To MFE

Ngati Pikiao have were the WAI 4 claimants that in 1984 stopped the environmental catastrophe which would have seen a river polluted and the Maketu estuary poisoned. The WAI 4 Report includes in 1984, Ngati Pikiao concerns about the effects of dairying. We have maintained our kaitiakitanga of our water-ways. In recent times we have submitted to the BOP Regional Councils Plan Change 9, Water Allocation and supported the Ngati Awa case against the Otakiri Bottling Plant consent.

Ngati Pikiao have developed a water statement which sets out their water values. (Attached)
We do not have the capacity to respond to this important National Issue as we would like, but we are confident that Te Kahui Wai is able to advocate a position which concurs with Ngati Pikiao’s,

This submission took into account the Freshwater Leaders summary and the Te Kahui Wai summary. Here are specific comments on those two reports:

The Freshwater Leaders Group: P 13

*We disagree that some water-bodies will not be “pristine” because of the environmental foot print of farming.*

The problem with this statement is that it accepts the present situation. The RMA speak used indicates that some people expect an “out” to be provided for. If we grant the same concession to other industries, viz providing for non-pristine waterbodies and activities being carried out within environmental limits, the opportunity to restore waterways is lost. The government must stay focussed on pursuing standards that will make a real difference to our water.

Te Kahui Wai Maori: P 14.

WE agree with the Kahui Wai Maori statement. Whilst we recognise that some of the recommendations do not directly refer to water quality, as practitioners for our Iwi in resource management issues, including water quality and water allocation, we recognise where there are major blocks are to addressing water-quality issues which the Government must address urgently.

Councils:

In our opinion, a culture around RMA resource consent decision-making through plans and resource consent decision-making, has developed within Councils that is resistant to change. Councils should only comment on the issues which affect their processing of legislation. They are not capable of developing innovative solutions to improving water-quality and in fact are highly resistant to any change. The fact that they have been in charge of water quality since at least 1990, and we evidence of degraded and over allocated waterways, is proof that structural change is urgently needed.

For example, one of the ways they can effect solutions that they have control of, that is by involving Maori in decision making, demonstrates a record, since 1990, of non-achievement. This may reflect institutional racism, but it most certainly does reflect a culture and mind-set that is resistant to change. MFE should have ample evidence about this, not least of which are Section 33 agreements – or absence of.

Ngati Pikiao seek reform which involve our people at all levels of water-quality change and decision-making. We do not see “Treaty governance” structures as being effective. In our experience, they too are captured by a Council bureaucratic culture.
• We endorse the Kahui Wai Maori recommendations of REFORM LEGISLATION AND POLICY (p8) as a positive start to ensuring the involvement of Maori in water reform.
• For the same reasons, we support IMPROVE ACCOUNTABILITY AND PARTNERSHIP OF LOCAL GOVERNMENT (P9) recommendations, though we emphasise that these recommendations are a minimum of what is required. We also recommend that the RMA reforms need to pick up on how Maori are to be involved in water quality restoration and monitoring.
• ESTABLISH TE MANA O TE WAI COMMISSION (p9)

Ngati Pikiao believe that the time is right for a National Commission on water. A number of groups have been working co-operatively with Government on water reforms for a number of years. The next step should be to establish a Commission on Water and we endorse the TKWM recommendations.

We endorse and seek that the government urgently implements their actions for healthy water-ways.

• DEVELOP TE MANA O TE WAI CAPABILITY AND BEST PRACTICE STRATEGIES (p10)

As kaitiaki practitioners we we are not resourced to carry out the work that needs to be done while Councils are funded to resist Maori input. There have to be Council and Ministry reforms to enable capacity development of Maori. The Local Government Act makes reference to this, but institutional racism ensures that the tokenism endures.

Ngati Pikiao would like to be resourced to develop a capacity building plan within their water environmental plans. This capacity building could also involve a suite of different units of learning options that can be delivered through technical institutes and wananga. Our capacity restraints mean that we often fall back on volunteers and this cannot be sustained and restrains our involvement in catchment water planning in a consistent and productive way. Reforms should include identifying capacity restraints and how they may be resolved practically so that people can be fully employed in undertaking the variety of roles in restoring our water-ways.

