



TŪWHARETOA
MĀORI TRUST BOARD

Submission on *Clean Water: Consultation Document*

INTRODUCTION

1. This submission is made by the Tūwharetoa Māori Trust Board (the **Trust Board**) in relation to the Government's Clean Water Document (the **consultation document**).
2. The Trust Board was established pursuant to the Māori Land Amendment Act 1924 and Māori Land Claims Adjustment Act 1926. The Trust Board later became a Māori Trust Board under the Māori Trust Boards Act 1955.¹
3. By Deeds with the Crown dated 28 August 1992 and 10 September 2007 the Trust Board is the legal owner of Taupō Waters. The term Taupō Waters refer to property including the bed, water column and air space of Lake Taupō and the Waihora, Waihaha, Whanganui, Whareroa, Kuratau, Poutu, Waimarino, Tauranga-Taupō, Tongariro, Waipahi, Waiotaka, Hinemaiaia and Waitahanui Rivers and the Waikato River, from the outlet of Lake Taupō to a place known as Te Toka a Tia, downstream and inclusive of the Huka Falls.
4. Please direct all communications in relation to this submission to the Trust Board through Alice Barnett, Senior Environmental Planner.
5. The Trust Board made a submission last year on the Government's water reform consultation document – Next Steps for Freshwater. This submission is attached in **Appendix A** and will be referred to in this current submission as the **2016 submission**.

TŪWHARETOA AND WAI MĀORI

Tūwharetoa Whakapapa, Tikanga and Wai Māori

6. The below paragraphs were included in our 2016 submission, but considering the importance of freshwater to Ngāti Tūwharetoa, we consider it appropriate to include this information in full to provide the required context to our submission on the consultation document.
7. Tūwharetoa hold mana whenua and kaitiakitanga over the Central North Island including the Lake Taupō Catchment and part of the Upper Waikato, Whanganui, Rangitikei and Rangitaiki Catchments.
8. Ngāti Tūwharetoa are the descendants of Ngatoroirangi and Tia and other tūpuna who have occupied the Taupō Region continuously since the arrival of the Te Arawa waka. Ngāti Tūwharetoa are linked by whakapapa to our lands and our taonga. This connection establishes our mana whenua, kaitiakitanga and rangatiratanga, including our right to establish and maintain a meaningful and sustainable relationship between whānau, hapū, marae and our taonga tuku iho.

¹ Māori Trust Boards Act 1955, section 10.



9. As kaitiaki, Ngāti Tūwharetoa has an intrinsic duty to ensure the mauri, and the physical and spiritual health of our environment (inclusive of our whenua and water resources) is maintained, protected and enhanced.
10. For Ngāti Tūwharetoa, water comes from the sacred pool of our ancestor, Io. Tāne entrusted the guardianship of all the waterways to Tangaroa while Tāwhirimātea was assigned the guardianship over the atmospheric forms of water and the weather. These two guardians hold the mauri, the essential life forces, of these forms of water.
11. For Ngāti Tūwharetoa, our rohe of the Central North Island forms part of our ancestor, our earth mother Papatūānuku. The universe and atmosphere above and around us is our sky father, Ranginui. The geographical pinnacle of Papatūānuku, within our rohe, is our maunga (mountains) including our esteemed ancestor, Tongariro. To the north of Tongariro lies our inland seas, Taupō and Rotoaira. Our mauri flows from our maunga through our ancestral awa (surface and underground streams and rivers) to our moana and to the hinterlands via the Waikato, Whanganui and Rangitaiki. They link us directly with our neighbouring iwi.
12. This tangible natural water flow is necessary to nurture every form of life it encounters during its journey. It is the intangible interconnecting web that is the lifeblood of our whakapapa and enables the survival of our wellbeing and identity as iwi, hapū, marae, landowners and whānau. This way of looking at our fresh water highlights a truth we would all acknowledge: water is our lifeblood. Water is necessary for life. Water is us and we are water.

Tūwharetoa Rights and Interests in Wai Māori

13. Ngāti Tūwharetoa has mana and rangatiratanga over all waterways and water bodies within our rohe. We have always exercised customary rights over all Wai Māori within our rohe and we continue to exercise those rights. We maintain that these customary rights of Ngāti Tūwharetoa have always existed separate to any other right recognised by the Crown.
14. Given our unique position of holding legal ownership of most of the waterways and waterbodies within our rohe, as well as retaining ownership of most of the private land within the associated catchment, any proposals to amend the freshwater management framework and/or pre-empt changes to our relationship with our ancestral taonga, for our rohe must necessarily require the free, prior and informed consent of Ngāti Tūwharetoa.
15. Owing to our significant ownership of the waterways and land within the catchment, we encourage the Crown to bolster its direct communication and consultation with Ngāti Tūwharetoa directly moving forward.
16. Provision for our rights and interests as yet remains unaddressed, including by the proposals in this consultation document.

SUBMISSION ON CONSULTATION DOCUMENT PROPOSALS

17. The Trust Board acknowledges the general intent of the Government's fresh water proposals to improve fresh water management in New Zealand. However, we still do not consider that the Government has gone far enough to address the range of current and historical issues with fresh water management.
18. As stated in our 2016 submission, we still consider that significant changes are required to the existing fresh water management framework to realise the aspirations of iwi and the broader community's aspirations for fresh water management.

