff acknowledge why TWWAG has made this recommendation. Put simply, TWWAG is concerned that there are too many activities being allowed (permitted activity or resource consent granted) which are having unacceptable impacts on the environment, and they believe tāngata whenua can play a greater role in decision making as they have knowledge that can help (this is related to above recommendation on cultural impact assessments).

If TWWAG's recommendation were adopted, it would have a major impact on resource users and council. The regional plan includes many permitted and controlled activities, and for these activities to move to restricted discretionary or greater would have considerable time and cost impacts, for activities that have been considered by council staff as being at the lesser end of the effects scale.

Staff are conscious that TWWAG have not had the opportunity to do an assessment of the existing or proposed amendments to rules in any detail. TWWAG have provided advice on which of the existing and proposed rules should include requirements for cultural impact assessments.

<sup>1</sup> See for example [O'Donnell E and Talbot-Jones J \(2018\) Creating legal rights for rivers: lessons from Australia, New Zealand, and India. In Ecology and Society, Mar 2018, Vol. 23, No. 1](#)

# 1. Introduction

This report addresses the proposed provisions sought by the Tāngata Whenua Water Advisory Group (TWWAG) and endorsed by Te Taitokerau Māori and Council (TTMAC) Working Party.

The primary source of the proposed provisions is the TWWAG's report: *Ngā Roimata o ngā Atua: The Tears of Ranginui and Papatūānuku - A Recommendation Report to support the Implementation of Te Mana o Te Wai in Te Taitokerau* – (hereafter referred to as TWWAG's report).

This in turn is founded on the earlier work done by TWWAG<sup>2</sup> and case studies that focused specifically on issues relating to freshwater management from a tāngata whenua perspective in Te Taitokerau<sup>3</sup>.

TWWAG's recommendations generally fit into two themes:

- 1) The role of tāngata whenua in decision making
- 2) Managing impacts on freshwater (e.g. proposed rules for discharges)

Most of TWWAG's recommended provisions fall into the first theme.

Not all recommendations can be incorporated in the freshwater plan change directly as proposed by TWWAG, which requires thinking of alternative approaches or methods to achieving TWWAG's recommended objectives, including looking to see if these may fit within other existing council workstreams, particularly in relation to implementation of council's Tāiki ē strategy, TTMAC's strategic priorities, and the Mātauranga Māori Monitoring Framework to name key opportunities.

TWWAG have been clear to articulate that an appropriate process for identifying hapori wai / rohe awa (their waters and catchment boundaries) together with tāngata whenua must be followed, and for tāngata whenua to be enabled to define their own values, objectives, attributes, etc as relevant to them.

The provisions that TWWAG are recommending are a 'place holder' at a regional level, which provide the basis for other whānau, hapū and Iwi to add to and build from and to give effect to Te Mana me te Mauri o te Wai in Te Tai Tokerau.

## Key documents

TWWAG's reports:

- *Ngā Roimata o ngā Atua: The Tears of Ranginui and Papatūānuku - A Recommendation Report to support the Implementation of Te Mana o Te Wai in Te Taitokerau* (also known as the Stage 2 report, but hereon referred to as "TWWAG's report")
- *Te Mana me te Mauri o te Wai; A Discussion Document for Te Taitokerau* (also known as the Stage 1 report)
- *Voices of Nga Wai Māori ki te Tai Tokerau: A Case Study Report*

Other relevant documents and information:

- A glossary of key terms used is provided in **Appendix 1**.
- Statutory Acknowledgements are available here: <https://www.nrc.govt.nz/media/dikbksqx/statutory-acknowledgements-in-northland-october-2018.pdf>
- The Mana Whakahono a Rohe (MWR) agreement is available here: <https://www.nrc.govt.nz/media/smgp0azl/hapu-mana-whakahono-a-rohe.pdf>

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<sup>2</sup> Shortland, T. and Armstrong, K. (2022) *Te Mana me te Mauri o te Wai; A Discussion Document for Te Taitokerau*

<sup>3</sup> Pivac, A. and Pivac-Hohaia, T. (2023) *Voices of Nga Wai Māori ki te Tai Tokerau: A Case Study Report*



- Iwi and Hapū Environmental Management Plans (IHEMPs) held by council are also available here <https://www.nrc.govt.nz/your-council/working-with-Māori/grants-and-funding/iwi-hapu-management-plans/plans-held-by-council/>. An overview of the IHEMPs held by council is provided in **Appendix 6**.

## Other matters to consider

IHEMPs, Treaty Settlement legislation, Statutory Acknowledgements and MWR agreements are also relevant, and council is required to take these and “any relevant planning document recognised by an iwi authority” – s.66(2A) into account when preparing any plan change.

An assessment of all IHEMPs, Treaty Settlements and Statutory Acknowledgements will be included as part of the full s.32 analysis required for the notified freshwater plan change, noting that the existing MWR focuses on processes and relationships. Iwi authorities have yet to provide any specific advice or recommendations on the freshwater plan change, noting that Te Rarawa *Me He Wai* project intends to generate input to the freshwater plan change process.

## Setting the scene – NPS-FM 2020

Before looking at the specific recommendations it’s important to understand the NPS-FM and the direction it gives about:

- a) the role of Māori values in freshwater management, and
- b) the expectations around Māori involvement in freshwater management.

Put simply, the NPS-FM has brought a greater focus and emphasis on providing for Māori values and directing greater involvement of tāngata whenua in freshwater decision making.

## TWWAG recommendations

The table on the following page sets out the 40 recommendations from pages 2 - 5 of TWWAG’s report. The recommendations tend to fall into one of four categories:

1. **Freshwater actions** - action(s) to go into the action plan. These tend to be non-regulatory actions that are only relevant to freshwater and are not already committed to or being implemented. (See **Appendix 3** for list of those actions staff are recommending).
2. **Plan provisions** – provision(s) (e.g. a policy or rule) to go into the Freshwater Plan Change or Regional Policy Statement.
3. **Underway** - council is already implementing or committed to (e.g. actions in Tāiki ē) and where no further action under the freshwater plan change is required. These recommendations will be fed into the work council is already implementing or has committed to.
4. **Broader actions** – actions broader than just freshwater. Because these actions apply broader than just freshwater water, staff’s recommendation is that these actions be incorporated into work being undertaken under other workstreams. (See **Appendix 4** for a list of these)

**Table 1: TWWAG Recommendations**

TWWAG recommendation		Staff assessment	Category	Recommendation
1	<i>The proposed tāngata whenua provisions presented in Part 3 of this report are included in the Freshwater Planning Instrument (FPI) for Te Tai Tokerau (Northland) to give effect to the National Policy Statement for Freshwater Management 2020 (NPSFM).</i>	Council has already discussed the vision, values and objectives proposed by TWWAG, some with amendment, be included in the draft freshwater plan change (See <i>FW Plan Change Vision, Values and Objectives Workshop Summary</i> ). Other provisions (policies, rules, attributes, etc) are covered by this report (see below).	Plan provisions	No further action required
2	<i>The Te Mana me te Mauri o te Wai Statement for Te Tai Tokerau with inclusion of Te Hurihanga Wai is incorporated in the FPI.</i>	Council has already discussed including a vision statement (See <i>FW Plan Change Vision, Values and Objectives Workshop Summary</i> ).	Plan provisions	No further action required
3	<i>The provisions guide the impact of human behaviour and treatment of wai.</i>	The freshwater plan change is designed to influence the impacts of humans on water and to change how people think about and treat our waterways and freshwater ecosystems.	Plan provisions	No specific action required
4	<i>The definition of Te Mana me te Mauri o te Wai includes all water; including water in pipes, tanks and cisterns.</i>	Council has already acknowledged TWWAG's recommendation that water should be considered in a holistic manner and noted the legislative constraints which govern the scope of the freshwater plan change (See <i>FW Plan Change Vision, Values and Objectives Workshop Summary</i> ) that mean that council has no ability to require the application of Te Hurihanga Wai to water in pipes, tanks and cisterns (which is largely the responsibility of district councils managed under Water Services legislation, and Taumata Arowai overseen by DIA).	Plan provisions	No further action required
5	<i>Review existing Freshwater Management Units (FMUs) with tāngata whenua who have an existing relationship or are mana whakahaere over those units.</i>	All these recommendations relate to undertaking a freshwater planning process with tāngata whenua. It is essentially doing the exercise that TWWAG have done, but at a more local level with haukāinga. This level of freshwater planning will require significant time, resourcing and funding as it must include extensive engagement with tāngata whenua from across Te Taitokerau. It would also involve further plan change(s) to implement catchment specific elements and a more nuanced approach to the region-wide level the current plan change. Staff don't believe any decisions can be made without a better understanding of the scope and costs of the task.	FW Action	Council staff and TWWAG to scope and cost a project to do a tāngata whenua led freshwater planning process. This can be captured as an action in the Action Plan.
6	<i>Vision, values, limits, allocation, flows, current state of attributes must be developed with relevant haukāinga as part of this process.</i>			
7	<i>Northland Regional Council (NRC) must enable tāngata whenua to wānanga and develop their own work programmes to develop future FMUs in their respective takiwā and rohe.</i>			
8	<i>Tāngata whenua develop through wānanga and hui appropriate processes and criteria based on their mātauranga and tikanga for developing new visions, values and subsequent provisions to meet NPSFM and FMU requirements.</i>			
9	<i>Tāngata whenua who are mandated entities and recognised are resourced by NRC to develop and identify freshwater values to guide freshwater decision-making processes in their rohe and takiwā.</i>			
10	<i>Haukāinga are included in the decision-making process with respect to how the FMU is defined in their respective area(s).</i>			
11	<i>Develop action plans and implementation plans in partnership with tāngata whenua.</i>			
12	<i>Develop mātauranga guidelines with mana whenua to identify where tikanga Māori practices should occur over wai – such as rāhui to enhance and manage mauri.</i>			
13	<i>Develop work programme with tāngata whenua to develop future FMUs.</i>			
14	<i>Te Hurihanga Wai applies to all freshwater and the concept is also included in a different form in the three waters process when working to give effect to Te Mana me te Mauri o te Wai in multiple forms.</i>	Council has already acknowledged TWWAG's recommendation that water should be considered in a holistic manner and noted the legislative constraints which govern the scope of the freshwater plan change (See <i>FW Plan Change Vision, Values and Objectives Workshop Summary</i> ) that mean that council has no ability to require the application of Te Hurihanga Wai to 3 waters processes.	Plan provisions	No further action required
15	<i>Review existing resource consents against limit and flows defined in future FMUs established by tāngata whenua.</i>	See above for recommendations 5-13. This also relates to reviewing of resource consents (see Policy 2.5 p.28 below)	FW action	See above for recommendations 5-13 and Policy 2.5 below
16	<i>Develop consenting pathway guidance in partnership with tāngata whenua that is distributed before pre-application meetings initiated by applicants.</i>	Tāiki ē includes the following action: <i>Review, update and embed how NRC delivers its regulatory services to ensure regulatory activities (e.g., resource consents and compliance monitoring) are undertaken in a culturally appropriate manner and seek to include iwi and hapū to the greatest extent possible, including by:</i> a. <i>Developing an efficient and consistent framework for notifying and involving iwi and hapū with resource consent applications;</i> b. <i>Providing suitable opportunities for iwi and hapū to provide feedback within statutory timeframes;</i> c. <i>Taking into account the following:</i> i. <i>The legislative constraints of the RMA;</i> ii. <i>Where legislative conflicts arise, advocate for change to central government in accordance with Action 12 of this Implementation Plan.</i>	Underway	No further action required

TWWAG recommendation		Staff assessment	Category	Recommendation
		<p><i>d. Committing funding to consistently resource iwi and hapū for undertaking this work.</i></p> <p>Barker &amp; Associates were recently contracted to undertake a review of council's resource consent process, focusing on the issue of iwi and hapū participation. The scope of the project includes:</p> <ul style="list-style-type: none"> <li>Identifying improvements to current process, and opportunities for iwi / hapū to be better informed of how decisions are made.</li> <li>Benchmark NRC process against best practice from other councils.</li> <li>Review Cultural Impact Assessments done by NRC.</li> <li>Take into account policy D.1.1 of the Proposed Regional Plan, including how this should be implemented and interpreted by staff.</li> </ul> <p>TWWAG's recommendation will be captured in this review.</p>		
17	<p><i>Engagement and communication of the FPI with councillors, communities and the general public is required.</i></p> <p>(FPI = Freshwater Planning Instrument i.e. the freshwater plan change and action plan)</p>	<p>Communications and engagement are key components already included in the freshwater plan change process and budget. Council has developed a communications plan that incorporates advice from TWWAG on how best to engage with tāngata whenua on the freshwater plan change. Whare PR has provided an independent review of council's communications plan with a particular focus on tāngata whenua. TWWAG continue to provide input to communications materials and have specific engagement planned to ensure that tāngata whenua are aware of TWWAG's work and recommendations, and to support tāngata whenua engagement in the freshwater planning process. Budget for engaging with tāngata whenua and communities is already included in the freshwater plan change project programming.</p>	Underway	TWWAG continue to provide advice and feedback on council's communications on the freshwater plan change and council support TWWAG's outreach initiatives.
18	<p><i>Case studies should be considered and tested as part of the next steps and how they apply to tāngata whenua.</i></p>	<p>The TWWAG Stage 2 Case Studies report highlights key challenges faced by tāngata whenua in freshwater decision making, particularly highlighting issues related to resource consent processes. While these case studies draw on existing (and past) resource management provisions, and not the ones proposed here, there are key lessons that can be applied across council's resource management functions, including review of resource consent guidance.</p> <p>The case studies report has been shared with councillors and all relevant council staff. A training workshop for staff and councillors is also being developed.</p>	Underway	No further action required
19	<p><i>Monitoring of freshwater should occur by tāngata whenua to determine target attribute states and baselines and NRC must resource this.</i></p>	<p>This recommendation is consistent with other advice from tāngata whenua that they should be supported to undertake their own freshwater monitoring and planning.</p> <p>Tāiki ē includes the following action:</p> <p><i>8. Taking into account the existing tools and models available, develop and fund a culturally appropriate programme that enables and supports tāngata whenua to undertake their own freshwater monitoring aspirations that:</i></p> <ol style="list-style-type: none"> <li><i>addresses iwi and hapū interests and concerns in the monitoring of the environment;</i></li> <li><i>includes the incorporation of mātauranga Māori, tikanga Māori and recognition of the role of tāngata whenua as kaitiaki;</i></li> <li><i>recognises and provides for any cultural monitoring tools endorsed by iwi and hapū;</i></li> <li><i>is consistently recognised and incorporated where appropriate as a component of NRC environmental monitoring and reporting practices and processes; and</i></li> <li><i>is reviewed and updated every 3 years for its effectiveness and efficiency.</i></li> </ol> <p>Work is already underway to scope a 'Mātauranga Māori Monitoring Framework'. This work is being overseen by TTMAC. TWWAG's recommendation will be picked up in this work.</p>	Underway	No further action required
20	<p><i>NRC must investigate and implement within two years, as required by section 3.4(3) of the NPSFM the use of existing mechanisms available under the Resource Management Act 1991 (RMA) to involve tāngata whenua in freshwater decision making such as through:</i></p> <ol style="list-style-type: none"> <li><i>the transfer of powers under s.33;</i></li> <li><i>joint management agreements under s.36B;</i></li> <li><i>Mana Whakahono a Rohe Agreements under s.58M;</i></li> <li><i>cultural impact assessments as enabled under s.88(2)(b) of RMA.</i></li> </ol>	<p>Section 3.4(3) states the following:</p> <p><i>(3) Every regional council must work with tāngata whenua to investigate the use of mechanisms available under the Act, to involve tāngata whenua in freshwater management, such as:</i></p> <ol style="list-style-type: none"> <li><i>transfers or delegations of power under section 33 of the Act</i></li> <li><i>joint management agreements under section 36B of the Act</i></li> <li><i>Mana Whakahono a rohe (iwi participation arrangements) under subpart 2 of Part 5 of the Act.</i></li> </ol> <p><b>Transfer of powers and joint management agreements</b></p> <p>Tāiki ē includes the following action:</p> <p><i>2. Continue developing a Tāiki e (NRC Te Tiriti o Waitangi Strategy and Implementation Plan) that includes, as a minimum:</i></p> <ol style="list-style-type: none"> <li><i>What it means for NRC to uphold its Te Tiriti o Waitangi principles and obligation (e.g., what will</i></li> </ol>	Underway	<p>No further action required</p> <p>Refer Policy 1.5 below for discussion and recommendation on cultural impact assessments for resource consent applications.</p>