We especially endorse the recommendations at 59 and 60. We think the recommendation at 62 is needed, but this is the present situation and at Council level is ineffective. Councils will not employ people who do not fit into their culture of conservatism. On this note, what defines an “effective partnership” should be determined by the Iwi and hapu.

• ALLOCATION SYSTEM (p11)

Ngati Pikiao have been submitters on water-allocation reforms both at the National level and the Regional level. Our experiences have informed this submission. We endorse the Te Mana o Wai Framework as being a guiding framework. We have been submitting locally and regionally within the idea of a Te Mana o Te Wai Framework, though one does NOT exist at present.
The new allocation system needs to establish a limit as to what amount of water can be allocated from any water-body. These limits need to have a Matauranga Maori assessment as to whether any proposed limit is viable. There is no water-body in NZ to our knowledge that has had the allocable amount of water reviewed under a Matauranga Maori assessment. That seems to contradict both the Treaty and the RMA. A Matauranga Maori assessment needs to be incorporated into any determination of water availability or water quality.

Below we respond to the Draft NPS for FW Management:

Personal details removed

Personal details removed

Personal details removed

Personal details removed
# Part 1: Preliminary provisions

<table>
<thead>
<tr>
<th>Draft NPSFM 2019 reference</th>
<th>Ngati Pikiao Position</th>
<th>Changes sought</th>
<th>Reasons and Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.4 Matter of national significance</td>
<td>Oppose unless amendments accepted</td>
<td>Add second sentence ‘Matters of national importance in section 6 of the Resource Management Act 1991, in particular section 6(e), must be recognised and provided for in the management of freshwater resources.’</td>
<td>Consistent with Part II RMA and hierarchy of obligations Compels recognition and provision for relationships of Maori Support the principle however only tangata whenua at a localised level can determine Te Mana o te wai. The foundation of te mana o te wai is Matauranga Maori – community groups do not posses matauranga and therefore should be removed from these policies.</td>
</tr>
<tr>
<td>1.5 Fundamental concept – Te Mana o te Wai</td>
<td>Oppose unless amendments accepted</td>
<td>Fundamental concept – Te Mana o te Wai, “the mana of the water”, refers to the fundamental value of water and the importance of prioritising the health and wellbeing of water and ecological biodiversity before providing for human needs and wants. It expresses New Zealanders’ special connection with freshwater. When Te Mana o te Wai is upheld, the future wellbeing of all people and our New Zealand’s unique ecosystems is protected.</td>
<td>Ngati Pikiao oppose any attempts to homogenise definitions of our cultural concepts in order to appeal to majority voters. This explanation is particularly demeaning. Our rewriting of the definition takes nothing away from the Crown and the rest of New Zealand while reflecting a wholly Maori view in looking after water. We think we have a basic human right to express our indigenity and not have it sanitised by others.</td>
</tr>
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</table>
Upholding Te Mana o te Wai protects the mauri of the freshwater and requires that Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the waterbodies), and Te Hauora o te Tangata (the health of the people) are recognised and provided for.

Te Mana o Te Wai is a Maori concept. Te Mana o Te Wai is upheld by Te Tiriti o Waitangi. The Crown requires that the hierarchy of obligations established by Te Mana o Te Wai must be applied in all management and decision-making for freshwater resources in New Zealand. ...

### 1.6 Definitions

**Attributes** | Oppose unless amendments are accepted | attribute means a characteristic that can be used to assess a particular component of a value applied to water under the national objectives framework | Ngati Pikiao strongly disagrees that an attribute needs to be measureable. This claim undermines Te Mana o Te Wai and Matauranga Maori. You are reverting to a western scientific approach, with its claim to be objective. You are setting parameters for Matauranga Maori by default. You also run the risk of compromising potential solutions to the problem of water quality by trying to restrict different ways of seeing the world. Ngati Pikiao first alerted Government to the pollution from dairying in its WAI 4 claim, 1984. Removing the word “measureable” does not undermine the definition an “attribute”, in fact in our opinion, it gives a proper explanation for “attribute”