19. We support national reform because critical issues, such as the first-in, first-served approach to water allocation, are best addressed at a national level. However, we also recognise that there are some unique opportunities and challenges facing our rohe which may be best addressed at a regional level. We encourage the Government to promote reforms that enable the development of regional solutions to regional water quality and quantity issues.

90% OF RIVERS AND LAKES SWIMMABLE BY 2040

20. The Trust Board generally supports the principle behind the proposed target for ensuring 90% of rivers and lakes are swimmable by 2040. However, the Trust Board seeks clarification that the term 'swimmable' will extend to the inclusion of non-swimming activities that involve 'full human immersion'. This will include traditional practices such as mahinga kai, recreational waka ama, and moari. The Trust Board is supportive of the 'swimmable' standard incorporating and providing for cultural values so that more cultural practices can occur in our waterways.
21. Ngāti Tūwharetoa rangatahi (youth) from Te Kura Kaupapa Māori o Te Whakarewa i Te Reo ki Tūwharetoa, with the support of Ngāti Tūwharetoa, led a petition calling on the Government to commit to the higher freshwater national bottom line of 'swimmable' for New Zealand's waterways. This petition gained 12,000 signatures and was presented to Parliament on 29 March 2016.
22. We also note that for the Waikato River Catchment Te Ture Whaimana (the Vision and Strategy) is the primary direction setting document and that if there is any inconsistent provision in a National Policy Statement then Te Ture Whaimana prevails². The area that the Vision and Strategy applies to is the Waikato River from Huka Falls to Te Puuaha o Waikato and the length of the Waipa River to its junction with the Waikato River. The Vision and Strategy also applies to the activities in the catchments affecting the Waikato River. As such it includes rivers and lakes which do not meet the criteria defined of "...rivers deep enough to swim in and lakes with perimeters longer than 1,500 metres." The Trust Board's position is that all waterways and lakes must be included in the aspirational goal to be swimmable by 2040.
23. The Trust Board does not accept that swimmability targets are limited to only fourth order rivers and above and lakes with a perimeter greater than 1,500 metres. This definition excludes many of the waterways within our rohe and Taupō Waters that are currently, and have traditionally, been subject to full-emersion, human contact. Our concern is that the secondary contact bottom line has been removed and as such there is no *E. coli* bottom line for many waterways. We do not agree with smaller waterways being considered of less value, and the risk to these waterways being left within the 'maintain or improve' requirement of a Freshwater Management Unit. We **recommend** the Government to re-consider segregating the swimmability of waterways by the proposed definition. We consider that New Zealand should aspire for all waterways to be 'swimmable'. We **do not support** the removal of the secondary contact bottom line.
24. In addition to the points raised above, the consultation document states that "*We want to make sure that more of our rivers and lakes are swimmable more of the time.*" and "*We propose applying the target to rivers that are deep enough to swim in and lakes with perimeters longer than 1,500 metres. It is based on the concentration of Escherichia coli (E. coli) in rivers and toxic algae in lakes.*" We note the following with this chosen criteria for measuring 'swimmability':
 - (a) Mātauranga Māori has not been included as an indicator of the swimmability of our waterways, as such we **recommend** the Government to ensure that mātauranga indicators are included through development with iwi, hapū and whanau.

² Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, section 13.

- (b) The definition of swimmable does not include other interactions and practices that provide for full human emersion or involve substantial body contact with the water. We **recommend** the Government to expand the definition of 'swimmable' to include other interactions and practices.
- (c) The definition of "... rivers that are deep enough to swim..." is open to interpretation and does not seem to provide for the reality of traditional activities (for example, swimming holes were often created in 'secondary contact' streams for bathing, recreation and swimming). As noted previously, the definition of waterways that should be healthy to interact with should not be limited to fourth order rivers and larger. It should include all waterways.
25. It is unclear from the consultation document how the targets will be integrated into existing regional plans and plan-making processes. River Iwi have been working with the Waikato Regional Council for over three years to give effect to Te Ture Whaimana in the Regional Plan and to improve water quality in the Waikato River Catchment. Te Ture Whaimana prevails over any inconsistent provision in a National Policy Statement (including the NPS-FM).³ On that basis, the swimmability targets set in the NPS-FM must be consistent with Te Ture Whaimana, noting Objectives A, B, C, D and K in particular, or Te Ture Whaimana prevails. Te Ture Whaimana intentionally provides a high threshold with an objective of restoring the water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length.⁴
26. We understand that Minister Smith has requested certain information from Regional Councils by October 2017 pertaining to proposed regional water quality targets. As you will be aware, we have Co-Governance and Co-Management arrangements for the Waikato River which require the Waikato Regional Council to involve the Trust Board and our whanaunga River Iwi in water related policy. Furthermore, as the owner of Taupō Waters the Regional Council must involve the Trust Board in any conversations relating to fresh water for the Taupō Catchment. Consequently, the Trust Board is very concerned about the timeframes within the request from the Minister and how Waikato Regional Council will ensure that it undertakes the required conversations and discussions with the Trust Board. If required to achieve meaningful consultation, the Government may need to extend the October 2017 deadline to provide regional water quality targets.