TWWAG recommendation	Staff assessment	Category	Recommendation	
	<p><i>success look like) and how NRC will live them through decision-making and operations;</i></p> <p><i>b. NRC’s overarching positions are clearly articulated on important matters such as transfer of powers under the RMA, payment for kaitiaki, recognition of mātauranga Māori and tāngata whenua participation in decision making; and</i></p> <p><i>c. Incorporate the findings and recommendations of Te Tiriti o Waitangi Health Check</i></p> <p>(Underlining added for emphasis)</p> <p>This work has yet to commence. Transfer of powers and joint management agreements will get picked up in this work.</p> <p><b>Mana Whakahono a Rohe (MWR)</b></p> <p>Currently council has a single MWR with two signatories (Ngāti Rēhia and Patuharakeke). Te Uri o Hau and Te Parawhau have indicated an interest to also become signatories. Discussions are ongoing at the iwi level about the development of iwi/council MWR (formal requests received from Ngāti Hine and Ngāpuhi).</p> <p>Tāiki ē includes the following action:</p> <p><i>Support and increase the uptake of Mana Whakahono-ā-rohe agreements and commitments made within them by:</i></p> <p><i>a. allocating existing staff time towards assisting iwi and hapū with b, c and d below;</i></p> <p><i>b. making it clear that NRC is open to receiving invitations and having discussions regarding entering into a Mana Whakahono-ā-rohe process with iwi and hapū.</i></p> <p><i>c. developing a bespoke communication plan for increasing awareness and visibility of existing or future funding and support for Mana Whakahono-ā-rohe, including targeting communications to iwi, hapū and whanau networks (including reaching out to specific iwi and hapū who may need extra support); and</i></p> <p><i>d. increasing the amount of funding and staff capacity in the 2024-2034 Long Term Plan to respond to the potential increase in uptake of financial assistance.</i></p> <p><b>Cultural impact assessments</b></p> <p>TWWAG have recommended a policy (policy 1.5) which requires a cultural impact assessment for all resource consent applications that affect wai. Refer to the discussion and staff recommendation under this policy below.</p>			
21	<p>NRC must establish and resource an independent Māori technical group<sup>4</sup> to undertake the transactional process to improve and assist in the interpretation of the processing of resource consent applications<sup>5</sup>.</p>	<p>As described under TWWAG recommendation 16, council has initiated a review of its resource consent processing process. This recommendation (21) can be picked up as part of that review. Staff have made the consultant undertaking the review aware of TWWAG’s recommendation.</p>	Underway	No further action required
22	<p><i>Tāngata whenua and NRC collaboratively review consents and permits on a three yearly basis to ensure that the use of water authorised by these consents remain consistent with environmental outcomes sought by the FPI, and efficient use of the freshwater resource and gives effect to Te Mana me te Mauri o te Wai, either:</i></p> <p><i>a. on a three yearly basis to require the adoption of the best practicable option to remove or reduce any adverse effect on the environment; or</i></p> <p><i>b. at any time to address any identified effects on cultural values that were not identified by tāngata whenua and which were subsequently identified and agreed through any regional planning process or set in the objectives, policies and standards of the FPI; or</i></p> <p><i>c. at any time to deal with any unanticipated adverse effect on the environment which may arise from the exercise of a consent; or</i></p> <p><i>d. at any time to deal with any new FWFPS.</i></p>	<p>Council has limited ability to review existing resource consents and permits. The relevant ways that the Council can review consents are:</p> <p>a. If there is condition allowing review, but only then at the time and for the purposes specified in the condition (s128(1)(a)).</p> <p>b. After a new regional plan introduces minimum or maximum levels, flows or rates of use, or minimum standards for water quality, but only after the rule is operative (s128(1)(b)).</p> <p>c. If the information that accompanied the application contained inaccuracies, which influenced the Council’s decision.</p> <p>Unless all existing consents contain a review condition broad enough to capture all of a-d as proposed by TWWAG, and that condition enable reviews as regularly as every three years, Council does not have the power to undertake reviews in the way recommended.</p> <p>There is also case law that suggests that councils cannot bind themselves to undertake a review (although that case law is in the context of review conditions outlining circumstances in which reviews must be undertaken). Reviewing a consent is a discretionary exercise of statutory power – there are legality issues the Council would need to consider before agreeing to review conditions in certain circumstances.</p> <p>Existing regional plan provisions allow council to set the timeframes for review (TWWAG’s proposed clause a), depending on the nature of the consent, and can include where adverse effects are found</p>	Plan provisions	Refer to staff discussion and recommendation for TWWAG’s proposed policy 2.5 below.

<sup>4</sup> Advisory body to be established (e.g., TTMAC) to advise on consent processes at implementation and operational levels.

<sup>5</sup> Existing arrangements that tāngata whenua have for reviewing resource consents are still upheld and will not be subject to the Māori Technical group. This includes existing Post Settlement Governance Entities (PSGEs) to whom consents are provided.

TWWAG recommendation	Staff assessment	Category	Recommendation
	<p>(TWWAG's proposed clause c.). A freshwater farm plan should ensure that consent conditions are met, not the other way around, so clause d) is inappropriate.</p> <p>Reviewing the use of all existing consents would be a huge task. Just to give an indication of the number of consents involved, there are 1,667 current freshwater take and discharge to water consents –There are 635 permits to discharge sewage to land and 37 to water, and 341 groundwater takes and 222 surface water takes (this does not include permitted activities). A review of consent conditions could result in public or limited notification, submissions, consent hearings and appeals, incurring costs on all persons involved in the proceedings. There would be little or no value in reviewing consents that are close to expiry.</p> <p>However it is possible to include policy in the freshwater plan change that guides when new consents might be reviewed.</p> <p>TWWAG have also recommended a policy (Policy 2.5) which sets out requirements for review of consents. The proposed policy is slightly different to this recommendation. Refer to the staff discussion and recommendation under Policy 2.5 for staff's proposed approach for dealing with consent reviews.</p>		
23	<p><i>Data and information gathered through FMUs remains the intellectual property of tāngata whenua.</i></p>	Broader action	To be considered as part of the Mātauranga Māori Monitoring Framework
24	<p><i>A Geographic Information System (GIS) portal with freshwater overlays for tāngata whenua is developed to assist with freshwater decision making.</i></p>	Underway	Highlight the existing freshwater plan change GIS-viewer and other relevant GIS viewers in council's communications with tāngata whenua on the freshwater plan.
25	<p><i>Information protocols are developed in partnership by NRC and tāngata whenua to ensure data and information gathered is used appropriately and sensitive information is protected.</i></p>	Underway	No further action required.
26	<p><i>NRC data is made readily available for tāngata whenua to inform freshwater decision making.</i></p>	Potentially broader action	To be considered as part of review of Tāiki ē.
27	<p><i>Education campaigns, resources and training opportunities are provided by NRC and developed in partnership with tāngata whenua.</i></p>	Broader action	Staff to talk through council's current activities and commitments with TWWAG. Any further advice to be provided back to TTMAC (e.g. to be considered as part of review of Tāiki ē).

<sup>6</sup> <https://storymaps.arcgis.com/stories/b3e7e7d96e2c44cb90a1d1761c4d5f9e>

<sup>7</sup> <https://www.lawa.org.nz/>

<sup>8</sup> <https://www.nrc.govt.nz/environment/environmental-data/>

TWWAG recommendation		Staff assessment	Category	Recommendation
		activities/commitments which can be passed on to TTMAC for consideration.		
28	<i>New processes, methods and tools that assist with the implementation of the NPSFM and in particular tāngata whenua provisions are prioritised and developed.</i>	Council has allocated \$250K annually for TMoTW implementation. How those resources are spent (and whether they are sufficient) can be considered when the freshwater plan change becomes operative.	FW Action	An action be included in the Action Plan which commits council to consider budget allocation for implementation of the freshwater plan change.
29	<i>Tāngata whenua are resourced by NRC through the Local Government Act 2002 (LGA) or subsequent legislation to actively and meaningfully take part in freshwater decision-making processes.</i>	This is an LTP matter with broader implications given the current approach to funding of Iwi and hapū participation in freshwater decision-making process. Other councils provide direct funding to Iwi authorities to enable their participation in planning and consenting processes. NRC currently does not provide such funding. This is an issue broader than just freshwater and fits more appropriately with implementation of Tāiki ē. Tāiki ē includes the following action: <i>Action 11: Ensure tāngata whenua are consistently resourced to participate in governance, decision-making and operational activities by:</i> <i>a. reviewing different funding models used elsewhere in Aotearoa that could be applied, adapted and enhanced in Te Taitokerau; and</i> <i>b. taking into account the findings of (a), develop and implement an agreed methodology and policy regarding consistent resourcing of tāngata whenua.</i>	Underway	No further action required
30	<i>Additional resourcing should be provided to tāngata whenua representatives in order for effective decision making to occur. Resourcing could provide for, but not be limited to:</i> <i>a. attending hui / meetings;</i> <i>b. preparing cultural value or impact assessments; and</i> <i>c. undertaking cultural monitoring of freshwater bodies.</i>	This is a matter addressed through Tāiki ē and the LTP, as it relates to allocation of resources. Council already provides an annual contestable fund of \$20K for tāngata whenua to undertake monitoring. Funding of cultural monitoring will also likely get picked up in the development of the Mātauranga Māori Monitoring Framework. There are also broader implications, as this recommendation would involve changes to who pays the costs for undertaking Cultural Impact Assessments (CIAs)/Cultural Value Assessments (CVAs) (currently this lies with applicants). The resourcing of tāngata whenua representatives in decision-making processes is an important matter and needs to be considered for all natural resources, not just freshwater. Refer also discussion and recommendations for TWWAG recommendations 19 (relating to monitoring), 28 and 29.	Underway	No further action required
31	<i>Adequate access to freshwater data and information to inform decision making by tāngata whenua.</i>	This recommendation appears to very similar to recommendation 26 - <i>NRC data is made readily available for tāngata whenua to inform freshwater decision making.</i>	Underway	Refer recommendation 26
32	<i>Development of information protocols with tāngata whenua to ensure sensitive information is appropriately gathered and stored in an accessible facility, agreed to by them and in accordance with tikanga Māori.</i>	Council can already enter into agreements with tāngata whenua over sharing of information. Such protocols can be associated with IHMPS and with MWRs, for example. Staff are not aware of any council / tāngata whenua sensitive information agreements. This is an issue broader than just freshwater, and therefore an issue for TTMAC to consider.	Broader action	Table the issue with TTMAC.
33	<i>Development of new systems, processes and tools to assist with the implementation of the proposed provisions developed with TWWAG. This includes:</i> <i>a. Compulsory training programme on tāngata whenua values for NRC staff and decision makers implementing provisions of the proposed Regional Plan for Northland;</i> <i>b. New cadet and internships for rangatahi and taitamariki interested in freshwater monitoring; and</i> <i>c. Development of GIS tools readily accessible to tāngata whenua so the environment is understood and digitally mapped with the most up to date data to ensure robust and well considered decision making occurs for freshwater monitoring. This might include:</i> <ul style="list-style-type: none"><li>• <i>extent of existing wetlands, lakes, aquifers, rivers, ephemeral water, and artificial water bodies</i></li><li>• <i>water processes and interactions between groundwater surface water and coastal waters</i></li><li>• <i>classifications of wai</i></li><li>• <i>sites or areas of significance or value to tāngata whenua.</i></li></ul>	<b>Training</b> Council provides training to staff (Te Whāriki) and is also providing specific training for staff (and councillors) in regard to the concepts, values and principles discussed by TWWAG. Current training could be expanded to include more in-depth education on these important concepts for both staff and councillors. <b>Internships</b> Council also offers internships and work placements for students, with three scholarships being offered specifically to tāngata whenua. <b>GIS tools</b> This recommendation overlaps with recommendations 26 and 31. There are already GIS tools available (e.g. NRC has online maps available via its website - <a href="https://www.nrc.govt.nz/your-council/online-services/online-maps/">https://www.nrc.govt.nz/your-council/online-services/online-maps/</a> ). It would be helpful to get clarification from TWWAG whether the current GIS tools are appropriate. Any further advice to be provided back to TTMAC (e.g. to be considered as part of review of Tāiki ē).	Broader action	TWWAG's reports to be provided to the Māori relationships team for consideration in developing Te Whāriki.  Staff to clarify with TWWAG whether the current GIS tools are appropriate. Any further advice to be provided back to TTMAC (e.g. to be considered as part of review of Tāiki ē).
34	<i>Training and education and resourcing for tāngata whenua freshwater monitoring and enforcement roles.</i>	Council already provide some training, education and resourcing for tāngata whenua, including specifically for freshwater monitoring. It is anticipated that the Mātauranga Māori Monitoring	Underway	No further action required.

TWWAG recommendation		Staff assessment	Category	Recommendation
		Framework will provide further direction around implementing this recommendation.		
35	<i>Investigate how scattering of ashes in freshwater/coastal areas are regulated by NRC.</i>	This is a matter that has been raised in the context of Te Oneroa a Tōhe Beach Management Plan with an action to undertake a plan change to prohibit the scattering of ashes on the beach. It's also an issue considered in other parts of the country where trade bylaws have been used to limit disposal of human ashes and mortuary waste.	FW Action	Include an action in the Action Plan to investigate the regulation of scattering ashes in freshwater.
36	<i>Enhanced and more stringent monitoring and enforcement into breaches of this plan. This may include the introduction of a graduated response model in to reported incidents.</i>	Council uses a graduated response model and has a <a href="#">Compliance, Monitoring and Enforcement Strategy</a> . The issue is really about resources for monitoring. There is an action in the draft Action Plan about increasing compliance resourcing.	FW Action	Include an action in Action Plan to increase compliance and enforcement resourcing.
37	<i>Where possible partner up with tāngata whenua kaitiaki officers and NRC compliance staff to investigate possible breaches.</i>	As outlined in the discussion for recommendation 34, the Mātauranga Māori Monitoring Framework is expected take into account the involvement of tāngata whenua in compliance monitoring. Options for how this might work in practice need further consideration including legal aspects (e.g. warranted officers vs. non-warranted individuals) particularly in regard to investigation of breaches.	Underway	No further action required
38	<i>Access to NRC owned land where kaitiaki can monitor freshwater bodies.</i>	NRC owns very little land in the region, most being commercial investment properties, offices, and tree nurseries. Where there is not tenanted council-owned land adjacent to freshwater bodies, council is very open to discussing providing access to kaitiaki. Council also owns several tenanted properties beside water bodies, and the commercial tenant has sole right to occupy. For these tenanted properties, council would be happy to seek the tenant's permission to have kaitiaki get in touch with them to discuss access.	Underway	No further action required
39	<i>Encourage access for tāngata whenua onto private land for freshwater monitoring over culturally significant water ways.</i>	Whilst council has no ability to legally require access for tāngata whenua onto private land, council can encourage landowners to provide such access. Council could develop a standardised MOU/agreement between landowners and tāngata whenua, and facilitate such agreements being signed, and highlight the issue in its communications with landowners.	FW Action	Include an action in the Action Plan for council staff to encourage landowners to provide tāngata whenua with access to monitor culturally significant waterways.
40	<i>Councils develop methods to enable tāngata whenua access to wai sites through easements, private agreement, conditions of subdivision, conditions of consent.</i>	This is a matter addressed by district councils and therefore requires provisions in the RPS to require/encourage district councils to include relevant direction in their district plans, etc.	Plan provision	Include policy for insertion in the Regional Policy Statement

## 2. Māori freshwater values attributes

Attributes are metrics that can be measured (either qualitatively or quantitatively) to determine the extent to which objectives are being achieved.

*Example of an attribute:*

Value	Objective	Attribute
human contact	<i>“Water quality is improved over time, so it is suitable for people and communities to safely undertake recreation and other activities that involve contact with fresh and coastal water...”</i>	<i>E.coli</i> (the metric for determining whether the water quality is safe for human contact)

Council has considered and provisionally agreed to including a range of Māori freshwater values and associated objectives. We therefore need to include attributes for these values and objectives.

TWWAG have proposed nine attributes:

- 1) Cultural health
- 2) Mana me te rangatiratanga
- 3) Access to wai (physical relationship with wai)
- 4) Tāngata whenua water allocation, usage and satisfaction
- 5) Water quality for drinking water
- 6) Repo / wetland health
- 7) Awa / river health
- 8) Roto / lake health
- 9) Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health

The following table shows the link between the proposed attributes and the Māori freshwater values and associated objectives:

Māori Freshwater Values	Objectives <sup>9</sup>	Attributes
Mauri Atuatanga Wairuatanga	<i>1. The spiritual wellbeing and whakapapa of wai is prioritised and enhanced. All people who use and/or affect wai, listen to and respect Te Hurihanga Wai.</i>	<ul style="list-style-type: none"> <li>• Cultural health</li> <li>• Awa / river health</li> <li>• Roto / lakes health</li> <li>• Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health</li> </ul>
Ki uta ki tai Rāhui Tapu o Rāhui	<p><i>2. The land, wai and associated ecosystems are treated as one to ensure the mauri, health and wellbeing of wai is put first.</i></p> <p><i>7. The impacts of climate change must be integrated into all wai decision-making.</i></p>	<ul style="list-style-type: none"> <li>• Cultural health</li> <li>• Repo / wetland health</li> <li>• Awa / river health</li> <li>• Roto / lakes health</li> <li>• Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health</li> </ul>

<sup>9</sup> These are the objectives previously considered by council. The wording differs slightly from the wording proposed by TWWAG.



