WAKATŪ INCORPORATION

SUBMISSION ON THE ACTION FOR HEALTHY WATERWAYS DISCUSSION DOCUMENT AND ASSOCIATED REFORM PROPOSALS

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Submitter details:
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Introduction

1. This submission is made on behalf of Wakatū Incorporation (Wakatū) in response to the Action for healthy waterways discussion document on national direction for our essential freshwater (the Discussion Document), and the following associated key proposals:

   (a) the Draft National Policy Statement for Freshwater Management (Draft NPS-FM);

   (b) the Proposed National Environmental Standards for Freshwater (Draft NES); and

   (c) the Draft Stock Exclusion Section 360 Regulations (Draft Stock Exclusion Regulations),

   collectively, the Proposed Reforms.

2. Our submission includes overarching and specific submissions, alongside framing our submission with kōrero about our responsibilities as kaitiaki (guardians) and our connection to our taonga (treasure/s), he wai (water).

Ko wai mātou? Who are we?

3. Wakatū is a Māori Incorporation pursuant to Te Ture Whenua Māori Act 1993. Based in Nelson, New Zealand, Wakatū has approximately 4,000 shareholders who are those families who descend from the customary Māori land owners of the Nelson, Tasman and Golden Bay Regions – Te Tau Ihu.

4. Wakatū operates in accordance with our 500-year intergenerational vision - Te Pae Tawhiti. ¹ Te Pae Tawhiti establishes our purpose as an

¹ Te Pae Tawhiti is available at https://www.wakatu.org/te-pae-tawhiti.
5. Whenua is the foundation of our business with 70% of assets held in whenua (land) and waterspace. We manage a diverse portfolio from vineyards, orchards to residential properties, large retail developments, office buildings, marine farms and waterspace.

6. Kono is our food and beverage business focused on high quality beverages, fruit bars, seafood products, pipfruit and hops. We understand that innovation and adaptability is the key to our success.

7. Auora is that part of our organisation which is focused on innovation, particularly new ingredients, new products and new business and service models.

8. In short, our purpose is to preserve and enhance our taonga, including wai (water), for the benefit of current and future generations. Our submission on the Action for Healthy Waterways Discussion Document (the Discussion Document) is made with that at the forefront of our minds.

9. We have included further detail in Appendix One to this submission which sets out who we are in further detail.

Our kaitiaki responsibilities over wai

Toitū te marae a Tāne, Toitū te marae a Tangaroa, Toitū te Iwi

10. We have a unique relationship with our ancestral lands and waters which have sustained us since the arrival of our tūpuna. The proverb above,
‘Toitū te marae a Tāne, Toitū te marae a Tangaroa, Toitū te Iwi’, has been passed down by our ancestors and identifies that when the realm of Tāne – deity of the forest and the domain of Tangaroa – god of the Ocean are sustained, so too is the future of the iwi. The Māori connection to customary land is very powerful. It is mana tūpuna - power from the ancestors. This generation is the living face of all those that came before, carrying all of their hopes and aspirations in our DNA. They give us the right to be. The blood of our tūpuna was spilt on our lands. The connection is visceral.

11. As Mana Whenua, we have rights to use and access the land and water within our rohe. We also have intergenerational responsibilities to protect the physical and spiritual components of our land and water. We are always mindful of the need to look after our resources for the benefit of current and future generations.

12. As kaitiaki, we adhere to certain practices and protocols that were established by our tūpuna when using land and resources. These practices ensure that the physical and spiritual aspects of life are kept in balance.

13. Fundamental to our identity is our connection with place. It has reflected the tenets of our culture since time immemorial. It shapes our thinking, our way of being and our priorities of what is of value. Learning about land is not the same as recognising that we learn best from land.

14. Our interaction with our lands and waters defines us, providing clarity on our roles and relationships, our responsibilities, and our place in the natural world.

15. Our relationship with our land and water is based on and strengthened by our whakapapa to the land and water and the fact that we are descendants of the earth and sky, and all elements. We whakapapa to our ancestral lands and waters and see them as a part of us, as our ancestors.
16. This whakapapa demonstrates how the world has unfolded both physically and spiritually. It is the thread connecting us from the beginnings of time to today and beyond. It demonstrates how everything is part of a web of relationships, not only in relation to other human beings but in relation to everything in nature as well. This understanding underpins our approach to our environment and our use of resources.

17. There is no separation between the land, water and people. All things are inter-connected, particularly through the burial of our ancestors. The land and water, for example, is one - an indivisible whole. The land is connected to the water resources which flow in, on or under it, as is the water connected to the land that surrounds it. Both the land and water are in turn connected to us, as the people who have mana whenua and mana moana over this area.