AMENDING THE NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT 2014

AAA. Te Mana o te Wai

27. The Trust Board **strongly supports** the inclusion of Te Mana o te Wai in the NPS-FW as a matter of national significance and as an overarching objective. In the current version of the NPS-FW 2014 the location of Te Mana o te Wai in the preamble has not provided communities and councils clarity on what Te Mana o te Wai means and how it should be given effect to. We consider that proposed Objective AAA1 helps to address this issue and provide direction and clarity to councils.
28. However, the Trust Board **recommends** that the legal weighting for Te Mana o te Wai be strengthened. Councils are required to "give effect to" the NPS-FM; the Trust Board recommends that the requirement in Objective AAA1 for "regional policy statements and plans to *consider and recognise* Te Mana o te Wai" be amended to provide that either "regional policy statements and plans give effect to Te Mana o te Wai" or "regional policy statements and plans

³ Ibid.

⁴ Te Ture Whaimana, Objective K.

recognise and provide for Te Mana o te Wai”. This provides for appropriate recognition of the importance of Te Mana o te Wai in the NPS-FM framework.

29. Not specifically addressed within the consultation document, but an important consideration is the required resourcing for councils to consider and recognise (or give effect to, or recognise and provide for) Te Mana o te Wai in their regional policy statements and plans. Iwi and hapū must be part of the process with every council making and changing their policy statements and plans, and there must be sufficient funding and resourcing for each iwi and hapū to engage meaningfully and effectively with councils. There will be a significant burden on implementing the NPS-FW put on tāngata whenua and Government must support this process and provide appropriate resources and funding.
30. The Trust Board considers that Policy AAA1(b) should detail a formal collaborative process between councils and tāngata whenua to identify values and targets when setting fresh water objectives and limits. The National Objectives Framework provides a process, but it is not collaborative. Policy CA2 requires regional councils to develop freshwater objectives for all FMUs “following discussion with communities, including tangata whenua.” The Trust Board recommends that either Policy AAA1(b) or Policy CA2 is revised to reflect a collaborative process where tāngata whenua are engaged throughout the process and development of objectives, not simply spoken to at the outset. It is the Trust Board’s expectation that a collaborative process will occur in its rohe. The setting of values, limits and targets for Taupō Waters cannot happen without the full involvement of the Trust Board as kaitiaki and the legal owner of Taupō Waters.

Objective A2

31. The Trust Board **opposes** the inclusion of “...*providing for economic well-being, including productive economic opportunities, within environmental limits*” in Objective A2. Water quality targets and limits should not include any allowances for economic opportunities because in doing so our waterways will also suffer with any attempts to balance water quality and economic benefit. History tells us that waterways will always suffer with economic benefit taking precedent either wholly or at the detriment to water quality (and quantity).
32. The Trust Board does not consider that water quality should be able to be ‘averaged’ within a whole region or large Freshwater Management Unit (FMU). As such, we **conditionally support** the amendment to Objective A2 so that water quality within a FMU is maintained or improved. However, as we made clear in our 2016 submission, while FMU terminology should clarify that water quality cannot be ‘averaged’ within a whole region, there remains uncertainty around the spatial scale that councils can and will set as FMUs, and the inherent risk that large FMUs will be set and by default enable water quality averaging across a large scale. Iwi must be involved in the decision-making process for defining FMUs to ensure that the setting of FMUs does not result in a *de facto* regional approach, and are consistent with iwi values and aspirations. The Trust Board **does not support** ‘averaging’ within a FMU.
33. The other concern for the Trust Board is that Objective A2 still contains the term “...*overall quality of fresh water...*” and the use of this term is likely to invite the ‘unders and overs approach’ to water quality within a FMU. The Trust Board **recommends** that Objective A2 is amended to remove the word ‘overall’ so that the objective is “*The quality of fresh water within a freshwater management unit is maintained or improved.*”

Policy A5

34. As mentioned in previous sections of this submission, the definition of “*large rivers and lakes*” is problematic as it neglects most waterways. Swimming in and interacting with waterways is not

restricted to large waterways so the increased thresholds should apply to all water bodies. We **recommend** that Government re-frame the definition of waterways to include all waterbodies.

35. Policy A5 must also include direction to councils to involve iwi and hapū, and the broader community, in any process to determine water quality targets and limit setting. There must be sufficient funding and resourcing for each iwi and hapū to engage in meaningfully and effectively with councils.

Objective B1

36. The Trust Board **does not support** the inclusion of “...while providing for economic well-being, including productive economic opportunities.” As stated previously in this submission, if consideration is given to economic drivers when considering the safeguarding of fresh water ecosystems, Te Mana o Te Wai and the integrity of sustainable management will be compromised.

Policy CB1

37. We note the proposed amendments to Policy CB1(aa) has methods that include Mātauranga Māori, however there is no clarification as to how Mātauranga Māori methods will be developed. The Trust Board **recommends** that these be developed with and by iwi and hapū and that there must be sufficient resources and funding provided to iwi and hapū to enable meaningful collaboration. Councils must also be resourced to upskill in Mātauranga Māori. In addition to funding the development, there must be sufficient funding for the implementation of any Mātauranga Māori methods developed.

Policy CA3 and Appendix 3

38. We confirm our position that:

- (a) In the context of the Waikato River, Te Ture Whaimana prevails over any inconsistent provision in a National Policy Statement.⁵ Te Ture Whaimana does not have any exceptions for infrastructure. We therefore consider that existing Policy CA3(b) of the NPS-FM is inconsistent with Te Ture Whaimana and therefore infrastructure within the Waikato River catchment cannot be included within Schedule 3; and
- (b) We **oppose** existing Policy CA3(b) and Appendix 3 in its entirety as the national bottom lines in the NPS-FM are already considered to be low.