Māori Freshwater Values	Objectives <sup>9</sup>	Attributes
Mana Rangatiratanga Tapu Aroha Kotahitanga	3. <i>Tāngata whenua can exercise Rangatiratanga and Kaitiakitanga in wai decision-making.</i>	<ul style="list-style-type: none"> <li>• Cultural health</li> <li>• Mana whakahaere</li> <li>• Repo / wetland health</li> <li>• Awa / river health</li> <li>• Roto / lakes health</li> <li>• Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health</li> </ul>
Kaitiakitanga Manaakitanga Whanaungatanga Whakapapa	4. <i>Freshwater management decisions:</i> a) <i>Take into account Tikanga Māori and He Whakaputanga</i> b) <i>give effect to the principles of te Tiriti o Waitangi.</i>	<ul style="list-style-type: none"> <li>• Cultural health</li> <li>• Mana whakahaere</li> <li>• Awa / river health</li> <li>• Roto / lakes health</li> <li>• Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health</li> </ul>
Kai-ngaki	5. <i>Tāngata whenua environmental, economic, social, spiritual, and cultural wellbeing is enabled and resourced.</i>	<ul style="list-style-type: none"> <li>• Cultural health</li> <li>• Access to wai (physical relationship with wai)</li> <li>• Tāngata whenua water allocation</li> <li>• Water quality for food collection / drinking water</li> <li>• Awa / river health</li> <li>• Roto / lakes health</li> <li>• Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health</li> </ul>
Wāhi wai rongonui	6. <i>Wai is improved and then maintained so that by 2040 the wellbeing of wai meets tāngata whenua target attribute states set in the freshwater plan.</i>	<ul style="list-style-type: none"> <li>• Cultural health</li> <li>• Tāngata whenua water allocation</li> <li>• Repo / wetland health</li> <li>• Awa / river health</li> <li>• Roto / lakes health</li> <li>• Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health</li> </ul>

The detail of TWWAG's proposed attributes is set out below, along with a description of different states of mauri which are suggested to be used for some of the attributes proposed.

## 2.1 Discussion on TWWAG’s proposed attributes

For the purposes of this discussion, staff assume that the Māori freshwater values and objectives (as previously discussed by council see *FW Plan Change Vision, Values and Objectives Workshop Summary*) will be included in the Freshwater Plan, and therefore that the Freshwater Plan must include attributes for these values and objectives.

Staff also want to be clear about their role/position when it comes to assessing the proposed attributes:

- It is not for staff to say whether the attributes appropriately reflect the Māori freshwater values and objectives – we are not qualified to do this. We have relied on the expertise of TWWAG.
- Staff’s assessment focusses on the workability of the proposed attributes from a council perspective based on staff experiences implementing the regional plan under the RMA.

### 2.1.1 Funding for the monitoring of attributes

A feature of all the attributes is that tāngata whenua are to undertake the monitoring to determine the state of the attribute. Staff agree that given these are to measure Māori freshwater values and objectives, then it should be tāngata whenua who undertake the monitoring. There is no detail at this stage as to what a tāngata whenua monitoring programme would look like. However, it is very likely that any such programme will require additional council resourcing. It is very difficult to estimate what level of funding such a programme should be given. However, we can use our existing state of the environment monitoring programme as a reference.

Council currently spends about \$6.8m per year on data collection, reporting and science<sup>10</sup>. It’s difficult to determine what an equitable level of funding would be – but however it’s viewed, it’s likely that if council are to adopt these attributes, then it would need to invest \$1m+ per year to fund an appropriately scaled Māori values attribute monitoring programme. While it’s not for staff to say at this point what the level of funding should be, the point is that should council adopt these attributes, then it should also fund a programme to monitor them and that’s likely to be a significant cost. These costs should be considered alongside the significant benefits, not least strengthened relationships and increased levels of trust with tāngata whenua.

### 2.1.2 Relationship with other attributes

There is a cross-over between TWWAG’s proposed attributes and the other attributes proposed by staff. For example, there are close parallels between ecosystem health and mauri. Staff’s view is that this is not a problem, and that weaving together both a western approach and a Te Ao Māori perspective strengthens the provisions.

### 2.1.3 ‘Mauri’ as a measure for attributes

The following table from TWWAG’s report provides descriptors for mauri which are used as the metric for six Māori freshwater attributes: Cultural Health (Table A1), Water Quality for Drinking (Table A5), Repo/Wetland Health (Table A6), Awa/River Health (Table A7), Roto/Lake Health (Table A8), Uepapa (upper aquifer) and Hamuimui (lower aquifer)/Groundwater Health (Table A9).

Attribute state	Narrative
Mauri ora	Te Hurihanga Wai in its entirety is thriving so the vitality of wai is healthy and clean. There is an abundance and diversity of lush riparian vegetation, indigenous flora, fauna and kai species for tāngata whenua to access sustainably. The area is teeming with native birds and is pest and invasive species free. Te matangaro o tāngata whenua is elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. Tāngata whenua return to wai to live, to

<sup>10</sup> 2022/2023 council budget. Hydrology \$1.4m, data team \$1m, science team \$2.1m, SOE data collection \$2.3m

Attribute state	Narrative
	celebrate, to gather, to swim and to access the healing abilities of wai. Te Mana me te Mauri o te Wai is invigorated through reciprocal relationships and interactions with tāngata whenua.
Mauri piki	Te Hurihanga Wai in its entirety is somewhat negatively impacted in its capacity to support its own sustenance. The vitality of the wai is reasonably healthy and clean. Riparian vegetation, indigenous flora, fauna, and kai species are present but not in a state of abundance. Native birds are generally seen and heard. There is evidence of harm from pests and invasive species. Te matangaro o tāngata whenua is partly elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. Tāngata whenua return to wai intermittently to live, to celebrate, to gather, to swim and to access the healing properties of wai but this may depend on the condition of the wai and surrounding eco-systems. To a certain degree Te Mana me te Mauri o te Wai is invigorated through reciprocal relationships and interactions with tāngata whenua. Kawa and tikanga are in place to assist enhancement of mauri.
Mauri heke	Te Hurihanga Wai in its entirety is considerably restrained by negative impacts and struggling to support its own sustenance. The vitality of the wai is diminishing and not healthy nor clean. Life giving and healing properties are in decline and the wai struggles to sustain the surrounding eco-systems. There is little riparian vegetation, indigenous flora, fauna and kai species present. Native birds are rarely seen and heard. The area is swarming with pests and invasive species. Te matangaro o tāngata whenua is diminished through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. Tāngata whenua do not return to the wai often. Limited interactions between wai and tāngata whenua compromises the reciprocal relationship needed for Te Mana me te Mauri o te Wai to be sustained.
Mauri mate	Te Hurihanga Wai in its entirety is overwhelmed by negative impacts and is unable to support its own sustenance. The wai is sick, brown, odorous and cannot sustain any life. Surrounding eco-systems are struggling to survive. The area is overtaken with pests and invasive species. The wai has no life-giving or healing properties so tāngata whenua do not return at all. Te matangaro o tāngata whenua is severely impacted through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. No interactions between wai and tāngata critically endangers the reciprocal relationship wai requires for te mauri me te mana.

### 2.1.4 Proposed attribute: Cultural health

The intent behind this attribute is to measure the overall health of Te Hurihanga Wai, and therefore the ability of all living things, including humans, to be able to have a sustainable relationship with our freshwater that enhances the mana of mauri. Staff don't believe that the highlighted text in Advisory Note 1 is necessary and is not the place to be directing transfer of powers and joint management agreements, this is the role of policies and/or actions in the Action Plan.

**Table A1: Cultural Health**

Value (and component)	Māori freshwater values
Freshwater body type	All
Attribute unit	Cultural Health

Attribute band and description	Narrative attribute state
<b>Band A</b>	
Te Hurihanga Wai in its entirety is thriving so the vitality of wai is healthy and clean. There is an abundance and diversity of lush riparian vegetation, indigenous flora, fauna and kai species for tāngata whenua to access sustainably. The area is teeming with native birds and is pest and invasive species free. Te matangaro o tāngata whenua is elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. Tāngata whenua return to wai to live, to celebrate, to gather, to swim and to access the healing abilities of wai. Te Mana me te Mauri o te Wai is invigorated through reciprocal relationships and interactions with tāngata whenua.	Mauri ora

Attribute band and description	Narrative attribute state
<b>Band B</b>	
<p>Te Hurihanga Wai in its entirety is somewhat negatively impeded in supporting its own sustenance. The vitality of the wai is reasonably healthy and clean. Riparian vegetation, indigenous flora, fauna, and kai species are present but not in a state of abundance. Native birds are generally seen and heard. There is evidence of harm from pests and invasive species. Te matangaro o tāngata whenua is partly elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. Tāngata whenua return to wai intermittently to live, to celebrate, to gather, to swim and to access the healing properties of wai but this may depend on the condition of the wai and surrounding eco-systems. To a certain degree Te Mana me te Mauri o te Wai is invigorated through reciprocal relationships and interactions with tāngata whenua Kawa and tikanga are in place to assist enhancement of mauri.</p>	Mauri piki
<b>Te Tai Tokerau Bottom Line</b>	
<b>Band C</b>	
<p>Te Hurihanga Wai in its entirety is considerably restrained by negative impacts and struggling to support its own sustenance. The vitality of the wai is diminishing and not healthy nor clean. Life giving and healing properties are in decline and the wai struggles to sustain the surrounding eco-systems. There is little riparian vegetation, indigenous flora, fauna and kai species present. Native birds are rarely seen and heard. The area is swarming with pests and invasive species. Te matangaro o tāngata whenua is diminished through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. Tāngata whenua do not return to the wai often. Limited interactions between wai and tāngata whenua compromises the reciprocal relationship needed for Te Mana me te Mauri o te Wai to be sustained.</p>	Mauri heke
<b>Band D</b>	
<p>Te Hurihanga Wai in its entirety is overwhelmed by negative impacts and is unable to support its own sustenance. The wai is sick, brown, odorous and cannot sustain any life. Surrounding eco-systems are struggling to survive. The area is overtaken with pests and invasive species. The wai has no life-giving or healing properties so tāngata whenua do not return at all. Te matangaro o tāngata whenua is severely impacted through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. No interactions between wai and tāngata critically endangers the reciprocal relationship wai requires for te mauri me te mana.</p>	Mauri mate
<p><b>Advisory Note:</b></p> <ol style="list-style-type: none"> <li>1. <i>Tāngata whenua monitor this attribute.</i></li> <li>2. <i>The classification of wai can be different at different times of the year and across time to account for climate change, which must be reflected in freshwater decision making.</i></li> <li>3. <i>Different classifications of wai can apply to water bodies across the same catchment.</i></li> <li>4. <i>The same body of water can have different wai classifications that represent differing views amongst iwi, hapū and/or marae.</i></li> <li>5. <i>Matangaro = the elevation of mauri and wairua through senses when the mauri is in a state of mauri ora</i></li> <li>6. <i>Tairongo = senses. Oho ake = to aliven, awaken. Ko ngā tairongo (the senses, touch/feel, sound, sight, smell, taste) oho mauri - the mauri comes to life - so when our senses are awakened by the mauri ora of the wai in turn our internal mauri is awakened and enhanced = oho mauri</i></li> </ol>	

### 2.1.5 Proposed attribute: Mana me te Rangatiratanga

The purpose of this attribute is to measure the extent to which tāngata whenua are involved in freshwater decision-making and therefore enabled to fulfil their roles as Rangatira and Kaitiaki.

It is also about measuring to what extent stakeholders understand and value kawa, tikanga, mana, manaakitanga and kaitiakitanga in making decisions about freshwater.

Band A refers to 'giving effect' to, and band B 'recognising' He Whakaputanga and Te Tiriti o Waitangi. This was traversed at workshop 3 when the outcomes were discussed, and council landed on 'giving effect' to the principles of and Te Tiriti o Waitangi and 'taking into account' He Whakaputanga. It is the staff view that it's fine for band A to be more aspiration than what the plan seeks to achieve. However, the problem is that the bottom line is set at the A band i.e. we need to be achieving the A band to be meeting the bottom line. Staff's view is that band A should stay as is - to reflect the aspiration of tāngata whenua, but the bottom line should be moved to between B and C and amending the band B descriptor to match the wording as agreed by council in earlier workshops.

Staff have also recommended some minor wording changes to remove repetition. With these amendments, staff believe band B would then reflect the commitments council is making in the plan and elsewhere (e.g. in Tāiki ē).

**Table A2: Mana me te Rangitiratanga**

Value (and component)		Māori freshwater values
Freshwater body type	All	
Attribute unit	Cultural Health	
Attribute band and description		Narrative attribute state
<b>Band A</b>		
Tāngata whenua have mana whakahaere and shared decision-making powers. The council, community and other stakeholders fully recognise and give effect to He Whakaputanga me Te Tiriti o Waitangi. The mana and rangatiratanga of tāngata whenua to enact kawa and exercise tikanga, utilise localised mātauranga and practises to uphold mana, manaakitanga and kaitiakitanga is fully recognised, adhered to and supported by all stakeholders in the freshwater decision-making process. Stakeholders have a strong understanding and recognise the value and importance of kawa, tikanga, mana, manaakitanga and kaitiakitanga for freshwater decision-making.		100% of freshwater decisions made were based on mana whakahaere approaches.
<b>Band B</b>		
Tāngata whenua have mana whakahaere with some shared decision-making powers. The council, community and other stakeholders include tāngata whenua in freshwater decision-making and take into account He Whakaputanga and give effect to the principles of Te Tiriti o Waitangi. The mana and rangatiratanga of tāngata whenua to enact kawa and exercise tikanga, utilise localised mātauranga and practises to uphold mana, manaakitanga and kaitiakitanga is not fully recognised, adhered to nor supported. Stakeholders have some understanding and are working towards realising the value and importance of kawa, tikanga, mana, manaakitanga and kaitiakitanga for freshwater decision-making.		More than 75% of freshwater decisions made were based on 'collaboration' or 'empowerment' approaches.
<b>Te Tai Tokerau Bottom Line</b>		
<b>Band C</b>		
Tāngata whenua participation in freshwater decision making is limited. The council, community and other stakeholders include tāngata whenua in freshwater decision making but the authority and responsibility of tāngata whenua to enact kawa and exercise tikanga, utilise localised mātauranga and practises to uphold mana, manaakitanga and kaitiakitanga in the freshwater decision-making process is limited and not supported by all stakeholders. Stakeholders do not generally understand, recognise nor value the importance of kawa, tikanga, mana, manaakitanga and kaitiakitanga for freshwater decision-making.		More than 50% of freshwater decisions made were based on 'involvement', 'collaboration' or 'empowerment' approaches.

Attribute band and description	Narrative attribute state
<b>Band D</b>	
Tāngata whenua have little or no authority to enact kawa and exercise tikanga to uphold mana, and manaakitanga in the freshwater decision-making process. Stakeholders do not support the authority and responsibility of tāngata whenua and do not understand, recognise nor value the importance of kawa, tikanga, mana and manaakitanga for freshwater decision-making. The council, community and other stakeholders consult tāngata whenua in freshwater decision making with little acknowledgement or regard for the mana and rangatiratanga of tāngata whenua, and use of localised mātauranga and practises.	More than 50% of freshwater decisions made were based on 'consultation', 'involvement', 'collaboration' or 'empowerment' approaches.
<b>Band E</b>	
Tāngata whenua participation in freshwater decision making is little to none. The mana and rangatiratanga of tāngata whenua, and use of localised mātauranga and practises is disregarded by council, community and other stakeholders. Tāngata whenua are simply notified and/or informed of freshwater decisions.	More than 50% of freshwater decisions made are based on no engagement or simply 'informing' tāngata whenua.
<p><b>Advisory Note:</b></p> <ol style="list-style-type: none"> <li>1. Measurement would be undertaken by NRC tracking freshwater decision making - requires tāngata whenua surveying to feedback what level of participation they considered they had.</li> <li>2. Participation inherently provides an opportunity to apply Mātauranga Māori and Whakapapa and have been grouped accordingly.</li> <li>3. Band A is considered to give effect to He Whakaputanga and Te Tiriti o Waitangi.<sup>11</sup></li> </ol>	

### 2.1.6 Proposed attribute: Access to wai (physical relationship with wai)

This attribute is about ensuring that tāngata whenua can access freshwater sites required by them. Whilst staff note that council does not have scope to address issues of physical access to waterbodies, other than to provide access on council land and encourage others to do so, this is still a key attribute for tāngata whenua and impacts upon them in a variety of ways such as their ability to practise their roles as kaitiaki and uphold kawa and exercise tikanga.

It's not clear to staff how the monitoring for this attribute would work. Also, it's difficult to know whether the bottom line is appropriate when there is no information about baseline state and staff have no sense of what might be achievable.

Staff recommend that the attribute is adopted for the draft plan (with amendment noted above in regard to Advisory Note 1), but that TWWAG be asked to do more work to provide more information about how the attribute would be monitored.