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Ngati Pikiao Submission NPS FWM 30/10/2019 6
<table>
<thead>
<tr>
<th><strong>Efficient allocation</strong></th>
<th>Oppose unless amendments are accepted</th>
<th>Efficient allocation – add environmental obligations. So the phrase reads “efficient allocation, in relation to water, includes economic, technical, and dynamic efficiency and due regard to environmental obligations.”</th>
<th>The test of efficiency must include the assessment of environmental and cultural impacts. Ngati Pikiao does not think this definition encapsulates the term adequately in the new climate. We also think this definition is critical to the operation of Mana o Te Wai and has a Treaty implications. We seek that the definition includes due regard to environmental obligations. Ecological economics provides for ecological accounting.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Groundwater</strong></td>
<td>Oppose unless amendments are accepted</td>
<td>Add a definition for Groundwater: ‘Groundwater is water that is contained beneath Earths surface in soil pore spaces and in fractures of rock formations in aquifers’</td>
<td>Provides for recognition of groundwater in the NPSFM2019</td>
</tr>
<tr>
<td><strong>Groundwater systems</strong></td>
<td>Oppose unless amendments are accepted</td>
<td>Add a definition for ‘groundwater systems’ Groundwater system means water below the surface of the Earth that moves through soil pores and aquifers and connects with surface water features like springs, seeps, wetlands, rivers, streams and other waterbodies within the groundwater catchment</td>
<td>Provides for recognition of groundwater systems in the NPSFM. Sets up management of issues including legacy issues and assists development of rules, regulations and limits for water bottling. Ngati Pikiao says the definitions as set out above are needed to fill a void in the NPSFM2019.</td>
</tr>
<tr>
<td><strong>Limit</strong></td>
<td>Oppose unless amendments are accepted</td>
<td>Insert ‘or a discharge limit’ to the end of the definition for ‘limit’</td>
<td>Ngati Pikiao supports that a discharge limit is included as part of the definition of limit.</td>
</tr>
</tbody>
</table>
### Outstanding water body

Oppose unless amendments are accepted

Insert ‘cultural’ as a value criteria for assessing whether a waterbody is identified as having outstanding values.

Ngati Pikiao say that the word ‘cultural’ be added as a criteria for assessing whether a waterbody is identified as outstanding. Insertion of the word ‘cultural’ ensures matters of national importance under the RMA can be recognised and provided for in outstanding waterbody assessments, regulation, consents processes and freshwater management decision-making, offering consistency throughout decision making, implementation and operationalising.

### Primary contact site

Oppose unless amendments are accepted

Insert ‘food gathering’ or “mahinga kai” into the definition of ‘primary contact site’

Food gathering is an activity that should be included when identifying primary contact sites. Cultural indicators will include the health of kai.

### 1.6 Definitions Te Mana o Te Wai

Oppose unless amendments are accepted

Te Mana o Te Wai – see our submitted amendments to Te Mana o Te Wai in Appendix 2 of our submissions and referred above

Please see our submissions above

### 2.1 Objective

Oppose unless amendments are accepted

Insert ‘the hierarchy of obligations of Te Mana o Te Wai’ to the end of the first sentence

For clarity and consistency

### Part 2: Objective and policies

#### Policy 3

Oppose unless amendment is accepted

Amend as follows:
The condition of waterbodies and freshwater ecosystems systematically monitored over time, and action (including reviewing consents issued for water takes and discharges) is taken to reverse deteriorating trends;