Appendix 1

39. It is not clear what is intended by the amendments to Appendix 1. For example, the section titled ‘Extractive uses’ could be perceived to be outside of the scope of Te Mana o te Wai, which we understand is not the intention.
40. In addition, further work is required to ensure all important values are included and the descriptors of each are appropriate. For example, under the Te Hauora o Te Tangata there is no reference to access to clean drinking water as an important value (an issue regularly raised in hui). Under Te Hauora o Te Taiao the only value listed is Natural Form and Character, whereas values such as the role of the waterbody (ka rere mai ngā toto o Papatūānuku) in sustaining/supporting the wider catchment ki uta ki tai are not included. The Trust Board

⁵ Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, section 13.

recommends that Appendix 1 is revised to clarify the values and descriptors are appropriate and accurate.

General Comments

41. The Trust Board **does not support** the removal of bottom lines to waterways that fall outside the definition of “large waterways”. Nor do we support the removal of the secondary contact bottom line, which has the effect of there now being no E. coli bottom line for smaller waterways.
42. As stated in our 2016 submission, the Trust Board wishes to see the Government work with iwi on the provision of national direction on the compulsory use of mātauranga Māori indicators to measure and monitor fresh water. The inclusion of mātauranga Māori is in line with the Crown’s direction on improving the way fresh water is managed and with best practice iwi and Council engagement. There should be a separate and specific proposal to address iwi rights and interests in respect of freshwater.
43. There are a range of successful programmes utilising mātauranga Māori on which the Government can draw to provide direction to regional councils on implementation with local iwi. An example is the utilisation of mātauranga Māori to establish the health status of the Waikato River pursuant to the Waikato River settlement, and for which Ngāti Tūwharetoa mātauranga is a key contributor.

FUNDING TO IMPROVE FRESH WATER

44. The Trust Board **supports** the creation of the Freshwater Improvement Fund but the eligibility criteria is too restrictive for iwi and hapū to be included. The threshold of a minimum contribution of \$200,000 for projects is too restrictive and effectively locking iwi and hapū out of the process. The general exclusion of in-kind contributions is also opposed.
45. We **recommend** that a fund similar to the previous Te Mana o te Wai fund should be reinstated for iwi and hapū to enable Māori participation in improvements in fresh water.

KEEPING STOCK OUT OF OUR WATERWAYS

46. The Trust Board **supports** the national regulation to exclude stock from waterbodies. We also support the staggered timeframe approach to stock exclusion based on risk to the environment by stock type and topography. We do note the inherent difficulties in the specific wording of such regulations and **recommend** that further detail is provided (e.g. definition of slope across an area, define ‘permanently flowing’ and what ‘over 1 metre wide at any point’ means) to enable monitoring and enforcement.
47. We note that the timeframes proposed are inconsistent with those in the Waikato Regional Council’s Proposed Plan Change 1 for the Waikato and Waipā River catchments. We seek confirmation that Regional Councils are able to set regulations that are more stringent than the proposed national regulation.

CONCLUSION

48. Thank you for the opportunity to comment on the Clean Water consultation document. We note that there are many items in 2016 Next Steps for Fresh Water Consultation Document that have not be included in the Clean Water document, such as economic use of fresh water, iwi

rights and interests in fresh water, and the improvement of water infrastructure at marae and papakāinga. The Trust Board looks forward to engaging with the Government moving forward with the Fresh Water Reform Programme.

49. An important consideration that will impact how successful the proposed reforms will be is the adequate resourcing of councils, iwi and hapū to implement the NPS-FW. Throughout our submission we have highlighted that the implementation of the proposals by councils, iwi and hapū will require support and resourcing. It is important that sufficient funding is provided to ensure that iwi and hapū are able to effectively engage in these processes as without their input the impact of the proposals will be limited.
50. Given our unique position of holding legal ownership of most of the waterways and waterbodies within our rohe, as well as retaining ownership of most of the private land within the associated catchment, any proposals to amend the freshwater management framework and/or pre-empt changes to our relationship with our ancestral taonga, for our rohe must necessarily require the free, prior and informed consent of Ngāti Tūwharetoa.
51. Please do not hesitate to contact the Tūwharetoa Māori Trust Board office to discuss any parts of this submission further.