**Table A3: Access to wai (physical relationship with wai)**

Value (and component)	Māori freshwater values
Freshwater body type	All
Attribute unit	Cultural Health

<sup>11</sup> [Te Paparahi o Te Raki \(Northland\) | Waitangi Tribunal](https://www.waitangitribunal.govt.nz). www.waitangitribunal.govt.nz. Retrieved 20 September 2022

Attribute band and description	Numeric attribute state
<b>Band A</b>	
Tāngata whenua are able to access and are able to create new access to awa/streams, repo/wetlands and roto/lakes where and when required.	≥80 - 100%
<b>Band B</b>	
Tāngata whenua are able to maintain access to many locations of awa/streams, repo/wetlands and roto/lakes where and when required.	50 – 80%
<b>Te Tai Tokerau Bottom Line</b>	
<b>Band C</b>	
Tāngata whenua are able to access only some locations of awa/streams, repo/wetlands and roto/lakes where and when required.	20 – 50%
<b>Band D</b>	
Tāngata whenua are able to access limited locations of awa/streams, repo/wetlands and roto/lakes where and when required.	0 – 20%
Tāngata whenua participation in freshwater decision making is little to none. The mana and rangatiratanga of tāngata whenua, and use of localised mātauranga and practises is disregarded by council, community and other stakeholders. Tāngata whenua are simply notified and/or informed of freshwater decisions.	
<p><b>Advisory Note:</b></p> <ol style="list-style-type: none"> <li>1. Tāngata whenua monitor this attribute.</li> <li>2. Access to water is crucial for tāngata whenua to have a physical relationship with water. Access to wai is for numerous reasons including, but not limited to, cultural practices, recreation and cultural monitoring.</li> <li>3. Not all parts of awa/streams, repo/wetlands and roto/lakes need to be accessed by tāngata whenua. The numbers represented here refer to the percentage of area allow the banks of awa/streams, repo/wetlands and roto/lakes that do require access for the reasons noted in Advisory Note 2.</li> <li>4. A review should be undertaken annually to reassess this attribute.</li> </ol>	

### 2.1.7 Proposed attribute: Tāngata whenua water allocation, usage and satisfaction

The intent behind this attribute is to ensure that water is available for tāngata whenua to take for papakāinga, marae, and sustainable livelihoods.

Advisory note (c) suggests the allocation to tāngata whenua is as per proposed TWWAG rules 5.1.1 and 5.1.2, and policy 5.3. The two rules in simple terms say that water takes for a) domestic use by marae and papakāinga and b) any activity that contributes to Māori wellbeing, is a controlled activity for surface water and restricted discretionary activity for groundwater. Proposed policy 5.3 is about allocating 20% of allocable water to e.g. environmental enhancement, marae and papakāinga or Post Settlement Governance Entity. So it's assumed it relates to consents issued under these rules and policy. It's then not clear how the "allocation, usage and satisfaction" would be measured in respect of these consents.

Staff also suggest amendments would be needed to the Advisory Notes to remove irrelevant text and correct cross references.

**Table A4: Tāngata whenua water allocation, usage and satisfaction**

Value (and component)	Māori freshwater values
Freshwater body type	All
Attribute unit	Tāngata whenua water allocation

Attribute band and description	Numeric attribute state
<b>Band A</b>	
Tāngata whenua allocation, usage and satisfaction in the ability to use water for is very high.	>80 - 100%
<b>Band B</b>	
Tāngata whenua allocation, usage and satisfaction in the ability to use water for is high.	50 - 80%
<b>Te Tai Tokerau Bottom Line</b>	
<b>Band C</b>	
Tāngata whenua allocation, usage and satisfaction in the ability to use water for is low.	20 - 50%
<b>Band D</b>	
Tāngata whenua allocation, usage and satisfaction in the ability to use water for is very low.	0 - 20%
<p><b>Advisory Note:</b></p> <ol style="list-style-type: none"> <li>1. Tāngata whenua monitor this attribute.</li> <li>2. The water allocated to tāngata whenua as per Advisory Note (b) is able to be utilised for any purpose which supports their sustainable social, cultural and economic wellbeing, including but not limited to community/marae drinking water needs (exceeding permitted volumes) sustainable indigenous agroecology, ngāhere food, medicine forests, and traditional methods of customary use.</li> <li>3. Measuring and reporting of water taken and used by tāngata whenua will occur in accordance with resource consent conditions and/or Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 (or any replacement of this legislation)</li> </ol>	

### 2.1.8 Proposed attribute: Water quality for food collection and drinking water

The purpose of this attribute is to measure whether raw water, where and when required, can be taken and consumed safely or whether food grown in that water can be safely eaten. The measure used in the attribute to determine whether water is 'safe' to drink is determined by the drinking water standards<sup>12</sup>. The drinking water standards apply to drinking water supplies after treatment. It is highly unlikely that even pristine water sources (with the possible exception of groundwaters) would meet the standards. It means that band A can never be achieved (except possibly for groundwater). Staff do not think that the example in practice is necessary.

**Table A5: Water quality for food collection and drinking water**

Value (and component)	Māori freshwater values
Freshwater body type	All
Attribute unit	Water quality for food collection & drinking water

  

Attribute band and description	Narrative attribute state
<b>Band A</b>	
Water is safe to drink and consume food from. Drinking water sources, including puna wai, are protected from contamination and waterborne illnesses.	Mauri ora

<sup>12</sup> <https://www.legislation.govt.nz/regulation/public/2022/0168/latest/whole.html>



Attribute band and description	Narrative attribute state
<b>Band B</b>	
Water is safe to consume food from. Raw water is able to be safely processed for drinking water. Source water, including puna wai, are protected from the main risks of contamination and waterborne illnesses.	Mauri piki
<b>Te Tai Tokerau Bottom Line</b>	
<b>Band C</b>	
Water is not safe to consume-food from. Raw water is able to be safely processed for drinking water. Drinking water sources, including puna wai, are not protected from contamination and waterborne illnesses.	Mauri heke
<b>Band D</b>	
Water is not safe to drink or consume-food from. Raw water is not able to be safely processed for drinking water. Drinking water sources, including puna wai, are not protected from contamination and waterborne illnesses.	Mauri mate
<p><b>Advisory Note:</b></p> <ol style="list-style-type: none"> <li>1. <i>“Drinking water” has the meaning as defined in the Water Services Act 2021.</i></li> <li>2. <i>“Safe” in relation to drinking water has the meaning as defined in the Water Services Act 2021 with the addition that it is culturally healthy (as defined by tāngata whenua) i.e. does not impact the mauri of the water.</i></li> <li>3. <i>Source water is the water body from which water is abstracted and/or processed for drinking water i.e. it is natural fresh water (for example, a river, stream, lake, or aquifer).</i></li> <li>4. <i>Raw water means water that has been abstracted from a source but has not been subject to any treatment or other processes that may be required to make it safe to consume.</i></li> <li>5. <i>Tāngata whenua are expected to identify and map water bodies that either are used or would be used as source water for drinking water supply, and/or food collection. It is intended that these areas would be generally associated with traditional food collection and drinking water sources that would locate at or near the head of the surface water bodies.</i></li> <li>6. <i>The attribute state will apply to the full extent of a water body that water is taken from for drinking or collected from for food consumption. Any activities upstream of these areas will need to address these attribute targets.</i></li> <li>7. <i>Measurement would be undertaken by NRC in collaboration with Tāngata Whenua.</i></li> <li>8. <i>The measurement and assessment of this attribute is to occur during flow conditions not exceeding median flow (i.e., when water would reasonably be expected to be used for the purpose related to the attribute).</i></li> </ol>	

### 2.1.9 Proposed attributes: Repo/wetland health, Awa/river health and Roto/lake health

These three proposed attributes are all similar, in that they are about measuring mauri, and they combine aspects of ecosystem health, abundance of mahinga kai and taonga species, and the ability of tāngata whenua to access and use each for cultural purposes, upholding kawa, and exercising tikanga. Even though there are similarities with the three attributes, they are each included in their own right, in recognition of the atua and particular values and characteristics of each atua that mean they need to be treated and managed differently.

While the absence of baseline information makes it difficult to know whether the bottom lines are set at an appropriate level, staff’s reading of the band descriptions is that the bottom lines appear to be achievable. Again, suggested amendments have been made to the Advisory Notes to better reflect the legislation are suggested.

**Table A6: Repo / wetland health**

Value (and component)	Māori freshwater values	
Freshwater body type	All	
Attribute unit	Repo / wetland health	
Attribute band and description		Narrative attribute state
Band A		
<ol style="list-style-type: none"> <li>1. Repo / Wetland health is excellent and ecological / flood mitigation functions are optimal.</li> <li>2. The vitality of the wai is healthy.</li> <li>3. There is an abundance and diversity of lush riparian vegetation, indigenous flora, fauna, and kai species for tāngata whenua to access sustainably.</li> <li>4. The area is teeming with native birds.</li> <li>5. The area is pest and invasive species free.</li> <li>6. Te matangaro o tāngata whenua is elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</li> <li>7. Tāngata whenua return to the area regularly for ceremony, to gather, to swim and access the healing abilities of wai.</li> <li>8. Kawa and tikanga are in place to assist enhancement of mauri.</li> <li>9. Repo / Wetland health is excellent and ecological / flood mitigation functions are optimal.</li> <li>10. The vitality of the wai is healthy.</li> <li>11. There is an abundance and diversity of lush riparian vegetation, indigenous flora, fauna, and kai species for tāngata whenua to access sustainably.</li> <li>12. The area is teeming with native birds.</li> <li>13. The area is pest and invasive species free.</li> <li>14. Te matangaro o tāngata whenua is elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</li> <li>15. Tāngata whenua return to the area regularly for ceremony, to gather, to swim and access the healing abilities of wai.</li> <li>16. Kawa and tikanga are in place to assist enhancement of mauri.</li> </ol>	<p>Mauri ora Excellent</p>	
Band B		
<ol style="list-style-type: none"> <li>1. Repo / Wetland health is reasonable and ecological / flood mitigation functions are generally good.</li> <li>2. The vitality of the wai is somewhat healthy.</li> <li>3. Riparian vegetation, indigenous flora, fauna, and kai species are present but not in a state of abundance.</li> <li>4. Native birds are generally seen and heard.</li> <li>5. Evidence of harm from pests and invasive species.</li> <li>6. Te matangaro o tāngata whenua is somewhat elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</li> <li>7. Tāngata whenua return to the area intermittently for ceremony to gather, to swim and to access the healing properties of wai but this may depend on the condition of the wai and surrounding eco-systems.</li> <li>8. Kawa and tikanga are in place to assist enhancement of mauri.</li> <li>9. The ecological condition of &gt; 30% of wetlands is improving</li> </ol>	<p>Mauri piki Good</p>	
<b>Te Tai Tokerau Bottom Line</b>		

Attribute band and description	Narrative attribute state
<b>Band C</b>	
<ol style="list-style-type: none"> <li>1. Repo / Wetland health is diminished or impaired but some ecological / flood mitigation functions exist.</li> <li>2. Life giving and healing properties are in decline and the wai struggles to sustain the surrounding eco-systems.</li> <li>3. There is little riparian vegetation, indigenous flora, fauna, and kai species present.</li> <li>4. Native birds are rarely seen and heard.</li> <li>5. The area is swarming with pests and invasive species.</li> <li>6. Te matangaro o tāngata whenua is diminished through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</li> <li>7. Tāngata whenua do not return to this site often.</li> <li>8. Kawa and tikanga are generally absent and do not assist enhancement of mauri.</li> <li>9. The ecological condition of 20 - 30% of wetlands is improving</li> </ol>	<p>Mauri heke Diminished and impaired</p>
<b>Band D</b>	
<ol style="list-style-type: none"> <li>1. Repo / Wetland health is poor and ecological / flood mitigation functioning limited.</li> <li>2. Surrounding eco-systems are negatively impacted.</li> <li>3. There is little to no riparian vegetation, indigenous flora, fauna, and kai species present.</li> <li>4. Native birds are not seen and heard.</li> <li>5. The area is overtaken with pests and invasive species.</li> <li>6. Te matangaro o tāngata whenua is negatively impacted through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</li> <li>7. Tāngata whenua do not return to this site.</li> <li>8. Kawa and tikanga are absent and mauri is degraded.</li> <li>9. The ecological condition of &lt;20% of wetlands is improving</li> </ol>	<p>Mauri noho/mate Poor</p>
<p><b>Advisory Note:</b></p> <p>a) Tāngata whenua monitor this attribute.</p> <p>b) Tāngata whenua will need to determine the best percentage for each - species, birds, tohu.</p>	

**Table A7: Awa / river health**

Value (and component)	Māori freshwater values
Freshwater body type	All
Attribute unit	Awa / river health

Attribute band and description	Narrative attribute state
<b>Band A</b>	
<ol style="list-style-type: none"> <li>1. Awa / River health is excellent and ecological functions are optimal.</li> <li>2. The vitality of the wai is healthy, clear and flow is not weakened as a result of human intervention.</li> <li>3. There is an abundance and diversity of lush riparian vegetation, indigenous flora, fauna, and kai species for tāngata whenua to access sustainably.</li> <li>4. The area is teeming with native birds.</li> <li>5. The area is pest and invasive species free.</li> <li>6. Te matangaro o tāngata whenua is elevated through te tairongotanga</li> </ol>	<p>Mauri ora Excellent</p>

Attribute band and description	Narrative attribute state
<p>(touch/feel, sound, sight, smell, taste) o te wai.</p> <p>7. Tāngata whenua return to the area regularly for ceremony, to gather, to swim and access the healing abilities of wai.</p> <p>8. Tikanga and kawa are in place to assist enhancement of mauri.</p>	
<b>Band B</b>	
<p>1. Awa / River health is good and ecological functions are impaired but function well.</p> <p>2. The vitality of the wai is somewhat healthy, clear, and flowing with some restriction.</p> <p>3. Riparian vegetation, indigenous flora, fauna, and kai species are present but not in a state of abundance.</p> <p>4. Native birds are generally seen and heard.</p> <p>5. Evidence of harm from pests and invasive species.</p>	<p>Mauri piki Good</p>
<p>6. Te matangaro o tāngata whenua is somewhat elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</p> <p>7. Tāngata whenua return to the area intermittently for ceremony to gather, to swim and to access the healing properties of wai but this may depend on the condition of the wai and surrounding eco-systems.</p> <p>8. Tikanga and kawa are in place to assist enhancement of mauri.</p>	
<b>Te Tai Tokerau Bottom Line</b>	
<b>Band C</b>	
<p>1. Awa / River health is diminished and/or impaired and ecological functions are sub-optimal.</p> <p>2. Life giving and healing properties are in decline and the wai struggles to sustain the surrounding eco-systems.</p> <p>3. There is little riparian vegetation, indigenous flora, fauna, and kai species present.</p> <p>4. Native birds are rarely seen and heard.</p> <p>5. The area is swarming with pests and invasive species.</p> <p>6. Te matangaro o tāngata whenua is diminished through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</p> <p>7. Tāngata whenua do not return to this site often.</p> <p>8. Tikanga and kawa are generally absent and do not assist enhancement of mauri.</p>	<p>Mauri heke Diminished and impaired</p>
<b>Band D</b>	
<p>1. Awa / River health is sick or brown or odorous or does not flow and struggles to sustain any life.</p> <p>2. Surrounding eco-systems are negatively impacted. The wai has no life-giving or healing properties.</p> <p>3. There is little to no riparian vegetation, indigenous flora, fauna, and kai species present.</p> <p>4. Native birds are not seen and heard.</p> <p>5. The area is overtaken with pests and invasive species.</p> <p>6. Te matangaro o tāngata whenua is negatively impacted through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</p> <p>7. Tāngata whenua do not return to this site.</p> <p>8. Tikanga and kawa are absent and mauri is degraded.</p>	<p>Mauri noho/mate Poor</p>

Attribute band and description	Narrative attribute state
<p><b>Advisory Note:</b></p> <p>a) <i>Tāngata whenua monitor this attribute.</i></p> <p>b) <i>Tāngata whenua will need to determine the best percentage for each - species, birds, tohu.</i></p>	

**Table A8: Roto / lakes health**

<b>Value (and component)</b>	Māori freshwater values
<b>Freshwater body type</b>	All
<b>Attribute unit</b>	Roto / lakes health

Attribute band and description	Narrative attribute state
<b>Band A</b>	
<ol style="list-style-type: none"> <li>1. Roto / Lake health is excellent and ecological functions are optimal.</li> <li>2. The vitality of the wai is healthy and clear.</li> <li>3. There is an abundance and diversity of lush riparian vegetation, indigenous flora, fauna, and kai species for tāngata whenua to access sustainably.</li> <li>4. The area is teeming with native birds.</li> <li>5. The area is pest and invasive species free.</li> <li>6. Te matangaro o tāngata whenua is elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</li> <li>7. Tāngata whenua return to the area regularly for ceremony, to gather, to swim and access the healing abilities of wai.</li> <li>8. Tikanga and kawa are in place to assist enhancement of mauri.</li> </ol>	<p>Mauri ora</p> <p>Excellent</p>
<b>Band B</b>	
<ol style="list-style-type: none"> <li>1. Roto / Lake health is good and ecological functions are impaired but function well.</li> <li>2. The vitality of the wai is somewhat healthy and clear.</li> <li>3. Riparian vegetation, indigenous flora, fauna, and kai species are present but not in a state of abundance.</li> <li>4. Native birds are generally seen and heard.</li> <li>5. Evidence of harm from pests and invasive species.</li> <li>6. Te matangaro o tāngata whenua is somewhat elevated through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai.</li> <li>7. Tāngata whenua return to the area intermittently for ceremony to gather, to swim and to access the healing properties of wai but this may depend on the condition of the wai and surrounding eco-systems.</li> <li>8. Tikanga and kawa are in place to assist enhancement of mauri.</li> </ol>	<p>Mauri piki</p> <p>Good</p>
<b>Te Tai Tokerau Bottom Line</b>	
<b>Band C</b>	
<ol style="list-style-type: none"> <li>1. Roto / Lake health is diminished and/or impaired and ecological functions are sub-optimal.</li> <li>2. Life giving and healing properties are in decline and the wai struggles to sustain the surrounding eco-systems.</li> <li>3. There is little riparian vegetation, indigenous flora, fauna, and kai species present.</li> <li>4. Native birds are rarely seen and heard.</li> <li>5. The area is swarming with pests and invasive species.</li> <li>6. Te matangaro o tāngata whenua is diminished through te tairongotanga</li> </ol>	<p>Mauri heke</p> <p>Diminished and impaired</p>

Attribute band and description	Narrative attribute state
(touch/feel, sound, sight, smell, taste) o te wai. 7. Tāngata whenua do not return to this site often. 8. Tikanga and kawa are generally absent and do not assist enhancement of mauri.	
<b>Band D</b>	
1. Awa / River health is sick or brown or odorous or stagnant and struggles to sustain any life and surrounding eco-systems are negatively impacted. 2. The wai has no life-giving or healing properties so tāngata whenua do not return at all. Native birds are not seen or heard. 3. There is little to no riparian vegetation, indigenous flora, fauna, and kai species present. 4. Native birds are not seen and heard. 5. The area is overtaken with pests and invasive species. 6. Te matangaro o tāngata whenua is negatively impacted through te tairongotanga (touch/feel, sound, sight, smell, taste) o te wai. 7. Tāngata whenua do not return to this site. 8. Tikanga and kawa are absent and mauri is degraded.	Mauri noho/mate Poor
<b>Advisory Note:</b> a) Tāngata whenua monitor this attribute. b) Tāngata whenua will need to determine the best percentage for each - species, birds, tohu.	