18. Water is imbued with a mauri, a life force and personality of its own which is to be protected and sustained for future generations. Maintaining and protecting the mauri of our ancestral waters are of critical importance to us.

19. Wakatū has a number of work-programmes underway focused on ensuring that we whakatinana (embody) our kaitiaki values and responsibilities, these include our Whenua Ora and Tangata Ora programmes. Wakatū is committed to showing leadership in these matters to achieve transformative change.

**Overarching submissions**

20. Wakatū’s submission relates to the Proposed Reforms in their totality.

21. Wakatū supports what it understands to be the thrust of the Proposed Reforms – stopping degradation and restoring the health of our wai within
a generation. This is consistent with our obligations as kaitiaki, and our corresponding work-programmes at Wakatū within our businesses.

22. We further support the findings in the Kāhui Wai Māori report entitled Te Mana o te Wai – The Health of our Wai, the Health of our Nation (April 2019) (Kāhui Wai Māori Report) namely that:

(a) Aotearoa New Zealand’s current resource management system is broken. It is failing to achieve its purpose and has become complex, dysfunctional and inaccessible.

(b) Our waters are sick. We must heed the cry to make our waters well again.

(c) Diverse communities all over Aotearoa New Zealand are hearing these cries.

(d) Te Mana o te Wai is the korowai that should frame and inform structural and system reform.

(e) It is time for a new system.

23. Wakatū makes the following further overarching-submissions which apply across the Proposed Reforms:

(a) Māori are kaitiaki of the natural world; we are connected to the natural world through whakapapa. Within our kaitiaki responsibilities, we are also part of industry. This places Māori in a unique position to, among other things, carry over kaitiaki responsibilities into industry best practice. The Proposed Reform

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2 Kāhui Wai Māori Report, p.4.
needs to recognise the multi-faceted rights and responsibilities that Māori hold.

(b) Te Tiriti o Waitangi is central to this discussion. There is a broader constitutional conversation that needs to occur in parallel to reform such as this. The place of Te Tiriti, and the rights and responsibilities of Māori that are guaranteed by Te Tiriti, need to be properly considered and given effect to by the Crown. The current Governmental arrangements do not reflect a true partnership. The Proposed Reform is being advanced in a context of wai, he taonga, not having the appropriate level of constitutional protection.

(c) In order to meet the Crown’s obligations under Te Tiriti o Waitangi, Māori rights and interests should have been addressed in advance of the Proposed Reforms. It is simply unacceptable to continue to advance reform that continues to leave addressing this fundamental matter for another day.

(d) The Government has recently announced that it intends to take an all-of-Government approach to responding to Ko Aotearoa Tēnei, the Waitangi Tribunal’s report on the Wai 262 claims. Ko Aotearoa Tēnei includes a chapter addressing the environmental concerns that the claimants raised through the Wai 262 inquiry. That chapter, among other things, recommends amendments to the Resource Management Act 1991 (the RMA) that need to be considered in the context of the Proposed Reforms.

(e) On a related front, the Proposed Reforms do not address the WAI 2358 National Freshwater and Geothermal Resources Inquiry Waitangi Tribunal Stage Two Report. The Tribunal’s findings and recommendations in its Stage Two Report must be addressed. We have provided a summary of the Tribunal’s finding and
recommendations in Appendix Two. In particular, Wakatū supports the following recommendations:

- the Crown must recognise Māori (iwi, hapū and whānau) proprietary rights and economics interests by providing for proprietary redress;
- the Crown devise a new allocation regime in partnership with Māori;
- Objective D1 of the NPS-FM (which now forms part of Section 3.3 in the Draft NPS-FM) should be amended to specify that iwi, hapū and whānau must be directly involved in freshwater decision-making, that Māori values, rights, and interests must be recognised and provided for in freshwater decision-making; and
- local authorities must actively seek opportunities to enter into section 33 transfers and section 36B Joint Management Agreements for freshwater bodies (where Treaty settlements have not already established co-governance agreements for freshwater bodies).

(f) Māori farmers and growers, as well as those Māori land owners who live and work directly on their land or have a direct role in land governance and management may be better placed than others who have not to date been able to directly manage their whenua and surrounding wai. However, in cases where there is underutilised Māori land or where Māori owners are disconnected from their land, those owners should not be further penalised through the Proposed Reform and the Government needs to carefully consider how additional compliance costs for Māori land can be met in order to achieve equity with non-Māori landowners who have been able to economically develop their lands (because they have benefitted from the colonisation process rather than being penalised by it, as many Māori land owners have been).
(g) Local authorities’ regulatory powers need to be tightened to make room for Māori authority over our taonga, such as wai. This could be enabled through both amendments to the Proposed Reform and amendments to the RMA through the next round of substantive RMA reform.