Nāku noa, nā



Topia Rameka
Chief Executive Officer

5 May 2017

INTRODUCTION

1. This submission on the Government’s Next Steps for Fresh Water: Consultation Document (the **Consultation Document**) is made on behalf of:
 - (a) The Tūwharetoa Māori Trust Board (the **Trust Board**); and
 - (b) Tūwharetoa Settlement Trust (Post Settlement Governance Entity of Ngāti Tūwharetoa); and
 - (c) Tūwharetoa Hapū Forum (Mandated Iwi Entity for negotiating the comprehensive claims of Ngāti Tūwharetoa); and
 - (d) the Tūwharetoa Charitable Fisheries Trust (mandated iwi organisation for the Māori Fisheries Act 2004 and Māori Commercial Aquaculture Claims Settlement Act 2004, which includes fresh water fisheries); and
 - (e) The following Ngāti Tūwharetoa Ahu Whenua Trusts and Incorporations (the **Tūwharetoa Economic Authorities**):
 - (i) Whakarawa Farms Ltd
 - (ii) Tauhara Moana Trust
 - (iii) Tauhara Middle 15 Trust
 - (iv) Whakarawa Trust
 - (v) Oraukura Incorporation
 - (vi) Lake Rotoaira Trust
 - (vii) Waihi Pukawa Farm Trust
 - (viii) Patuiwi Reserve Trust
 - (ix) Whakaipo Trust
 - (x) East Taupō Lands Trust
 - (xi) Hauhungaroa 1C Incorporation
 - (xii) Puketapu 3A Incorporation
 - (xiii) Lake Taupo Forest Trust
 - (xiv) Oruanui Lands Trust
 - (xv) Lake Rotoaira Forest Trust
 - (f) The submitters land ownership comprises of approximately 169,796 hectares and represent the interests of at least 62,000 beneficial owners.
2. The Trust Board was established pursuant to the Māori Land Amendment Act 1924 and Māori Land Claims Adjustment Act 1926. The Trust Board later became a Māori Trust Board under the Māori Trust Boards Act 1955.⁶
3. By Deeds with the Crown dated 28 August 1992 and 10 September 2007 the Trust Board is the legal owner of Taupō Waters.⁷

⁶ Māori Trust Boards Act 1955, section 10.

⁷ The term Taupō Waters refer to property including the bed, water column and air space of Lake Taupō and the Waihora, Waihaha, Whanganui, Whareroa, Kuratau, Poutu, Waimarino, Tauranga-Taupō, Tongariro, Waipehi, Waiotaka, Hinemaiaia

4. Please direct all communications in relation to this submission to the Trust Board through Alice Barnett, Senior Environmental Planner at alice@tuwharetoa.co.nz or on 021 799 233.

TŪWHARETOA AND WAI MĀORI

Tūwharetoa Whakapapa, Tikanga and Wai Māori

5. Ngāti Tūwharetoa hold mana whenua and kaitiakitanga over the Central North Island including the Lake Taupō Catchment and part of the Upper Waikato, Whanganui, Rangitikei and Rangitaiki Catchments.
6. Ngāti Tūwharetoa are the descendants of Ngatoroirangi and Tia and other tūpuna who have occupied the Taupō Region continuously since the arrival of the Te Arawa waka. Ngāti Tūwharetoa are linked by whakapapa to our lands and our taonga. This connection establishes our mana whenua, kaitiakitanga and rangatiratanga, including our right to establish and maintain a meaningful and sustainable relationship between whānau, hapū, marae and our taonga tuku iho.
7. As kaitiaki, Ngāti Tūwharetoa has an intrinsic duty to ensure the mauri, and the physical and spiritual health of our environment (inclusive of our whenua and water resources) is maintained, protected and enhanced.
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Tūwharetoa Rights and Interests in Wai Māori

11. Ngāti Tūwharetoa has mana and rangatiratanga over all waterways and water bodies within our rohe. We have always exercised customary rights over all Wai Māori within our rohe and we continue to exercise those rights. We maintain that these customary rights of Ngāti Tūwharetoa have always existed separate to any other right recognised by the Crown.
12. Ngāti Tūwharetoa's ownership rights in Wai Māori are unique in that we have legal ownership rights in respect of most of the waterways within our rohe. This is recognised by the Crown through various legal mechanisms:

and Waitahanui Rivers and the Waikato River, from the outlet of Lake Taupō to a place known as Te Toka a Tia, downstream and inclusive of the Huka Falls.

- (a) The Trust Board is the legal owner of the bed, water column and air space of the Taupō Waters;
 - (b) The Lake Rotoaira Trust is the legal owner of the bed, water column and air space of Lake Rotoaira; and
 - (c) In 2010 Ngāti Tūwharetoa and the Crown entered into a Deed in relation to Co-Governance and Co-Management Arrangements for the Waikato River (the **2010 Deed**). The 2010 Deed recognises the interests of Ngāti Tūwharetoa in the Waikato River and its catchment and in the Taupō Waters. It also provides for the participation of Ngāti Tūwharetoa in the co-governance arrangements in respect of the Waikato River. The 2010 Deed reflects our kaitiaki responsibility through its overarching purpose, which is to restore and protect the health and wellbeing of the Waikato River for future generations. The 2010 Deed is given effect to through the Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010.
13. Our Tūwharetoa Economic Authorities own significant landholdings (55% of agricultural land, 60% of planted forest, and 40% of undeveloped lands) within the Taupō District. They exercise kaitiakitanga and stewardship responsibilities in respect of freshwater on a daily and ongoing basis.
14. Given our unique position of holding legal ownership of most of the waterways and waterbodies within our rohe, as well as retaining ownership of most of the private land within the associated catchment, any proposals to amend the freshwater management framework and/or pre-empt changes to our relationship with our ancestral taonga, for our rohe must necessarily require the free, prior and informed consent of Ngāti Tūwharetoa.