Enables councils to address consents activities where they are adversely affecting waterbodies in a more than minor way, or where a number of consents activities are having a cumulative adverse effect.
<table>
<thead>
<tr>
<th>Policy 4</th>
<th>Oppose unless amendment is accepted</th>
<th>Amend as follows: Freshwater is managed in an integrated way that considers and assesses the effects (including cumulative effects) of the use and development of land on a whole-of-catchments basis, including the effects on sensitive receiving environments;</th>
<th>The health of Ngati Pikiao water-ways are compromised by cumulative impacts and will only improve by addressing cumulative impacts. All receiving environments are sensitive to the activities that are occurring in their catchments. The policy statement should avoid making any allowances for deterioration or indicating that some waterbodies can be sacrificed to be subject to inappropriate human activities. This assumption undermines Te Mana o Te Wai.</th>
</tr>
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<tr>
<td>Policy 5</td>
<td>Opposed unless amendments are accepted</td>
<td>Amend as follows: Iwi and hapū are involved in freshwater management and decision-making, and tangata whenua values and interests are identified and reflected in the management of, and decisions relating to waterbodies and freshwater ecosystems;</td>
<td>Clarifies and provides certainty. Tangata whenua interests in freshwater can include water being available to support enterprises on Maori freehold land and settlement land. Avoids issues where Maori land has - lessees using the land for inoptimal purposes - lessees applying for water rights and taking them away or selling them as a commodity when leases expire leaving the land without water and the owners disadvantaged where water rights are difficult to obtain due to overallocation Issues affecting settlement lands include (but not limited to): - regulation that prioritises existing consent holders while ignoring the inability of settled iwi to be an existing consent holder due to</td>
</tr>
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</table>
confiscation and other historic grievance outcomes that erroneously evicted them from their lands - is unfair, unreasonable and inconsistent e.g. Plan Change 9 and the CNI Iwi Collectives situation while large water volumes are approved for conversion to dairying in the uppermost part of the Rangitaiki catchment.

### Part 3: Implementing objective and policies

#### Subpart 1 Approaches to implementing objective and policies

<table>
<thead>
<tr>
<th>3.2 Te Mana o te Wai (1)</th>
<th>Oppose (or words to the same effect)</th>
<th>Amend to read: Every regional council must include the following objective in its regional policy statement:</th>
<th>Ensures nationally consistent application of Te Mana o Te Wai statement if the Government insists what wording should be used. Giving options to objectors will just delay the process and put the onus for upholding the correct wording on Maori who have not got the capacity and who will be left with the expense.</th>
</tr>
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<tbody>
<tr>
<td>3.2 Te Mana o te Wai (4)</td>
<td>Oppose unless amendments are accepted</td>
<td>Amend as follows: (4) As part of the requirement to give effect to Te Mana o te Wai, when implementing this National Policy Statement regional councils must specifically engage in discussion tangata whenua to determine local understandings of Te Mana o te Wai as applied to freshwater bodies in the region.</td>
<td>Ngati Pikiao hapu have kaitiakitanga over several rivers and lakes. We are having to contend with numerous other iwi who have been awarded over-lapping rights under Treaty settlements. There has been a preference for Councils to deal only with these ‘mandated’ over-lapping claimants who do not live in our area and have absolutely no kaitiakitanga or matauranga to offer. The proposed method allows for a grounds up approach by enabling the hau kainga (tangata who live by these rivers and lakes) to have influence and to contribute to matauranga and monitoring.</td>
</tr>
</tbody>
</table>
Ngati Pikiao accept that some Iwi might not have to deal with these issues in their areas, however any amendment to this method should enable kaitiakitanga as expressed by hau kainga and not involve just government appointed Treaty Settled Authorities. There are many more reasons for empowering hau kainga for the protection of water-ways. MFE should start engaging with these communities to recognise how valuable they are in the context of implementation of the NPSFW.