### 2.1.10 Proposed attribute: Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health

The final attribute is focused on measuring the mauri of groundwater, with a focus on the extent to which aquifers are healthy sources of water for people and surface waters.

While the absence of baseline information makes it difficult to know whether the bottom line is set at an appropriate level, staff's reading of the band descriptions is that the bottom line appears to be achievable. Again amendments to the Advisory Notes are proposed to better reflect the legislation and purpose of advisory notes (which is not to direct decision-making as this is the role of policies).

**Table A9: Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater Health**

Attribute band and description	Narrative attribute state
<b>Band A</b>	
Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater health, quality and quantity is excellent and is a positive source for surface water. Tāngata whenua feel proud of the state of Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater.	Mauri ora Excellent
<b>Band B</b>	
Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater health, quality and quantity is good and is generally a positive source for surface water. Tāngata whenua feel contentment over the state of Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater.	Mauri piki Good

Attribute band and description	Narrative attribute state
<b>Te Tai Tokerau Bottom Line</b>	
<b>Band C</b>	
Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater health, quality and/or quantity is diminished and impaired and is generally a negative source for surface water. Tāngata whenua feel concerned over the state of Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater.	Mauri heke Diminished and impaired
<b>Band D</b>	
Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater health, quality and/or quantity is poor and a negative source for surface water. Tāngata whenua feel sad and troubled by the state of Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater.	Mauri noho/mate Poor
<p><b>Advisory Note:</b></p> <p>a) <i>Tāngata whenua monitor this attribute.</i></p> <p>b) <i>The classification of wai can be different at different times of the year and across time to account for climate change,</i></p> <p>c) <i>Different classifications of wai can apply across the same Wai Whenua / Aquifer.</i></p> <p>d) <i>The same Wai Whenua / Aquifer can have different wai classifications that represent differing views amongst iwi, hapū and/or marae.</i></p>	

## 2.2 Summary of recommendations for the proposed attributes

It is recommended that the following attributes are adopted for the draft Freshwater Plan Change, as a basis for seeking feedback:

- Cultural health (with amendment to advisory notes)
- Mana me te Rangatiratanga (with amendment to bottom line, slight amendments to the descriptions of the bands and amendment to advisory notes)
- Access to wai (with amendment to advisory notes and noting that TWWAG be asked to do more work to provide more information about how the attribute would be monitored).
- Tāngata whenua water allocation, usage and satisfaction (with deletion of examples in practice).
- Repo / wetland health (with amendment to advisory notes)
- Awa / river health (with amendment to advisory notes)
- Roto / lakes health (with amendment to advisory notes)
- Uepapa (upper aquifer) and Hamuimui (lower aquifer) / groundwater health (with amendments to band descriptions and advisory notes)

While staff are comfortable with putting the attributes out for public engagement, staff believe the following work is needed for council to be able to make an informed decision on including the attributes in the notified version of the plan change. This work includes (in sequential order):

- Further details on the **methodologies** for monitoring the attributes. It is important for people to understand how the attributes will be monitored as this will help inform people's views (including tāngata whenua) on the usefulness of the attributes. It's also needed for understanding baseline state.
- Understanding the **baseline state**. This is needed to understand the achievability of the bottom lines, to assist with setting target states for each attribute and to understand the work needed to achieve the target states. This doesn't necessarily need to be a fully blown exercise – even just some preliminary work to get an indication of baseline (e.g. it could be a case study). TWWAG recognised the need for this in their report:

*Due to pressing timeframes, 'baseline attribute states' are unable to be determined as part of this work. It is recommended that NRC commission the investigation of baseline attributes states following the approval of this report.*



## 2.3 Target attribute states

TWWAG have proposed target states. Put simply, TWWAG propose that achieving bottom lines by 2040 (TTBL = Te Tai Tokerau Bottom Lines) are the default target (until further work such as baseline states is done). TWWAG have also proposed interim targets.

Staff agree with the principle of setting target states at bottom lines and to be achieved by 2040 (noting the staff recommended changes to some of the band descriptions and where the bottom lines sit).

**Table 2: Summary of attributes, intent of attributes and timeframes**

Attribute	Table	Supports Objective	Intent	TTBL	Timeframe to meet TTBL	Interim Target Until TTBL can be met
Cultural health	A1	All	To ensure water is at least 'Mauri piki'	B or above	2040	Interim Target – C Timeframe – 2033
Mana whakahaere	A2	3 and 4	To ensure tāngata whenua have at least 'involvement' <sup>13</sup> in freshwater decision making by way of enabling mana whakahaere or kaitiakitanga practices.	A	2040	Interim Target – C Timeframe – 2033
Access to wai (physical relationship with wai)	A3	5	To ensure tāngata whenua can access at least 50% of sites required by them.	B or above	2040	Interim Target – C Timeframe – 2033
Tāngata whenua water allocation	A4	5 and 6	To ensure at least 50% of water allocated to tāngata whenua is being used.	B or above	2040	Interim Target – C Timeframe - TBC
Water quality for food collection / drinking water	A5	5	Raw water, where and when required can be taken and consumed safely.	B or above	2040	Interim Target – C Timeframe - TBC
Repo / wetland health	A6	2, 3, 6	To ensure repo / wetland are in a mauri piki state of health.	B or above	2040	Interim Target – C Timeframe - TBC
Awa / river health	A7	1-6	To ensure awa / river are in at least a mauri piki state of health.	B or above	2040	Interim Target – C Timeframe - TBC
Roto / lakes health	A8	1-6	To ensure roto / lakes are in at least a mauri piki state of health.	B or above	2040	Interim Target – C Timeframe - TBC
Uepapa (Upper Aquifer) and Hamuimui (Lower Aquifer) / Groundwater Health	A9	1-6	To ensure uepapa (upper aquifer) and hamuimui (lower aquifer) / groundwater health is in at least a mauri ora state of health.	B or above	2040	Interim Target – C Timeframe - TBC

<sup>13</sup> Level of guidance for instance can be guided by the IAP2 framework.

## 3. Policies

TWWAG have recommended a suite of policies that derive from their recommended objectives. In this section, each policy is assessed in turn and a recommendation made on whether council should include it or not in the draft plan change. The staff assessment is restricted to any changes to TWWAG's proposed wording – in other words, the default is that staff support TWWAG's proposed wording unless otherwise stated. Recommended changes are shown as underlined and ~~strike through~~.

### 3.1 Mauri, Atuatanga, Wairuatanga / Protection, Balance, Spirituality

#### Policy 1.1

The spiritual connection tāngata whenua have with wai is recognised and upheld by providing opportunity for mana i te whenua to:

- a) Undertake cultural practices;
- b) Apply localised mātauranga and tikanga to inform decision making;
- c) Undertake hapū Kaitiakitanga; and
- d) Have an active and healthy relationship with wai, including physical and spiritual access to wai.

***Advisory Note:***

Access to waterbodies remains a major limiting factor for tāngata whenua. However, regional council has no legal ability to require tāngata whenua access to waterways under the Resource Management Act or any other Act.

**Staff Assessment:**

Appears to be a verb missing from clause c) – hence addition of “undertake”.

Amendments to d) are proposed which incorporates policy 4.2 as they both touch on access to wai.

Regarding d) - Regional Plan does not have any legal jurisdiction to control legal access to waterbodies. Accordingly, staff recommend that this policy be included as a draft change to the Regional Policy Statement, which would then also apply to district councils (who do have scope under the RMA s.220 as a condition of subdivision to address issues of access).

#### Policy 1.2

Recognise that mana i te whenua are the authority to determine the spiritual wellbeing and whakapapa of wai in their rohe and how best to respect Te Hurihanga Wai.

**Staff Assessment:**

Support with amendment.

#### Policy 1.3

Recognising mana atua by applying legal personhood to all wai. Recognise mana atua by acknowledging that all freshwater bodies are living beings and have the right to be healthy and flourish.

**Staff Assessment:**

There is no legal mechanism for council to apply legal personhood to wai. The 'legal personality' approach is where a natural resource (e.g. protected area, river, mountain) is given the status of a 'legal person' through Treaty settlement legislation.

There have been two legal personalities created through Treaty settlements, in relation to Te Urewera (Tūhoe) and Te Awa Tupua (Whanganui River), and one is proposed for Mt Taranaki. Different approaches have also been taken in other parts of the world (not involving Treaty Settlement)<sup>14</sup>.

Whilst there is currently no legal mechanism for council to apply legal personhood, staff recommend the policy as amended by included in the draft freshwater plan and an action be included in the Action Plan to investigate the concept of water being a 'living entity' and its rights (to be healthy and flourishing) being represented by someone.

#### **Policy 1.4**

~~Relevant tāngata whenua are invited and adequately resourced at every stage to undertake a Cultural Impact Assessment (or similar) for every resource consent application that effects wai.~~

A resource consent application must include in its assessment of environmental effects an analysis of the effects of an activity on tāngata whenua and their taonga if the proposed activity:

- (a) is outside the coastal marine area, and
- (b) the resource consent is required under Section 13, 14 or Section 15(1)(a) and (b) of the Resource Management Act 1991, and
- (c) where effects of the activity on tāngata whenua and their taonga is a matter of control or discretion.

#### **Staff Assessment:**

Staff support the proposed policy in principle but propose changes to make it clearer as to when the cultural impact assessment is required and to use language consistent with that already in the Regional Plan.

The current Regional Plan includes a policy that requires a cultural impact assessment where it is likely to impact on a list of tāngata whenua values (Policy D.1.1). A criticism of the policy is that to determine whether any such effects arise, this itself will require a cultural impact assessment. The proposed wording makes it clear that if the proposed activity relates to water, then a cultural impact assessment is required.

The NPS-FM has a strong directive to *"...involve tāngata whenua (to the extent they wish to be involved) in freshwater management (including decision making processes)..."*. The proposed policy is consistent with this NPS-FM direction.

The Regional Policy Statement (RPS) includes specific objectives, policies and methods regarding the involvement of tāngata whenua in consents processes (See **Appendix 3**). The recent RPS review also notes concerns raised by members of the Māori Technical Advisory Group (MTAG) regarding 'who' is the right person to undertake a CIA, the need for recognition of mana whenua, and the need to ensure that mana whenua are resourced to provide input to the consent process. As council has not collected any data on when a CIA has been required, nor who has undertaken CIAs (e.g. by those from outside or inside the rohe), the review was unable to find evidence that council has achieved the RPS objectives in this regard, and the effectiveness of the existing RPS policy directive on CIAs is assessed as being deficient.

Currently the costs of preparing CIAs falls with the applicant, and therefore the resourcing of Iwi and hapū is left to each applicant to negotiate. It is also important to acknowledge differing capacity of hapū/Iwi to undertake CIAs.

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<sup>14</sup> See for example [O'Donnell E and Talbot-Jones J \(2018\) Creating legal rights for rivers: lessons from Australia, New Zealand, and India. In Ecology and Society, Mar 2018, Vol. 23, No. 1](#)

## 3.2 Ki uta ki tai / integrated decision-making

### Policy 2.1

Connectivity between all wai, land and receiving environments, ~~through te Hurihanga Wai, is prioritised in alignment with the Te Mana me te Mauri o te Wai hierarchy to protect Taiāpure and Mātaitai and ki uta ki tai – mountains to the sea.~~

~~Advisory Note: Connectivity of all wai means all wai, either above ground or below ground from the land at the very tops of catchments to the receiving coastal waters fed by ground and surface water.~~

#### Staff Assessment:

Staff support the policy intent but are unclear as to the relevance on including Taiāpure and Mātaitai other than as examples of receiving environments and the importance of fish passage. TWWAG's report defines each as follows:

*Mataitai = Fish or other food sources derived from the sea or from lakes*

*Taiapure = Term refers to an area of coastline or a specific fishing ground which was set aside by the coastal tribe of a particular area for use by an inland iwi or hapū. The taiapure was often accompanied by the right for the inland iwi or hapū to use an area of land near to the taiapure so that fish and kaimoana caught during the fishing season could be preserved for use through winter.*

It is unclear why these matters have been highlighted (as opposed to other matters) as needing protection. Staff also see benefit in inserting reference to te Hurihanga Wai (the water cycle) in this policy given the critical importance to this matter which is about interconnectedness. Given the hierarchy of Te Mana o Te Wai applies, staff don't believe that this needs to be restated in this policy. Staff also don't believe the advisory note is needed.

### Policy 2.2

Tāngata whenua ~~can~~ are able to exercise and apply their mātauranga Māori in freshwater management decision making.

#### ~~Advisory Note:~~

~~Tāngata whenua need to guide decision making.~~

#### Staff Assessment:

Support the policy with amendments. Staff don't believe the advisory note is needed.

### Policy 2.3

Wai habitat is protected and enhanced in collaboration with mana i te whenua to enable taonga species to migrate and thrive by:

- a) Reconnecting migratory pathways by:
  - i. avoiding new and removing or remediating existing fish barriers
  - ii. avoiding new and restoring river modification or diversion
  - iii. maintaining sufficient flow

unless there is a functional need for such activities to occur

- b) Improving and then maintaining healthy habitat
- c) Controlling harmful pest species
- d) Improving and then maintaining wai quality
- e) ~~Setting kaitiaki limits on wai quantity~~
- f) Recognising the importance of estuarine and coastal ecosystems and habitats

### Staff Assessment:

Support the majority of the policy as proposed, with amendment.

Whilst we understand the intent behind clause e) without defined kaitiaki limits for each waterbody, this is something that would need further work and be included as part of a future plan change. The methodology currently used to determine ecological flows (%MALF) could be reviewed to determine any additional amount that would be needed for protecting or improving the mauri of the water, for example as part of a process to review FMUs with tāngata whenua.

Staff also note Table 15 from TWWAG's report in regard to future work that is required at an FMU level in determining limits and allocations:

<b>Table 1: TWWAG Recommendations for Limits</b>
<ol style="list-style-type: none"><li>1. Limits should be developed in an appropriate way as agreed to by tāngata whenua.</li><li>2. In partnership with tāngata whenua, NRC should identify specific limits for each FMU, where necessary at a sub-catchment level, and be read and considered together with the Regionwide objectives and policies in the FPI, and in doing so have particular regard to:<ol style="list-style-type: none"><li>a. Te Mana me te Mauri o te Wai;</li><li>b. Any other tāngata whenua values; and,</li><li>c. Any hapū and iwi planning documents or mana whakahono a rohe agreements.</li></ol></li></ol>
<b>Advisory Note:</b> It would be inappropriate to set limits in relation to FMUs without the involvement of wider tāngata whenua groups impacted by provisions.

### Policy 2.4

Allocation of water must provide for the mauri of the wai, taonga species and mahinga kai, taking into account climate change impacts.

### Staff Assessment:

The policy is supported with minor amendment, while also noting the need for future work to determine what allocation might be required to provide for mauri, over and above the allocation for ecosystem health.

### Policy 2.5

Resource consents that affect wai may be reviewed when any new limits, standards or cultural values become operative in the Regional Plan and the resource consent allows activities inconsistent with the new limits, standards or cultural values.

~~Existing resource consents that effect wai are reviewed by no later than 2030 and/or new flows, limits, and standards are imposed. This may be undertaken using section 128 of the RMA:~~

- ~~a) — at any time or times specified for in the consent, or~~
- ~~b) — when a rule in a Regional Plan becomes operative that has wai limits set, or~~
- ~~c) — at any time to address any identified effects on cultural values that were not identified by tāngata whenua, and which were subsequently identified and agreed through any regional planning process or set in the objectives, policies and standards of the Regional Plan.~~

### Staff Assessment:

See also *Recommendation 22* above in regard to review of consents.