(h) The Government needs to invest in measuring water, soil and biodiversity quality in catchments, and appropriate governance and management arrangements must be put in place to oversee this work.

(i) There needs to be appropriate tools to manage sediment control especially with storm events and the risks of flooding/high tides etc.

(j) The Proposed Reform must align with the next phase of RMA reform. This is particularly the case given the recently introduced Resource Management Amendment Bill partially intended to make way for the Proposed Reforms.

(k) The Proposed Reform must also align with the Government’s three waters review (noting the recent announcement about the primary regulator).³

Wakatū supports the Kāhui Wai Māori recommendations

24. Wakatū strongly supports the Kāhui Wai Māori recommendations in the Kāhui Wai Māori Report and notes that the Proposed Reforms do not incorporate all of Kāhui Wai Māori’s recommendations.⁴ We think this is a missed opportunity to show leadership on the part of the Government and to demonstrate that a partnership approach has been taken with respect to the formulation of the new policy.

⁴ Kāhui Wai Māori Report, p.5.
25. In particular, Wakatū supports the need to:⁵

(a) Recognise and resolve Māori customary title and rights in water within the next 3 years, including the implications in practice of this recognition.

(b) Declare a moratorium on additional discharges and water-related consents for 10 years.

(c) Implement a National Freshwater Science Strategy, that extends beyond biophysical factors and includes Māori measures of health, to underpin Te Mana o te Wai.

(d) Establish an independent national regulatory Te Mana o te Wai Commission (particularly for the purpose of holding councils to account).

26. Wakatū recognises that some of the Kāhui Wai Māori recommendations will have a negative fiscal impact on its businesses in the short term. Wakatū is prepared to show leadership in this space and intends to do so; as is our responsibility as kaitiaki.

Specific submissions on the Proposed Reforms

27. This section of the submission addresses those matters that are provided for in the Discussion Document.

28. Our position is as follows:

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⁵ Ibid, p.5.
Draft NPS-FM

(a) Wakatū supports the position of Te Mana o te Wai as a fundamental concept in the NPS-FM.6

(b) Wakatū supports the strengthened legal weighting of Te Mana o te Wai in the Draft NPS-FM including the obligation to give effect to Te Mana o te Wai.7

(c) In our view, the RMA could usefully be clarified to ensure the NPS-FM is paramount in the RMA hierarchy (and therefore takes precedence over Part 2 as confirmed by the Supreme Court in King Salmon).

(d) Wakatū supports the revised timeframes for local authorities to implement the NPS-FM. However, Councils and participants within the community, including Māori, will likely need additional assistance to ensure that these revised targets can be met without compromising quality.

(e) Wakatū specifically oppose what we understand to be the current exemptions for some existing hydro-schemes to the Reform Proposals.

Draft-NES

(f) Part 3 of the NES states that nothing in this part applies to the following: horticultural farms of less than five hectares. Wakatū does not support this exemption. The principles of Te Mana o te Wai should be carried across all of our operations, regardless of size.

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6 Draft NPS-FM, 1.5.
7 Ibid, 2.2, policy 1.
An increase in the amount of land for irrigated production will require a consent if the increase is more than 10ha from the commencement date of the NES. This rules application may have wide reaching consequences. If the intention is to focus on particular high intensity land use, this should be clarified in the drafting.

Draft Stock Exclusion Regulations

Wakatū supports the Waitangi Tribunal’s recommendation that "National stock exclusion regulations be promulgated urgently." 

Wakatū notes however that Māori farmers should not be disproportionately affected by these regulations through their operations on Māori freehold land. Assistance will need to be provided to these farmers to ensure this transition is fair and equitable and does not unfairly impose the cost of change on Māori, particularly in cases where these are new farms under Māori control and ownership as a result of recent Treaty settlements.

Conclusion

In conclusion, whilst Wakatū supports the thrust of the Proposed Reform, the Government needs to be firmer with its leadership in this area whilst not over-penalising under-utilised Māori land owners in such a way which would lead to an unfair financial burden falling on those owners of land. The health of our wai, our taonga, is directly related to the health of te taiao (the environment) and our whānau (families).

We would appreciate the opportunity to speak to this submission. We understand that the Minister has appointed a Panel to consider submissions on the Reform Proposals. It is important for this Panel to

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Footnote: See Appendix Two.
have a clear and in-depth picture from submitters to ensure that the Minister is appropriately advised following the submission process.

31. Thank you for the opportunity to participate in this process.

Personal details removed

Wakatū CEO.