| 3.2 (5) | Support | Our only reservation is that we maybe compromising the establishment of a water commission. |
| 3.2 (6) | Support | Retain this wording taking into account the NP response as at 3.2 (4) |
| 3.2 (7) | Oppose unless amendments accepted | Insert ‘(including groundwater systems)’ using the definition for groundwater systems promoted in these submissions. Provides clarity and certainty that groundwater systems are part of the freshwater management policy statement. |
| 3.2 (7) | Oppose unless amendments incorporated | Change to read: Every regional council must assess \(\text{incorporating Matauranga Maori assessments}\) whether waterbodies in the region can both sustain current pressures on them and provide for the long-term vision articulated in its regional policy statement. In assessing whether waterbodies in the region can both sustain current pressures on them and provide for the long-term vision articulated in its regional policy statement, Councils must include Matauranga Maori assessments. |
| 3.2 (8) | Oppose unless amendments accepted | Amend as follows: (8) The long-term vision and the discussions that led to it must inform and provide the context for all subsequent freshwater management and freshwater planning and consenting decisions in the region. Clarifies and provides certainty that consenting is part of the freshwater management decision-making package. Enables consents to be reviewed to achieve long term vision and context for subsequent freshwater management decisions made by a regional council. |
| 3.3 Tangata Whenua roles and interests 3.3(1) | Support | Support. Ngati Pikiao hapu have kaitiakitanga over several rivers and lakes. We are having to contend with numerous other iwi who have been awarded over-lapping rights under Treaty settlements. |
There has been a preference for Councils to deal only with these ‘mandated’ over-lapping claimants who do not live in our area and have absolutely no kaitiakitanga or matauranga to offer. The proposed method allows for a grounds up approach by enabling the hau kainga (tangata who live by these rivers and lakes) to have influence and to contribute to matauranga and monitoring of their waterways. Ngati Pikiao accept that some iwi might not have to deal with these issues in their areas, however any amendment to this method should enable kaitiakitanga as expressed by hau kainga and not involve just government appointed Treaty Settled Authorities. There are many more reasons for empowering hau kainga for the protection of waterways. The MFE should start engaging with these communities to recognise how valuable they are in the context of implementation of the NPSFW.

| 3.3 (2) | Oppose unless amendments are accepted | Delete the word ‘reasonable’ | The word ‘reasonable’ is subjective, ambiguous and unnecessary. Councils must take steps to involve iwi, hapu and their communities and by including the word ‘reasonable’ it allows for poor performance in facilitation of the importance of engagement as we have experienced in our region. |
| 3.3 (2) a, b, c | Support | |

3.4 Integrated Management
| 3.4 (1) a,b, | Support | No change | Support important to emphasise managing land use activities to improve water standards. |
| 3.4 (2) | Change | Amend 3.4 (2) as follows: (2) Regional councils must make or change their regional policy statements to the extent needed to provide for the integrated management of the effects (including cumulative effects) of: Amendments provide clarity, recognise cumulative effects and provide for consistency with teh hierarchy of obligations in Te Mana o Te Wai. |
| 3.4 (5) | Support in part – seeking amendments | Retain and amend the policy as follows: (5) Every regional council must insert the following method (or words to the same effect) into its regional policy statement: “District plans must include objectives, policies, and methods to avoid, remedy, or mitigate the cumulative adverse effects of land use on freshwater bodies, freshwater ecosystems, and sensitive receiving environments resulting from urban development.” Addressing cumulative adverse effects is supported. However the policy shouldn’t be limited to the affects of urban growth activities, needs to be capable of addressing cumulative adverse effects of land use activities including those resulting from urban development, dairy farming, horticulture, industry, forestry, river schemes, drainage schemes and other land uses. The proposed amendment provides clarity and certainty, and is consistent with the proposed hierarchy of obligations identified in Te Mana o Te Wai. |
| Information Note | Support in part – seeking an additional bullet point | The Information Notes are supported and the following additional bullet point is submitted for insertion: • Engagement with iwi and hapū to identify significant tangata whenua values and outstanding fresh water bodies Provides certainty and clarity in the information note. Clarifies that significant tangata whenua should become criteria for identifying outstanding freshwater bodies. |
## Subpart 2 National objectives framework