Currently council has no ability to review existing consents for all the reasons proposed by TWWAG. A policy is required in the freshwater plan change to enable future consents to be reviewed at a certain point in time, or if particular circumstances arise. Amendments are proposed by staff to ensure that the policy reflects the intention to be able to review consents for to address any effects

on cultural freshwater values subsequently identified in the Regional Plan that were not considered at the time the resource consent was granted.

## Policy 2.6

~~When considering an application for resource consent that effects wai, regard shall be given to establishing and applying a consent term of no more than 10 years, unless:~~

- ~~a) The activity and consent duration is supported by tāngata whenua; or~~
- ~~b) The activity is for the sole purpose of environmental enhancement; or~~
- ~~c) The activity is necessary to enable the use or development of regionally significant infrastructure; or~~
- ~~d) A longer term is demonstrated by the applicant to be appropriate in the circumstances.~~

### **Advisory Note:**

~~These are in no order of priority and do not preclude the wider assessment of activities.~~

### **Staff Assessment:**

Policy D2.14 in the current regional plan addresses consent duration. Staff are not clear why 10 years should be the maximum duration of a consent given that the existing provisions enable council to set consent durations appropriate to individual circumstances. Imposing a maximum duration of 10 years will be problematic for some consent holders, particularly those with significant infrastructure and major assets that require longer term certainty. Policy D2.14 could be amended as follows:

#### D.2.14 Resource consent duration

When determining the expiry date for a resource consent, have particular regard to:

- 1) security of tenure for investment (the larger the investment, then generally the longer the consent duration), and
- 2) the administrative benefits of aligning the expiry date with other resource consents for the same activity in the surrounding area or catchment, and
- 3) certainty of effects (the less certain the effects, the shorter the consent duration), and
- 4) whether the activity is associated with regionally significant infrastructure (generally longer consent durations for regionally significant infrastructure), and
- 5) whether the activity is supported by mana i te whenua (generally shorter consent duration for activities not supported by mana i te whenua), and
- 6) the following additional matters where the resource consent application is to re-consent an activity:
  - a) the applicant's past compliance with the conditions of any previous resource consent or relevant industry guidelines or codes of practice (significant previous non-compliance should generally result in a shorter duration), and
  - b) the applicant's voluntary adoption of good management practice (the adoption of good management practices that minimise adverse environmental effects could result in a longer consent duration)

## Policy 2.7

Wai decision making ~~gives effect~~ has particular regard to tāngata whenua climate change mitigation and adaptation responses (for example as articulated in hapū and iwi environmental management plans and other relevant iwi authority and hapū planning documents).

**Staff Assessment:**

This policy is supported with amendment. Staff recommend changing “gives effect” to “has particular regard” to reflect the language used in s.104 of the RMA and s.107 of the Natural and Built Environment Act (draft). Under the RMA ‘give effect’ is reserved to national and regional policy documents that have been through a full public process.

**Policy 2.8**

~~Wai is taken and used within the same catchment, unless there is a functional need to carry wai outside the catchment.~~ Recognise that the mixing and transfer of waters between catchments is of particular concern to tāngata whenua.

**Staff Assessment:**

Whilst staff recognise the cultural concerns of movement of water between catchments, this is something that requires careful consideration because of the potential for unintended consequences and is most appropriately addressed on a case-by-case basis. Staff also understand that the issue is broader than just transfer of water between catchments and relates to mixing of waters (including within the same catchment) which might impact the mauri of wai at a particular location. Amendment is proposed that recognises that this is an issue but provides for individual assessment to be made.

### 3.3 Kaitiakitanga / Governance and decision making

#### Policy 3.1

All authorities regulating wai must ~~give effect to:~~

- a) to into account Te Hurihanga Wai;
- b) give effect to Te Tiriti o Waitangi and Treaty settlement legislation;
- c) have particular regard to hapū and iwi management plans recognised by an iwi authority or hapū and lodged with councils; ~~and~~
- d) comply with Mana whakahono a rohe arrangements; and
- e) ~~Treaty settlement legislation;~~
- f) recognise and provide for cultural practices according to tikanga including but not limited to rāhui.

#### Staff Assessment:

Council staff suggest rewording this policy to align with RMA and NBA language, noting that the authorities referred to are the regional council and district councils who are responsible for natural resource management under the RMA. There is no ability for council to require other authorities that play a role in 3 waters, as this is not governed by the RMA.

#### Policy 3.4<sup>15</sup>

~~Northland Regional Council investigates and transfers powers to Tāngata whenua using s.33 (RMA) and utilises Joint Management Agreements using s.36B (RMA).~~

#### Staff Assessment:

This is most appropriately addressed through implementation of Tāiki ē as these are already existing provisions in the RMA and can be utilised, noting the current limitations to Iwi authorities (and addition of hapū in the NBA draft). The challenges associated with Iwi authorities have been discussed in **Recommendation 20** and there are a variety of mechanisms that may be more effective for enabling tāngata whenua to participate in freshwater decision-making, noting the successful use of Joint Management Agreements in the region already. These mechanisms are already being considered as part of the work to implement Tāiki ē and should be included as an Action.

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<sup>15</sup> “3.4” Is the number used in the TWWAG report. There is no 3.2 or 3.3. Have retained the TWWAG numbering to allow easy cross referencing back to the TWWAG report.



## 3.4 Manaakitanga, Whanaungatanga, Whakapapa / Relationships

### Policy 4.1

~~Tāngata whenua are resourced-enabled to practice and exercise tikanga and kawa in freshwater decision-making and monitoring.~~

~~**Advisory Note:**~~

~~This should extend to any regulatory authority making decisions for wai.~~

**Staff Assessment:**

The intent behind TWWAG's recommendation is understood, however staff suggest amendments to ensure that other opportunities for supporting tāngata whenua are included, the policy is not limited to resourcing, and that this relates to freshwater decision-making and monitoring. Whilst staff appreciate TWWAG's intent with the advisory note, as stated already the scope of the freshwater plan change is limited to the RMA and has no ability to extend to other jurisdictions.

### Policy 4.2

~~Enable tāngata whenua to have an active and healthy relationship with wai.~~

~~**Advisory Note:**~~

~~This includes but is not limited to physical and spiritual access to wai by accessing areas they have or previously have had a relationship with.~~

**Staff Assessment:**

The policy is supported but propose that it be included in Policy 1.1 which more broadly talks about tāngata whenua relationship with water.

### Policy 4.3

~~People develop a positive relationship with wai so To ensure that every interaction improves and then maintains te mauri o te wai, and that wai is healed where it is not meeting target attribute states.~~

**Staff Assessment:**

This policy articulates the overall intent behind the NPS-FM in that where waterbodies are below national bottom lines, we must improve, and where they are healthy, that we keep them healthy. It also talks to the need to change how people perceive water and treat it, as a living being to be nurtured rather than a resource to be exploited. As we already know, there are very few waterways that meet target attribute states, and it is going to take major effort and resources to get above national bottom lines, let alone reach target attribute states. This policy speaks to the concept of 'net benefit' and that every action results in an improvement.

### Policy 4.4

~~Avoid the taking of wai for commercial wai bottling purposes unless that wai is:~~

- ~~a) — supported by tāngata whenua or~~
- ~~b) — taken for the purpose of supplying water for domestic needs within the Te Tai Tokerau region.~~

**Staff Assessment:**

Whilst staff understand the concerns regarding the taking of commercial take of water for bottling, particularly where that involves use of plastic bottles exported overseas. These are concerns that are held across the country and there is ongoing legal action in this space.

At this time, staff do not support this policy. It is unclear why water for bottling for overseas exports is any different to other commercial uses for water. There are many commercial processes that take water and use it in their products. For example, water is used by the dairy industry and 'made' into milk.

## 3.5 Kai ngaki / Customary Water Use

### Policy 5.1

Promote wai sovereignty and the sustainable use of wai for the wellbeing of marae, papakāinga, Māori-owned land, and current and future Treaty settlement land.

#### Staff Assessment:

Whilst this relates to ownership of water at one level as a Treaty right, the policy also recognises the need of tāngata whenua to be self-sufficient in water resources, and part of that means that others in the catchments do not restrict or impede that. Staff suggest amending the wording of policy 5.2 proposed below to better reflect the scope of the RMA (which is management of natural resources) and remove language that could be taken to connote ownership of water (which is beyond the RMA). Amendments are also suggested to clarify that it is land held under Māori-title (as opposed to General title).

### Policy 5.2

~~Water is managed in a way that provides Wai quality and quantity is reserved and protected for tāngata whenua to manage and sustainably use wai for marae, papakāinga, and Māori landowners Te Ture Whenua, and current and future Treaty settlement land to enable their economic, social and cultural wellbeing and enhance tikanga Māori. resulting in:~~

- ~~a) — enhanced tikanga Māori and customary practices (see Advisory Note 2);~~
- ~~b) — economic, cultural and social well-being and development for Māori.~~

#### Advisory Note:

- ~~1) — Wai sources for marae, papakāinga and Māori landowners including through Treaty settlement legislation, should be identified within 5 years by tāngata whenua in accordance with tikanga Māori.~~
- ~~2) — This includes but is not limited to sustainable māhinga kai, Gazetted Rohe Moana areas, s.186A (Fisheries Act 1996) temporary closures, taiāpure and tauranga waka sites.~~
- ~~3) — Nothing in this plan should limit the ability of indigenous agroecology and activities to take place are enabled in relation to ngāhere food, medicine forests, and traditional methods of customary use and harvesting.~~

#### Staff Assessment:

The proposed amendments recognise that allocation of water must be equitable and inclusive if council's decision making is to avoid further exacerbation of existing inequalities. Amendments have been proposed that reflect the need for Māori landowners, marae and papakāinga to access water sustainably and to be able to exercise tikanga and cultural practices as appropriate.

### Policy 5.3

Where primary allocation is available for abstraction, the Northland Regional Council will allocate 20% of the total wai available in every allocation unit, for use for the following activities:

- a) contribution to environmental enhancement; or
- b) wai for domestic use by marae and papakāinga; or
- c) any other use of wai, provided that:
  - i. it includes contribution to a Te Mana me te Mauri o te Wai fund managed by the Northland Regional Council in consultation with tāngata whenua,
  - ii. the fund will be used to provide for development of Māori wellbeing;

- iii. the contribution to the fund is proportional to the amount of reserved wai being taken and any commercial returns resulting from the application; and,
- d) the development of Māori owned land and land returned to a Post-Settlement Governance Entity through a Treaty Settlement.

**Advisory Note:**

Māori wellbeing is best defined by tāngata whenua groups who may be apply to this fund. This can include better social and cultural outcomes for Māori.

Proposed supporting commentary recommended to be included in draft freshwater plan change for consultation:

Council have included this policy to elicit feedback. It is a significant change to the status quo.

The policy essentially allocates 20% of allocable water for Māori or environmental purposes. This is on the basis that:

it is consistent with the TMoTW hierarchy which puts environmental and human basic needs above commercial needs (where it is a non-commercial purpose).

It is consistent with the principles of Te Tiriti o Waitangi in terms of recognising Māori interests in, and rangatiratanga over, water.

20% as a percentage allocation to Māori is consistent with commercial fishing interests and aquaculture space.

It helps to address equity of access to water – for various reasons Māori have not been able to access water (e.g. waiting on return of Treaty Settlement land).

Council has not worked through the practicalities of how this policy would apply (e.g. how does it apply in a catchment that is fully allocated or who makes the call that it meets a purpose).

**Staff Assessment:**

This policy is about allocating 20% of water available for water takes to Māori purposes and other uses, including environmental enhancement. Staff support the policy in principle.

The case of Hauraki Marae Trust Board v Waikato Regional Council established that it is not legally permissible for an allocation of a resource to be set aside for the exclusive use by a particular person or group of people. In that case, the Hauraki Māori Trust Board (Trust Board) sought a particular percentage of coastal space within a marine farming zone to be set aside exclusively for use by the Trust Board.

However, there are examples where plans have allocated water for a particular purpose. For example Waitaki Catchment Water Allocation Regional Plan allocates a portion of water for mahinga kai purposes.

On the face of it, clauses a) and b) are clearly purposes (as opposed to a group of people). However clauses c) and d) appear to be erring towards a ‘group of people’ rather than for a ‘purpose’ (those persons that pay to the fund and those that own Treaty Settlement land). Clause c) is novel. Staff have not had time to work through the practical implications of how such a fund would work.

There is scope for allocating water for particular purposes and to tāngata whenua as a specific group, although targeting particular purposes is preferable, if certain requirements are met, including that council forms the view that the targeted allocation is required to give effect to objectives and policies of the freshwater plan change and the NPS-FM framework, and that it gives effect to Te Mana o Te Wai and the hierarchy set out in NPS FM that puts the health of water first.

There are some practical issues to consider, for example:

- a) What happens where there is less than 20% of allocable water left?
- b) What happens if a catchment is fully allocated?
- c) Who would determine whether a proposal meets the prescribed purpose?

Staff haven’t had the time to do a deep dive into the merits of the proposed approach.

Staff are in principle supportive of the proposed policy because:

- a) it is consistent with the TMoTW hierarchy which puts environmental and human basic needs above commercial needs (where it is a non-commercial purpose).
- b) It is consistent with the principles of Te Tiriti o Waitangi in terms of recognising Māori interests in, and rangatiratanga over, water.
- c) 20% as a percentage allocation to Māori is consistent with commercial fishing interests and aquaculture space.
- d) It helps to address equity of access to water – for various reasons Māori have not been able to access water (e.g. waiting on return of Treaty Settlement land).

Staff's recommendation is:

- That the policy be included in the draft plan for public feedback
- That a note be added that acknowledges there is more work to do on working through the practicalities of implementing the policy

## 3.6 Wāhi wai rongonui / Wetlands and riparian margins

### Policy 6.1

Protect tāngata whenua values associated with ~~to~~ wetlands, rivers, lakes and their margins, and receiving environments including their ecosystems, from inappropriate activities that affect wai.

#### Staff Assessment:

Supported with slight amendments.

### Policy 6.2

To restore and then maintain degraded wetlands, rivers, lakes and their margins, and receiving environments, ~~through the development of wai action plans and setting limits identified with tāngata whenua~~ so that:

- a) taonga species are healthy and resilient
- b) wetlands and water bodies function as they should in Te Hurihanga Wai
- c) mahinga kai are thriving and supporting cultural, social, environmental, spiritual and economic outcomes for tāngata whenua
- d) cultural practices and tikanga can be undertaken in wai tapu and other significant water bodies identified by tāngata whenua
- e) harmful pest species are controlled in an integrated way at levels that enables taonga species to thrive
- f) access to water bodies for waka is enabled where access is limited ~~(refer to guidance note).~~

#### **~~Advisory Note:~~**

~~Access Agreement can be enabled by, but not limited to easements as a condition of subdivision and private agreement, condition of subdivision, condition of consent (refer to non-regulatory methods).~~

#### Staff Assessment:

Amendments are suggested which remove limitations to the policy proposed and clarify when access can be required.

### Policy 6.3

To improve the mauri of wai, and ensure that thriving taonga species are thriving, by 2030 at least 30% of degraded natural inland wetlands must be ~~are~~:

- a) under effective restoration; and
- b) effectively conserved and managed through protected areas.

#### **Staff Assessment:**

This policy derives from the UN agreed biodiversity targets for wetland restoration and conservation<sup>16</sup> which NZ is signatory to. Slight amendment to improve readability is suggested.

#### **Policy 6.4**

~~Further degradation of wai must be prevented and efforts made to improve Wai must be maintained in the current attribute states where these are below bottom lines, with the aim of achieving band, or achieve target attribute states.~~

#### **Staff Assessment:**

This policy is supported but amendments suggested to improve readability.

#### **Policy 6.5**

~~Wai taken from a water body is subject to a cultural flow limit and cultural values assessment prepared by tāngata whenua.~~

#### ***Advisory Note:***

~~The cultural flow limit must be specifically designed to protect cultural values in that reach of river or downstream reaches.~~

#### **Staff Assessment:**

This appears to duplicate other policies which relate to water allocation and specific allocation for the protection or enhancement of mauri. CIAs are also addressed elsewhere.

#### **Policy 6.6**

~~Any activity that affects wai must apply the effect management hierarchy to managing adverse effects on tāngata whenua values associated with wai.~~

#### **Staff Assessment:**

Staff believe that this policy is unnecessary and is in effect paraphrasing the overall hierarchy in the NPS-FM which places the health of the water first.