Current Involvement in Fresh water and Resource Management Processes

15. Ngāti Tūwharetoa's longstanding commitment to developing and maintaining strong relationships with local and central government, has seen the iwi involved in a range of resource management, conservation and local government processes with various agencies, including:
- (a) Participation in the co-governance and co-management arrangements in respect of the Waikato River arising from the Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010;
 - (b) Membership on the Taupō-nui-a-Tia Management Board, established to manage non-commercial recreational access and non-commercial research in respect of Taupō Waters, in partnership with the Crown;
 - (c) Membership on the Lake Taupō Protection Joint Committee, charged with developing a programme of work that has overseen the reduction of 20% or 170 tonnes of manageable nitrogen leaching into Lake Taupō;
 - (d) Membership on the Waikato Regional Council's Lake Taupō and Upper Waikato Catchment Committees, designed to achieve integrated catchment management outcomes through the development of targeted strategies and programmes; and
 - (e) The Trust Board has a joint management agreement with the Taupō District Council providing for publicly notified resource consents and plan changes applying to multiply owned Māori land to be decided upon by a Panel of decision makers chosen equally by the Council and Ngāti Tūwharetoa.⁸ The Trust Board is also currently developing a joint

⁸ Under section 36B Resource Management Act 1991

management agreement with the Waikato Regional Council and Taupō District Council in respect of the Taupō Waters and the Waikato River.

16. Ngāti Tūwharetoa also has an advocacy role to maintain the mauri, physical and spiritual health of the waterways and water bodies within our rohe. Examples include:
- (a) The \$220 million financial commitment to freshwater quality projects that was secured as a result of the Waikato River settlement.⁹ Ngāti Tūwharetoa is currently working through the first regional plan change process to address water quality within the Waikato and Waipa River catchments, *Healthy Rivers: Plan for Change / Wai Ora: He Rautaki Whakapaipai*. The process adopts the co-governance structure arising from the Waikato and Waipa River Settlements;
 - (b) Ngāti Tūwharetoa was a driver and partner in the Lake Taupō Protection Project to reduce the amount of manageable nitrogen leaching into Lake Taupō; and
 - (c) Ngāti Tūwharetoa's commitment to maintaining robust relationships with local authorities and major water users in the catchment (such as hydroelectricity operators) in order to collaborate on freshwater projects.
17. Finally, in negotiating the settlement of Ngāti Tūwharetoa's historical Treaty claims, the Crown has committed to establishing a statutory body called the Taupō Catchment Entity¹⁰. The Taupō Catchment Entity will be a permanent joint committee of Ngāti Tūwharetoa, Taupō District Council and Waikato Regional Council. Its purposes will be to:
- (a) restore, protect and enhance the environmental, cultural and spiritual wellbeing of the Taupō catchment for the benefit of present and future generations;
 - (b) provide strategic leadership on the sustainable and integrated management of the environment in the Taupō catchment for the benefit of present and future generations; and
 - (c) to provide a mechanism for Ngāti Tūwharetoa to exercise mana and kaitiakitanga over the Taupō catchment in partnership with local authorities.

SNAPSHOT OF WATER USE IN THE TŪWHARETOA ROHE

18. The Consultation Document touches on the importance of fresh water and the pressures that water bodies and waterways in Aotearoa face. All of these pressures are felt by Ngāti Tūwharetoa within our rohe, in particular:
- (a) *Freshwater quality* – Addressing declining fresh water quality remains an ongoing issue of considerable concern to Ngāti Tūwharetoa:
 - (i) An example of poor water quality includes the overall C+ grade score for the entire Waikato and Waipa River Catchments in the recently released Waikato River Authority Report Card.¹¹ A grade of C+ is not a pass, and is regarded as a low rating. It indicates that the standard of the river catchments fall below the expectations of the Vision and Strategy for the Waikato River, and demonstrates

⁹ Pursuant to the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010.

¹⁰ The Ngāti Tūwharetoa Agreement in Principle envisages the Taupō Catchment Entity to be a joint committee of the Waikato Regional Council and the Taupō District Council pursuant to clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.

¹¹ Prepared by NIWA, Diffuse Sources Ltd and the Waikato Raupatu River Trust on behalf of the Waikato River Authority, the Report Card is a holistic assessment of the catchments, which includes scores from eight different indicators: water quality, water security, economy, kai, ecological integrity, experience, effort and sites of significance.

that there is yet much more work to be done to restore our taonga tuku iho to a healthy state.

- (ii) Ngāti Tūwharetoa rangatahi (youth) from Te Kura Kaupapa Māori o Te Whakarewa i Te Reo ki Tūwharetoa, with the support of Ngāti Tūwharetoa, led a petition calling on the Government to commit to the higher freshwater national bottom line of 'swimmable' for New Zealand's waterways. This petition gained 12,000 signatures and was presented to Parliament on 29 March 2016.
- (b) *Allocation* – The effect of the first-in, first-served allocation regime has seen the surface water and groundwater allocation status of most of our catchments as over-allocated. Māori land owners continue to be affected by the first-in, first-served approach to water and discharge permits, with undeveloped and under-developed Māori land in the current allocation climate essentially offsetting the effects of existing water and discharge consent holders. This affects the ability to increase the productivity of Māori land and is a key impediment to unlocking Māori land potential. We also face many challenges associated with a range of hydro-electricity generation schemes that operate within our rohe. The existing resource consents for renewable energy generation have flow-on implications for other water users and have locked-up considerable allocation for the foreseeable future. When we have previously asserted our Treaty rights to access water at a regional level through resource management and planning processes, councils and courts have stated that our concerns cannot be provided for under the Resource Management Act 1991, and should be directed to the Crown.
 - (c) *Rights and interests* – The strength of existing Tūwharetoa iwi and hapū participation in fresh water governance and management has not been achieved through existing RMA provisions, but as a result of ownership and other legal relationships with our waterways and water bodies, and our longstanding commitment to developing and maintaining strong relationships with local and central government on natural resource issues affecting our rohe. Provision for our rights and interests as yet remains unaddressed, including by the proposals in this Consultation Document.
 - (d) *Economic use of freshwater* – Linked to allocation, iwi rights and interests, and the broader freshwater management framework, is the economic use of freshwater. Recent media attention on the water bottling industry, particularly those owned by offshore interests, has brought this issue to the fore. The reward of water resource permits to those first-movers with capital is both a historical and a current issue. The Consultation Document does not touch on these particular issues, but we consider that these more challenging issues are addressed as part of the wider freshwater management discussions.