<table>
<thead>
<tr>
<th>Subpart 2 3.5 (1) and (2)</th>
<th>Oppose</th>
<th>1) The national objectives framework requires that every regional council identifies values for each FMU in its region including groundwater systems; sets target attribute states, and flows and levels, for surface waterbodies and identifies recharge rates for groundwater systems and limits for rates and volumes of take from groundwater bodies and for discharges to ground; develops interventions (limits specified in rules, or action plans) to achieve the target attribute states, flows, and levels; monitors waterbodies including groundwater aquifers and the systems they are part of and freshwater ecosystems; and takes immediate remediation steps if deterioration is detected.</th>
<th>The values identified through Te Mana o Te Wai need to be established before matters listed in 3.5 (1). Those values maybe identified in the process undertaken as part of (2) but not before.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.6 (1)</td>
<td>Support</td>
<td>No change</td>
<td>Provides certainty, clarity and consistency for iwi and hapu involvement in the identification of FMUs and monitoring sites</td>
</tr>
<tr>
<td>3.6 (2)</td>
<td>Support</td>
<td>No change</td>
<td>Provides certainty, clarity and consistency for iwi and hapu involvement in the identification of FMUs and monitoring sites</td>
</tr>
<tr>
<td>3.6 (3)</td>
<td>Support with addition</td>
<td>Add f) the hau kainga (as kaitiaki to input into these sites)</td>
<td>Ensures that all information including Matauranga Maori is included in assessments and provides for tangata whenua in decision making, management and operations</td>
</tr>
</tbody>
</table>

### Identifying values and environmental outcomes
<p>| | | |</p>
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</thead>
<tbody>
<tr>
<td><strong>3.7 (1) and (2)</strong></td>
<td><strong>Support with inclusion of Amendments at 1A and 1B</strong></td>
<td>Providing that the Council provides evidence of each step taken to ensure that they have involved tangata whenua and have included tangata whenua values and tangata whenua environmental outcomes. This will include being accountable for not including a tangatawhenua value.</td>
</tr>
<tr>
<td><strong>3.7(5)</strong></td>
<td><strong>Support</strong></td>
<td></td>
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</table>
| **3.8 (1)** | **Support with amendments** | Amend as follows:
(1) Every regional council must identify the current state of each attribute (noting that water quantity does not have attributes including level, flow and flow variability for surface water bodies and attributes of recharge rate, permeability and percolation rate are identified for groundwater bodies in—see clause 3.11). Amendments sought provide for certainty and consistency with proposed clause 3.11 and add attributes for the management of groundwater quantity as well. |
Ngati Pikiao Statement of Water Rights

Ngati Pikiao assert that they have rights over the governance and management of water in their rohe which are akin to ownership. 

_Ngati Pikiao seek to enforce these rights._

Ngati Pikiao do not accept that rights of governance and management of their waterways has been abrogated by them, neither have they given or deferred these rights to the Bay of Plenty Regional Council or the Crown or any other body. 

_We will not have others speak for us or remove our Treaty rights._

Ngati Pikiao has a view that the allocation of water use is a management issue. 

_Allocating water is a critical management practice, demonstrating kaitiakitanga, for looking after water which Ngati Pikiao expect to decision making on as part of their Treaty rights._

Ngati Pikiao do not accept the present framework for water-allocation which is based on the “first in first served” code and see that as an irrational approach and inconsistent with sustainability principles. 

_Ngati Pikiao reject the present BOPRC/Crown allocation framework._

Ngati Pikiao tikanga holds that an assessment of the cultural flows needed to maintain cultural values in water-ways should be the priority when considering water allocation and note that no water-body in the Ngati Pikiao rohe has had a comprehensive cultural assessment to inform allocation decisions under the present BOPRC allocation regime. 

_Ngati Pikiao believes this is an example of the history of arrogance in which even the RMA has been not been adhered to by the BOPRC. This failure by Council, supports Ngati Pikiao’s position re Pikiao’s rights to govern and manage water in their rohe._

Ngati Pikiao have development rights as well as other rights within a water allocation regime. 

_Ngati Pikiao are not averse to allocating water for economic activities, if tikanga, sustainability principles and the water allocation framework are complementary and uphold Ngati Pikiao tikanga._

For the sake of our water, Ngati Pikiao will not support any water allocation plans in its rohe until a rationale framework which recognises Pikiao tikanga is agreed to by Ngati Pikiao. 

_Under the above scenario, that is until Ngati Pikiao rights and kaitiakitanga are properly provided for, for the sake of our water, Ngati Pikiao cannot support any water allocation from their water-ways except that which is required to maintain human life and well-being._