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<sup>16</sup> See **TARGET 2** *Ensure that by 2030 at least 30 per cent of areas of degraded terrestrial, inland water, and coastal and marine ecosystems are under effective restoration, in order to enhance biodiversity and ecosystem functions and services, ecological integrity and connectivity.* **TARGET 3** *Ensure and enable that by 2030 at least 30 per cent of terrestrial, inland water, and of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed through ecologically representative, well-connected and equitably governed systems of protected areas and other effective area-based conservation measures, recognizing indigenous and traditional territories, where applicable, and integrated into wider landscapes, seascapes and the ocean, while ensuring that any sustainable use, where appropriate in such areas, is fully consistent with conservation outcomes, recognizing and respecting the rights of indigenous peoples and local communities including over their traditional territories.* “ <https://www.cbd.int/article/cop15-final-text-kunming-montreal-qbf-221222> ”

## 3.7 Climate Change

### Policy 7.1

Recognise that climate change mitigation and adaptation is an essential component of better freshwater decision making ~~is an essential component of climate change mitigation and adaptation.~~

**Staff Assessment:**

Support with amendment

### Policy 7.2

Recognise that adapting to the climate crisis needs to be built into all freshwater decision-making so that:

- a) Aquifers are preserved and protected;
- b) Surface water and ground water management is integrated;
- c) Wetlands are conserved, maintained and rehabilitated;
- d) Water dependency and related climate risks are understood, and urban and rural communities' exposure to risks are reduced and resilience increased; and
- e) Freshwater-related infrastructure is climate-proofed, including in design of new and retrofit of existing infrastructure.

**Staff Assessment:**

Support.

### Policy 7.3

Recognise that how we use water can help mitigate climate change ~~e.g. use of energy efficient pumps and use of water for renewable energy generation.~~

**Advice Note:**

For example the use of energy efficient pumps and use of freshwater for renewable energy generation.

**Staff Assessment:**

Support with amendment.

## 4. Rules

TWWAG have proposed the following rules (refer **Appendix 2** for the full wording):

- **Discharge to water** with no functional need<sup>17</sup> – non-complying activity
- **Discharge to water** with a functional need - discretionary activity
- **Discharge to land** - restricted discretionary activity
- The take and use of **surface water** for contribution to environmental enhancement, domestic use by marae and papakāinga, or any activity that contributes to the development of environmental and Māori wellbeing - controlled activity.
- All other **surface water** takes – discretionary activity.
- The take and use of **groundwater** for contribution to environmental enhancement, domestic use by marae and papakāinga, or any activity that contributes to the development of environmental and Māori wellbeing – restricted discretionary activity.
- **Activities that affect freshwater used for drinking water** where Attribute Table A4 applies - non-Complying Activity
- **Wetland creation** for environmental enhancement - restricted discretionary activity
- **Vegetation clearance, earthworks and the taking, use, damming, diversion, or discharge of water** (excluding wetland creation) – discretionary activity

### Staff Assessment:

While not explicit in the report, it's assumed TWWAG are proposing these rules replace the approximately 130 discharge, water take, diversion of water and land disturbance rules in the Regional Plan. The existing rules range from permitted activities to prohibited and are highly nuanced. An obvious consequence of adopting the rules as proposed by TWWAG is that there would be no permitted activities, with all activities involving freshwater requiring a resource consent. This is a significant change and will have major implications for many activities.

The following quote from TWWAG's report provides some insight into TWWAs recommendations:

*"... recommendations have been proposed that provide opportunities for tāngata whenua involvement and the types of conditions that could be imposed on any one rule that relates to a freshwater activity. Specific rules have been developed where there is a need to control effects or enable outcomes sought by tāngata whenua."*

TWWAG's recommended rules have come from a principled position that tāngata whenua need to be more involved in freshwater decision making for activities affecting water, and activities have been allowed that are having an unacceptable impact on the environment (note also TWWAG's proposal for cultural impact assessments for all resource consent applications relating to water).

Staff recommend that council do not adopt TWWAG's proposed rules given the significant impact it would have and in the absence of any cost/benefit analysis (staff haven't had the time to undertake any such analysis). The exception to this is TWWAG's proposed rule relating to wetlands (Rule 6.3.1) of which elements can be incorporated into existing rules.

Staff are aware that TWWAG have not had the time to go through the existing rules in any detail. Staff believe this is an important exercise given the significant implications of replacing current rules. Staff suggest that TWWAG be asked to do this exercise and provide their advice back to council. There won't be time to do this before the draft is released for feedback. It's therefore proposed that TWWAG do this as part of their feedback on the draft plan.

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<sup>17</sup> Functional need for this rule has the same meaning as the NPSFM and means 'the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment'



## Appendix 1: Glossary of key Māori terms used

Kupu Māori	Translation	Intent and meaning
Ahikāroa	Burning fires of occupation, long undisturbed occupation, continuous occupation, title to land though occupation by a group generally over a long period of time. The group is able, through whakapapa, to trace back to primary ancestors who lived on the land.	
Awaawa	Stream or river	
Awa tupua	Ancestral stream	Associated with significant cultural values
Hamuimui	Lower aquifer	
Hapū Kaitiakitanga		An expression of mana i te whenua and as the protectors of their respective areas they are responsible for observing, protecting, maintaining, restoring and enhancing the mauri of every being (both human and non-human) that constitutes the ecosystems which sustain them physically, spiritually, culturally, socially and economically. The authority in enacting and enforcing tikanga to protect, maintain, restore and enhance mauri resides solely with mana i te whenua
Kōura	Freshwater crayfish	
Ki uta ki tai	Water that derives from inland to the sea/salt waters	Importance of integrated management
Mana i te whenua	Peoples of authority	Whānau, hapū and iwi who are the authority of a particular are of land through whakapapa and ahikāroa
Mana whakahaere	Authority to manage	Those who have the responsibility on behalf of tāngata whenua to manage or take care of the water body or environment
Mātaitai	Traditional food sources for Māori, especially seafood	Fish or other food sources derived from the sea or from lakes (Williams, 1971, p. 187)
Matangaro		The unseen elevation of mauri and wairua through tairongo (senses) when the mauri is in a state of ora
Puna wai	Spring water	An area where tāngata whenua get water from usually to drink
Taiāpure	A local fishery	Term refers to an area of coastline or a specific fishing ground which was set aside by the coastal tribe of a particular area for use by an inland iwi or hapū. The taiāpure was often accompanied by the right for the inland iwi or hapū to use an area of land near to the taiāpure so that fish and kaimoana caught during the fishing season could be preserved for use through winter (Marsden, 1992, p.20)

Kupu Māori	Translation	Intent and meaning
Tairongo	Senses	Smell, touch, taste, vision and hearing in Te Ao Māori. Tāngata whenua often use their senses to listen, feel and experience how the mauri of wai might be. These are sometimes used as cultural indicators.
Tāngata / tāngata whenua	People(s) of the land	
Te Hurihanga Wai	The Hydrological Cycle	See TWWAG Stage 1 Report <sup>97</sup>
Tikanga wai	Attributes	The attributes that are associated with the way in which wai should be managed or cared for
Tohu tupuna	An ancestral sign	A sign that may have only been evident pre-colonial times or pre-development and is not seen any more or not common anymore.
Uepapa	Lower aquifer	Kupu better-known in mid-north
Utu	Return for anything, satisfaction, make response, payment, answer (Williams, p.471)	Giving more than you receive, leaving something in a better state than when you found it. Restoring balance.
Wahapū	Headwaters	To describe an area that is the source of a river, spring or harbour
Wāhi wai Māori	Another word for Freshwater Management Unit (FMU)	
Wai huna	Hidden waters	Wai that has an intangible meaning to tāngata whenua as underground bodies of water that connect up to other water bodies such as repo/wetlands or awaawa/streams
Wai ora	Healing waters	Waters used for rituals and healing such as 'pure' or 'tohi'
Wai paruparu	Wastewater	
Wai puke	Floodwaters	To describe flood-prone areas
Wai tai	Saltwater	
Wai tapu	Sacred waters	Waters that should be given the highest order of protection due to the cultural values associated to it
Wai whakamaumahara	Memorable waters	These could possibly be included as wai rongonui or freshwater sites of significance

## Appendix 2 TWWAG's proposed rules

**Rule 1.1.1:** *The point-source discharge of contaminants to a water body that does not have a functional need to discharge to those water bodies is a Non-complying Activity.*

**Advisory notes:**

*Functional need for this rule has the same meaning as the NPSFM and means 'the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment'.*

*Water body has the same meaning as the RMA and means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.*

**Rule 1.1.2:** *The point-source discharge of contaminants to a water body that has a functional need to discharge to those water bodies is a Discretionary Activity.*

**Advisory notes:**

*Functional need for this rule has the same meaning as the NPSFM and means 'the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment'.*

*Water body has the same meaning as the RMA and means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.*

**Rule 1.1.3:** *The point-source discharge of contaminants to land is a Restricted Discretionary Activity subject to the following conditions:*

**Conditions:**

*The discharge does not result in a change in attribute state of any attribute.*

**Matters of Control:**

- a) *Consistency of the activity with Policy 1.1.*
- b) *Others applicable to discharges generally.*
- c) *The effects on the mauri of wai, and any cultural values identified by tāngata whenua.*
- d) *Consistency with outcomes sought by relevant hapū and iwi Management Plans, mana whakahono a rohe arrangements, and any other tāngata whenua planning document.*
- e) *Any recommendations made as part of any Cultural Impact Assessment.*
- f) *The amount of contact time with land before entering any water body to ensure the discharge as closely as possible mimics natural river processes, including rapids, runs, ripples, pools or waterfalls.*

**Rule 5.1.1:** *The take and use of surface water for:*

- a) *contribution to environmental enhancement;*
- b) *domestic use by marae and papakāinga;*
- c) *any activity that contributes to the development of environmental and Māori wellbeing;*

is a Controlled Activity subject to the following conditions:

**Conditions:**

- a) The taking of water remains within limits prescribed-in this Regional Plan.
- b) The taking of water meets the FMU environmental, cultural and community values.
- c) The intake structure complies with Permitted Activity Rule xx<sup>18</sup> [cross-reference to intake structure rule] for the intake structure.

**Matters of Control:**

- a) Consistency of the activity with Policy 4.1 to 4.4.
- b) The effects on the mauri of wai, and any cultural values identified by tāngata whenua.
- c) Consistency with outcomes sought by relevant hapū and iwi Management Plans, mana whakahono a rohe arrangements, , and any other tāngata whenua planning document.
- d) Any recommendations made as part of any Cultural Impact Assessment.
- e) Other activities applicable to surface water takes generally.

Any activity that does not comply with Rule 4.1.1 is a Discretionary Activity.

**Advisory note:** the rule above must be consistent with the hierarchy of obligations in Te Mana me te Mauri o te Wai.

**Rule 5.1.2:** The take and use of **groundwater** for:

- a) contribution to environmental enhancement;
- b) domestic use by marae and papakāinga;
- c) any activity that contributes to the development of Māori wellbeing;

is a Restricted Discretionary Activity subject to the following conditions:

**Conditions:**

- a) The taking of water remains within limits prescribed in this Regional Plan.

**Matters of Discretion:**

- a) Consistency of the activity with Policy 4.1 to 4.4.
- b) The effects on the mauri of wai, and any cultural values identified by tāngata whenua.
- c) Consistency with outcomes sought by relevant hapū and iwi Management Plans, mana whakahono a rohe arrangements, and any other tāngata whenua planning document.
- d) Any recommendations made as part of any Cultural Impact Assessment.
- e) Other activities applicable to groundwater takes generally.

**Advisory note:** other activities may include stream depletion, interference effects, efficiency of flow, saline intrusion. The rule above must be consistent with the hierarchy of obligations in Te Mana me te Mauri o te Wai.

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<sup>18</sup> Cross-reference to be confirmed by NRC.

**Rule 5.1.3:** Activities that effect freshwater used for drinking water where Attribute Table A4 applies is a Non-Complying Activity.

**Rule 6.3.1:** Vegetation clearance, earthworks and the taking, use, damming, diversion, or discharge of water for the purpose of wetland creation for environmental enhancement is a Restricted Discretionary Activity, subject to the following conditions:

**Conditions:**

- a) The diversion of water occurs within the same catchment.
- b) There is a net increase in the amount of appropriate native vegetation.
- c) Construction effects from earthworks are managed by an erosion and sediment control plan, such as the Auckland Council GD05 manual.
- d) The rate of diversion is within the allocatable limit set for that catchment.
- e) Wetlands exceeding xx hectares and/or diversions of more than xx are monitored by tāngata whenua<sup>19</sup>.

**Matters of Discretion:**

- a) Consistency of the activity with Policy 5.1 to 5.4.
- b) Whether the wetland restoration is consistent with the actions required by a Freshwater Farm Plan if applicable.
- c) The effects on the mauri of wai, and any cultural values identified by tāngata whenua.
- d) Consistency with outcomes sought by relevant hapū and iwi Management Plans, mana whakahono a rohe arrangements and any other tāngata whenua planning document.
- e) Any recommendations made as part of any Cultural Impact Assessment.

**Advisory note:** The restoration of existing natural wetlands is sufficiently addressed by Regulation 38 and 39 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

Any activity that does not comply with Rule 5.2.1 is a Discretionary Activity.

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<sup>19</sup> Numbers to be confirmed following expert input to set achievable yet realistic targets.

## Appendix 3 – Proposed actions for the action plan

The following is the package of actions from across this report that staff recommend be included in the Action Plan.

1. Undertake further work (with TWWAG to scope out and cost a project) with haukāinga to define their hapori wai / rohe awa, and associated vision, values, objectives, targets, attributes and baselines to be subject of a future plan change (*TWWAG Recommendations 5 - 13*)
2. Review Tāiki ē in light of TWWAG's recommendations, education / training and capacity building (*TWWAG Recommendation 27*) and Transfer of Powers / Functions and Joint Management Agreements (*TWWAG Policy 3.4*)
3. Consider budget allocation for freshwater plan change implementation (*TWWAG Recommendation 28*)
4. Investigate regulation of scattering of ashes (*TWWAG Recommendation 35*)
5. Increase compliance and enforcement resourcing (*TWWAG Recommendation 36*)
6. Council staff to encourage landowners to provide access (*TWWAG Recommendation 39*)
7. Investigate the concept of representing water in resource management processes as a 'living entity', and its rights (to be healthy and flourishing) being represented by someone (*TWWAG Policy 1.3*)

## Appendix 4: Broader actions

These are the recommendations from *Section 5 TWWAG recommendations* that apply more broadly than just freshwater (categorised as ‘Broader actions’). Staff’s recommendation is that these actions be taken as a package to TTMAC to ensure these are incorporated into council’s broader package of work.

TWWAG recommendation		Staff assessment
23	Data and information gathered through FMUs remains the intellectual property of tāngata whenua.	This relates to recommendations 5 - 13 in part, but also to data sovereignty and intellectual property rights more generally. It is expected that this topic will also be discussed in the development of the Mātauranga Māori Monitoring Framework (refer response to TWWAG recommendation 19 above for details). Further work is required across council to address the issue of intellectual property rights of tāngata whenua which is a major and important kaupapa.
26	NRC data is made readily available for tāngata whenua to inform freshwater decision making.	Council already makes various freshwater information available to tāngata whenua and the general public through various mechanisms including the GIS viewer, Land and Water Aotearoa (LAWA) <sup>20</sup> and our environmental data hub <sup>21</sup> . Further requests for data are considered on a case-by-case basis currently. Getting clarification from TWWAG about the types of data sought and whether the current methods of sharing the data are appropriate will assist with determining what further actions council might take.  The availability of data is likely to be an issue broader than just freshwater. Accordingly it’s proposed that any advice from TWWAG is provided to TTMAC and they consider it e.g. as part of the review of Tāiki ē.
27	Education campaigns, resources and training opportunities are provided by NRC and developed in partnership with tāngata whenua.	Council already provides a variety of educational resources such as brochures and information and training opportunities such as work placements and scholarships.  Tāiki ē already sets out various commitments which picks up on the recommendation. So for example it includes the following action: <i>Action 18: Invest in building Tāngata whenua capacity and capability, by:</i> <i>c) Reviewing council’s existing scholarship / internship programme to ensure that it supports the following outcomes.</i> <i>iv. Tāngata whenua undertaking their role as kaitiaki; or</i> <i>v. Increasing tāngata whenua participation in jobs that are directly relevant to</i>