SUBMISSION ON CONSULTATION DOCUMENT PROPOSALS

- 19. We acknowledge the Government's proposals in the Consultation Document and existing work that has been completed in respect of fresh water. Overall, we consider that significant changes are required to the Government's existing fresh water management framework to realise the aspirations of iwi and the wider community for fresh water. We consider that a holistic review of fresh water management is required, rather than an ad hoc 'tweaking' exercise as currently proposed in the Consultation Document. We also consider that the proposed approach does not enable a fulsome conversation and as such has limited potential to result in a management framework that is sustainable and achieves iwi, and broader community, aspirations for fresh water. On that basis, we support a review of the existing framework but we consider that the proposals contained within the Consultation Document

are fragmented and do not go far enough to address the extant issues with fresh water management.

20. We support national reform because critical issues, such as the first-in, first-served approach to water allocation, are best addressed at a national level. However, we also recognise that there are some unique opportunities and challenges facing our rohe which may be best addressed at a regional level. We encourage the Government to promote reforms that enable the development of regional solutions to regional water quality and quantity issues.

Amendments to the National Policy Statement for Freshwater Management

Proposal 1.1 Amend Objective A2 of the National Policy Statement for Freshwater Management so that it applies within a freshwater management unit, rather than across a region

21. We support proposal 1.1 on the understanding that this amendment will clarify that water quality cannot be 'averaged' within a whole region. We are mindful that some councils have interpreted the current wording in the National Policy Statement for Freshwater Management 2014 (**NPS-FM**) to permit the averaging of water quality within a region. We cannot accept averaging across a region, because it is unlikely to produce tangible outcomes for water quality.
22. We note that there is still uncertainty around the spatial scale that councils can and will set within freshwater management units (**FMUs**), and therefore there remains a risk that large FMUs will be set, and that water quality averaging will still occur at a large scale. On that basis Ngāti Tūwharetoa and other iwi groups must be involved in the decision making process for defining FMUs to ensure that the setting of FMUs does not result in a *de facto* regional approach, and are consistent with iwi values and aspirations.

Proposal 1.2 Clarify that councils have flexibility to maintain water quality by ensuring water quality stays within an attribute band within the National Objectives Framework, or demonstrating that the values chosen for an FMU are not worse off, where an attribute band is not specified

23. We oppose proposal 1.2. The bands within the National Objectives Framework (**NOF**) are generally broad, meaning that actual water quality could be considerably varied but still within the same attribute band. The use of a broad band appears to be contradictory to the requirement of Policy A1 of the NPS-FM where a limit is required to be set for an FMU, based on the understanding that the limit shall be numerical and not a broad band as in the NOF.

Proposals

- 1.3 *Require the use of Macroinvertebrate Community Index as a measure of water quality in the NPS-FM by making it a mandatory method of monitoring ecosystem health.*
- 1.4 *Work with the Land and Water Forum on the potential benefits of a macroinvertebrate measure for potential inclusion into the National Objectives Framework as an attribute.*
24. We are generally supportive of national environmental monitoring standards and methods to enable consistent regional and national reporting.
25. However, we also recognise the diversity of New Zealand's environment and the need for specific monitoring methods for different regions. We note that the Macroinvertebrate Community Index (**MCI**) was developed for stony riffle substrates in flowing water and is not necessarily suitable for all waterways in New Zealand. However, variants of the MCI method

have since been developed to be used for soft-bottomed waterways and larger non-wadeable waterways. On that basis we would support provisions for communities to develop alternative methods where these are more suitable for the local environs.

26. Based on the above, we support proposal 1.3 to include the MCI, and its variants, in the NPS-FM as a mandatory method to monitor ecosystem health, with the provision that alternative methods are able to be employed where MCI is not an appropriate measure for the water body in question.
27. We are also comfortable with proposal 1.4, but on the condition that iwi are included in this programme of work.

Mātauranga Māori indicators

28. In addition, Ngāti Tūwharetoa wishes to see the Government work with iwi on the provision of national direction on the compulsory use of mātauranga Māori indicators to measure and monitor fresh water. The inclusion of mātauranga Māori is in line with the Crown's direction on improving the way fresh water is managed and with best practice iwi and Council engagement. There should be a separate and specific proposal to address iwi rights and interests in respect of freshwater.
29. There are a range of successful programmes utilising mātauranga Māori on which the Government can draw to provide direction to regional councils on implementation with local iwi. An example is the utilisation of mātauranga Māori to establish the health status of the Waikato River pursuant to the Waikato River settlement, and for which Ngāti Tūwharetoa mātauranga is a key contributor.