<sup>20</sup> <https://www.lawa.org.nz/>

<sup>21</sup> <https://www.nrc.govt.nz/environment/environmental-data/>

TWWAG recommendation		Staff assessment
		<p><i>council's activities; or</i></p> <p><i>vi. Includes governance training, such as associateships.</i></p> <p><i>d) Maintaining and increasing where appropriate in the 2024 – 2034 Long Term Plan, scholarship/ internship programmes for tāngata whenua who whakapapa to Te Taitokerau iwi / hapū.</i></p> <p>TWWAG have valuable expertise and insights that can add value to council's training and education and could provide advice on council's current activities and commitments which can be fed back up to TTMAC.</p>
32	<p>Development of information protocols with tāngata whenua to ensure sensitive information is appropriately gathered and stored in an accessible facility, agreed to by them and in accordance with tikanga Māori.</p>	<p>Council can already enter into agreements with tāngata whenua over sharing of information. Such protocols can be associated with IHEMPS and with MWRs, for example. Staff are not aware of any council / tāngata whenua sensitive information agreements.</p> <p>This is an issue broader than just freshwater, and, therefore, an issue for TTMAC to consider.</p>
33	<p>Development of new systems, processes and tools to assist with the implementation of the proposed provisions developed with TWWAG. This includes:</p> <p>d. Compulsory training programme on tāngata whenua values for NRC staff and decision makers implementing provisions of the proposed Regional Plan for Northland;</p> <p>e. New cadet and internships for rangatahi and taitamariki interested in freshwater monitoring; and</p> <p>f. Development of GIS tools readily accessible to tāngata whenua so the environment is understood and digitally mapped with the most up to date data to ensure robust and well considered decision making occurs for freshwater monitoring. This might include:</p> <ul style="list-style-type: none"> <li>• extent of existing wetlands, lakes, aquifers, rivers, ephemeral water, and artificial water bodies</li> <li>• water processes and interactions between groundwater surface water and coastal waters</li> <li>• classifications of wai</li> <li>• sites or areas of significance or value to tāngata whenua.</li> </ul>	<p><b>Training</b></p> <p>Council already provides training to staff (Te Whāriki) and is also providing specific training for staff (and councillors) in regard to the concepts, values and principles discussed by TWWAG. Current training could be expanded to include more in-depth education on these important concepts for both staff and councillors.</p> <p><b>Internships</b></p> <p>Council also offers internships and work placements for students, with three scholarships being offered specifically to tāngata whenua.</p> <p><b>GIS tools</b></p> <p>This recommendation overlaps with recommendations 26 and 31. There are already GIS tools available (e.g. NRC has online maps available via it's website - <a href="https://www.nrc.govt.nz/your-council/online-services/online-maps/">https://www.nrc.govt.nz/your-council/online-services/online-maps/</a>). It would be helpful to get clarification whether the current GIS tools are appropriate. Any further advice to be provided back to TTMAC (e.g. to be considered as part of review of Tāiki ē).</p>



## Appendix 5: Regional Policy Statement – tāngata whenua objectives, policies and methods

The Regional Policy Statement for Northland (RPS), operative since 2016, has the following provisions that relate to tāngata whenua and to Treaty of Waitangi principles including partnership:

<b>Objective 3.12</b>	<p><b>Tāngata whenua role in decision-making</b></p> <p>Tāngata whenua kaitiaki role is recognised and provided for in decision-making over natural and physical resources</p>
<b>Policy 8.1.1</b>	<p><b>Policy — Tāngata whenua participation</b></p> <p>The regional and district councils shall provide opportunities for tāngata whenua to participate in the review, development, implementation, and monitoring of plans and resource consent processes under the Resource Management Act 1991</p>
<b>Policy 8.1.2</b>	<p><b>Policy — Regional and District Council statutory responsibilities</b></p> <p>The regional and district councils shall when developing plans and processing resource consents under the Resource Management Act 1991 (RMA):</p> <ul style="list-style-type: none"> <li>(a) Recognise and provide for the relationship of tāngata whenua and their culture and traditions with their ancestral land, water, sites wāhi tapu, and other taonga;</li> <li>(b) Have particular regard to kaitiakitanga; and</li> <li>(c) Take into account the principles of the Treaty of Waitangi including partnership.</li> </ul>
<b>Policy 8.1.3</b>	<p><b>Policy – Use of Mātauranga Māori</b></p> <p>The regional and district councils shall provide opportunities for the use and incorporation of Mātauranga Māori into decision-making, management, implementation, and monitoring of natural and physical resources under the Resource Management Act 1991.</p>
<b>Policy 8.1.4</b>	<p><b>Policy – Māori concepts, values and practices</b></p> <p>Relevant Māori concepts, values and practices will be clarified through consultation with tāngata whenua to develop common understandings of their meaning and to develop methodologies for their implementation.</p>
<b>Method 8.1.5</b>	<p><b>Method – Statutory plans and strategies</b></p> <p>The regional and district councils shall:</p> <ul style="list-style-type: none"> <li>(a) Engage with iwi authorities at the earliest possible stage of any review and/or change to plans developed under the Resource Management Act 1991 (RMA) to agree appropriate mechanisms for tāngata whenua participation and consultation; and</li> <li>(b) Include an analysis of the effects of any resource consent application on tāngata whenua and their taonga, including details of any proposed measures to avoid, remedy, or mitigate effects and consultation undertaken, in all regional and district council reports on resource consent applications.</li> </ul>
<b>Method 8.1.6</b>	<p><b>Method – Non-statutory plans and strategies</b></p> <p>Within two years of the Regional Policy Statement for Northland becoming operative, the regional council will initiate the development of protocol with iwi authorities to:</p> <ul style="list-style-type: none"> <li>(a) Determine when the regional council will: <ul style="list-style-type: none"> <li>i. Require an assessment of cultural effects (under Schedule 4 of the Resource Management Act 1991 (RMA) and what it should include, and how councils will use and take into account any cultural impact assessment;</li> <li>ii. Appoint and use independent Māori hearing commissions (for resource consent applications and plans under the RMA);</li> <li>iii. Hold hearings on marae and provide translation services;</li> <li>iv. Notify tāngata whenua of resource consent applications and confer affected party status to tāngata whenua; and</li> </ul> </li> <li>(b) Determine common meanings and methodologies for key Māori concepts, values and practices, and the process for updating them.</li> </ul>

<b>Method 8.1.7</b>	<p><b>Method — Advocacy and Education</b></p> <p>The regional and district councils shall:</p> <p>(a) Actively encourage resource consent applicants to consult with tāngata whenua as early in the process as possible prior to lodging consent applications for proposals that are likely to impact on tāngata whenua and their taonga; and</p> <p>(b) Refer resource consent applicants to any relevant iwi or hapū planning document lodged with the respective council that has been authorised by the iwi or hapū for public availability.</p>
<b>Method 8.1.8</b>	<p><b>Method – Funding and assistance</b></p> <p>The regional council will support tāngata whenua if they choose to develop and implement a regional Mātauranga Māori-based environmental monitoring framework by:</p> <p>(a) Providing information and advice during the development of the monitoring framework;</p> <p>(b) Providing training to assist tāngata whenua to promote and implement the monitoring framework on an ongoing basis; and</p> <p>(c) Incorporating the results and recommendations of tāngata whenua monitoring in council’s monitoring reports.</p>
<b>Policy 8.2.1</b>	<p><b>Policy – Support for iwi and hapū management plans</b></p> <p>The regional council will recognise the value of iwi and hapū management plans in decision-making under the Resource Management Act 1991 and the need to support tāngata whenua in the development and implementation of these plans.</p>
<b>Method 8.2.2</b>	<p><b>Method – Non-statutory plans and strategies</b></p> <p>Within two years of the Regional Policy Statement for Northland becoming operative, the regional and district councils will initiate the development of a protocol with iwi authorities to determine when and how iwi and hapū management plans will be taken into account under the Resource Management Act 1991.</p>
<b>Method 8.2.3</b>	<p><b>Method – Advocacy and education</b></p> <p>The regional and district councils shall make publicly available iwi and hapū management plans provided this has been authorised by the iwi or hapū.</p>
<b>Method 8.2.4</b>	<p><b>Method – Funding and assistance</b></p> <p>The regional council will encourage and support tāngata whenua to develop iwi and hapū management plans.</p>
<b>Policy 8.3.1</b>	<p><b>Policy – Kaitiaki role</b></p> <p>The regional and district councils shall support tāngata whenua to have a kaitiaki role in the management of their land, resources, and other taonga.</p>
<b>Policy 8.3.2</b>	<p><b>Policy – Marae and Papakāinga</b></p> <p>The regional and district councils shall recognise the historical, cultural, and social importance of marae and papakāinga, and enable their ongoing use and developing in regional and district plans.</p>
<b>Policy 8.3.3</b>	<p><b>Policy – Provision of information</b></p> <p>The regional and district councils shall, when requested by iwi authorities, provide information, analysis of regional and district plan provisions, and advice during and after Treaty settlement processes to enable tāngata whenua to identify potential land use opportunities and constraints associated with returned assets.</p>
<b>Method 8.3.4</b>	<p><b>Method – Statutory plans and strategies</b></p> <p>The regional and district councils shall, as soon as practicable after the Regional Policy Statement becomes operative, initiate a joint review of regional and district plans to identify and implement agreed opportunities to improve the ability of tāngata whenua to develop marae and papakāinga, and achieve greater consistency in management approaches.</p>

# Appendix 6: Overview of freshwater management from iwi and hapū environmental management plans

## Introduction

This report is intended as a review of the current IHEMP documents and their provisions relating to freshwater. A range of values have been identified as well as issues of concern for iwi and hapū regarding current freshwater management.

Northland Regional Council (NRC) holds 19 current IHEMP documents on record for iwi and hapū of Te Taitokerau:

- Ahipara Takiwā Management Plan 2021
- Kororāreka Marae Environmental Hapū Management Plan 2009
- Mangakāhia Māori Komiti Nga Hapū o Mangakāhia Plan for the Whangarei District and the Northland Regional Councils 1995
- Te Iwi O Ngāi Takoto Iwi Environmental Plan 2018
- Ngāti Hau Hapū Environmental Management Plan 2016
- Ngā Tikanga mo te Taiao o Ngāti Hine - Ngāti Hine Iwi Environmental Management Plan 2022
- Ngāti Korokoro, Ngāti Wharara, Te Pouka Hapū Environmental Management Plan 2008
- Ngāti Kuri Pou Taiao Environmental Management Plan 2018
- Ngāti Kuta ki te Rawhiti Hapū Management Plan 2014
- Ngāti Rangi Hapū Management Plan 2016
- Ngāti Rēhia Hapū Environmental Management Plan Third Edition, 2018
- Hapū Environmental Management Plan for Ngāti Torehina 2007
- Te Iwi o Ngāti wai Iwi Environmental Policy Document 2007
- Patuharakeke Hapū Environmental Management Plan 2014
- Tapuwae Environmental Management Plan 2020
- Nga Ture Mo Te Taiao o Te Roroa Environmental Policy Document 2019
- Te Uri o Hau Kaitiakitanga o Te Taiao 2011
- Te Rūnanga o Whaingaroa Te ūkaipō Iwi Environmental Management Plan 2022-2027
- Whatitiri Resource Management Plan 2016

These documents vary in form, but generally identify the unique characteristics of the land and people within the rohe, and their ancestral waterways, then consider the relevant issues for the area and how the hapū or iwi would like to interact with Local Government to address these issues.

In preparing this document, a review of the freshwater related provisions within the IHEMPs has been undertaken to identify the key matters for tāngata whenua in relation to water. However, for a full understanding of the issues, the IHEMP documents should be referenced directly.

## Forms of water

Common across all IHEMPs is the fundamental importance of water to tāngata whenua, and defining who they are, and recognition that water comes in many different forms. These forms of water have different spiritual and cultural associations and uses with those recognised varying between hapū and iwi but broadly following a hierarchy from the most clean/pure water to the most degraded and polluted. The degradation of water through poor management practices limits its use for traditional and cultural activities and supporting human health.

The following different forms of water are identified in the IHEMP documents:

- wai māori
- wai repo
- wai tai
- wai whakaika
- wai mate
- wai nuku
- wai ora
- wai kino
- wai noa
- wai tapu

## Values

Below are some common values identified in the IHEMPs. It is not an exhaustive list but summarises the key themes.

- Access to high quality water in a sufficient quantity to meet cultural and social needs.
- Maintenance of high-quality aquatic habitats and the connections between water in all its forms.
- Healthy water means healthy people.
- Protect, maintain and enhance the mauri of water resources.
- All parts of the environment are integrated not separate elements.
- Water is a fundamental component of all dimensions of life.

## Issues

Below are the issues related to water management identified in the IHEMPs. These have been grouped into the main topic areas.

### Cultural and Spiritual Effects

- Current water management does not reflect the cultural values of iwi/hapu.
- Mixing of water from different sources/catchments occurs which has an adverse effect on the mauri of the water.
- Traditional names not recognised or used.
- Inability for mana whenua to feed their whanau to manaaki manuhiri due to degradation of mahinga kai in waterways.

### Ecological Effects

- Lack of monitoring of freshwater.
- Increased demand for water (including overseas interests).
- There is over-allocation of water resource in some catchments. Some bores are running dry, and salinisation may be an issue in future.
- There is excessive (cumulative) use of groundwater without adequate provision for recharging aquifers.
- There continues to be a lack of investigation of the link between ground and surface water.
- There is inefficient use of water, including irrigation.
- Adequate minimum flows need to provide for social, biological, and cultural needs.
- Water quality is deteriorating. This includes sedimentation and E.coli accumulation.
- Point and non-point discharges of human waste and other contaminants to water continue to occur.
- Sedimentation from land use and development reduces water quality.

- Indiscriminate use of chemicals for weed control near water results in pollution.
- Stock entering waterways reduces water quality and makes habitats unsuitable for native fish.
- River and instream works adversely affect habitats and water quality e.g. gravel extractions, flood protection, loss of habitat.
- Introduction of exotic weeds to waterways e.g. on poorly cleaned equipment compromises habitat quality and diversity.
- There is a lack of proper riparian management throughout the catchment.
- Vegetation clearance and drainage of wetlands reduces water holding capacity of the land.
- Wetlands continue to be drained e.g. for swamp kauri extraction or dairy farming.
- Springs are damaged at their source by livestock.
- Discharge of human sewage into water bodies due to inadequate infrastructure.
- Leachate from landfills.
- Noxious weeds in waterways.
- Reintroduction and retainment of natural wetlands.
- Dumping of animal carcasses near waterways.
- Pollution of the oceans through unsustainable management of land and freshwater.
- Climate change impacts include sea level rise, extreme weather and natural disasters. Could lead to more droughts in some areas that reduce summer low flows.
- The impacts of native forest clearance for pastoral use.

## Decision Making

- Water take consent allocated on first come first served basis and usually for 35 years.
- Lack of partnership between councils and tāngata whenua in water management.
- The issue of rights and interests in water has yet to be resolved between the Treaty partners, i.e. tāngata whenua and the Crown.
- Few real opportunities for kaitiaki to play an active role in monitoring or managing water resources.

## Discussion

Water is recognised as a fundamental component of the natural environment which should not be separated out into different elements, of which humans are part.

Water is of the upmost importance in terms of spiritual, cultural, ecological and life supporting capacity. Reflecting the importance of water, all IHEMP documents reviewed contained a section addressing the key issues for iwi/hapu surrounding freshwater management.

Many of the issues identified above were common to many IHEMPs and can be grouped into three categories: cultural/spiritual, ecological and governance.

## Cultural and Spiritual Effects

A common theme is the unacceptable discharge of human waste into water bodies. Waterways are ancestors and any discharge is culturally repugnant and impacts on spiritual wellbeing. Some of these discharges relate to failing district council infrastructure with treatment plants no longer fit for purpose. Ultimately, there is a strong focus on transferring discharges away from water and on to land.

Another widely identified concern was the mixing of water from different sources/catchments which has an adverse effect on the mauri of the water. This has implications for irrigation and water reticulation schemes and needs to be considered during the processing of resource consent applications.

Another significant issue with the degradation of water quality and quantity is the impact on the ability to host visitors. Offering kai to visitors is a key cultural value. The loss or collapse of key food gathering areas impacts on the traditional ability for hosts to offer hospitality from their rohe as well as the ability to feed their own people. For example, Patuharakeke note that in 2010 a cultural health monitoring report, the Ruakākā River mouth was found to be virtually unusable for gathering kaimoana. And this impacts on their mana as tāngata whenua.

## **Ecological Effects**

Water quality and quantity is identified by many as deteriorating over time. Poor management practises such as clearance of native vegetation, unfenced waterways allowing stock to enter, loss of wetlands, overextraction from aquifers, wasteful and inefficient use of water and chemical contamination are just some of the issues identified. These land management practises create sedimentation and bacterial contamination of water and the over-extraction of water leads to inadequate minimum flows to provide for social, biological and cultural needs. Tāngata whenua in the past would have recognised these effects and exercised kaitiakitanga to safeguard the water. However, as detailed in the Governance section below, tāngata whenua feel disempowered and unable to exercise this critical cultural function.

## **Decision making**

The third key area of concern is around governance. There is widespread dissatisfaction with the perceived lack of partnership with mana whenua on the management of water. Rights and interests in water have yet to be satisfactorily resolved between the Treaty Partners. This leaves tāngata whenua in a position where they feel disempowered in being able to exercise their role as kaitiaki in managing or monitoring water resources. Resource consents are seen to be granted on first come first served basis with no water allocation for tāngata whenua. Often consents are granted for a 35 year duration which limits the ability for change in the short term and this has led to overallocation of water in some rohe. Input from tāngata whenua is not always sought or taken into account when considering applications. An additional factor identified was the lack of use of traditional names to reference streams and water bodies.

## **Conclusion**

The IHEMP documents all detail the importance of water to tāngata whenua and the adverse effects that are seen to be leading to the degradation of traditional and cultural values of water. It is important to note that many of these IHEMPs have been developed over time and reflect the experiences of the hapū and iwi with resource management at that time. This is of importance given the regional plan rules have only recently been made operative as appeals on the proposed regional plan have been resolved, so tāngata whenua experience of the current regime has been limited. However, the key take home messages are that tāngata whenua are concerned about the poor state of health of freshwater, want to be involved in freshwater governance and decision-making, and want to ensure that what others do does not impede their ability to practice tikanga and fulfil their responsibilities as rangatira and kaitiaki.