Proposal 1.5 Provide further direction on providing evidence when councils or infrastructure owners request that the Government include specific significant infrastructure in Appendix 3 of the NPS-FM.

30. We confirm our position that:
 - (a) In the context of the Waikato River, Te Ture Whaimana / the Vision and Strategy prevails over any inconsistent provision in a National Policy Statement.¹² We consider that existing Policy CA3(b) of the NPS-FM is such an inconsistent provision and therefore infrastructure within the Waikato River catchment cannot be included within Schedule 3; and
 - (b) We oppose existing Policy CA3(b) of the NPS-FM in its entirety as the national bottom lines in the NPS-FM are already considered to be low.
31. To the extent that Policy CA3(b) is retained, despite Ngāti Tūwharetoa's strong preference otherwise, we consider that it should be reviewed in its entirety in order to provide clarity to councils and infrastructure owners, and address concerns with exceptions to national bottom lines held by iwi and the community. Issues with existing Policy CA3(b) that should be addressed are:
 - (a) The current threshold for Policy CA3(b) of existing infrastructure only being required to 'contribute' to existing water quality is too low a threshold. We consider that exceptions should only ever be considered in very specific and special circumstances. For example, there must first be a requirement that all reasonable actions and steps

¹² Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, section 13.

have been made to improve water quality to at least meet the national bottom line, before any exception should be considered.

- (b) The Consultation Document refers to Appendix 3 of the NPS-FM relating to 'specific significant infrastructure'. Significant infrastructure is defined in the Consultation Document as "large built structures like hydro-electricity generation plants or dams that affect river flows or the availability of water to downstream users".¹³ The intention appears to be to only accept 'significant infrastructure' as capable of receiving an exemption and being included in Appendix 3, but it is noted that the current NPS-FM only refers to 'infrastructure'. Our view is that only significant infrastructure should be considered, and that the requirement to meet the test of 'significant infrastructure' should be clearly defined in the NPS-FM.
 - (c) It should be clarified whether exemptions to meeting national bottom lines would be either indefinite, or for a specified period of time, or apply temporarily in certain circumstances (i.e. temporary breaches of a national bottom line). Our view is that no exemptions should be granted in perpetuity.
 - (d) The Government's decision making criteria for assessing applications for inclusion in Appendix 3 needs to be clarified, and a clear role for how iwi will be involved in the decision making process for including any significant infrastructure into Appendix 3 should be provided.
32. We agree with proposal 1.5 only on the basis that it is appropriate to have evidence-based exceptions, if exceptions are to be implemented at all, rather than populating Appendix 3 of the NPS-FM in the absence of evidence. The evidence, and therefore criteria, for application of this exception should include all evidence set out on pages 15 and 16 of the Consultation Document.

Proposals

- 1.6 *Amend the attribute tables in Appendix 2 of the NPS-FM so that attributes clearly apply to intermittently closing and opening lakes and lagoons, with the same band thresholds and national bottom lines as lakes.*
- 1.7 *Provide direction to councils on how to request that, after meeting evidential thresholds, a freshwater management unit be allowed to use a transitional objective under Appendix 4 of the NPS-FM.*

33. We support proposal 1.6 as it is consistent with a more holistic approach to fresh water management. Intermittently closing and opening lakes and lagoons are part of catchments, and should be managed in concert with rivers, lakes, wetlands and groundwater.

National Regulation to Exclude Stock from Waterbodies

- Proposal 1.8 Create a national regulation that requires exclusion of dairy cattle (on milking platforms) from water bodies by 1 July 2017, and other stock types at later dates (see table 2).*

34. We support proposal 1.8 to create a national regulation to exclude stock from waterbodies, noting that the particulars of the proposed regulation represent a minimum requirement and councils could implement more stringent rules, such as timeframes for excluding stock and

¹³ Consultation Document, page 15.

requiring or encouraging riparian planting. We also note that this proposal is consistent with the Land and Water Forum recommendations for stock exclusion.

Economic Use of Fresh Water

35. We acknowledge the Consultation Document statement that the Government is still finalising its package of allocation policy proposals.¹⁴ To that end, we note that proposals 2.1 – 2.5 represent only a first step in addressing the significant allocation issues that have arisen from the existing first-in, first-served water take and contaminant discharge allocation regime.

Proposals

- 2.1 *Require councils to apply technical efficiency standards in catchments that are at, or approaching, full allocation of water.*
- 2.2 *Where councils have elected to allocate discharge allowances, require them to apply good management practice standards in catchments that are at, or approaching, full allocation of contaminants.*
- 2.3 *Require councils to apply these standards at defined times, for example, at initial limit setting, on consent expiry, and/or on application to permanently transfer consents for water or discharge allowances.*

36. We support proposals 2.1 and 2.2 to require councils to apply technical efficiency and good management practice standards as a first step in freeing up water and contaminant discharge permits for new users. However, in order for these standards to be most effective, it is imperative that they apply generally across all catchments, rather than be seen as methods to curb use and discharge only in fully or over-allocated catchments – we strongly believe that the proposals should be aimed at changing behaviour, rather than imposing measures that only apply when existing behaviours call for action. These proposals must therefore be extended across all catchments regardless of their water allocation status, not just those catchments at or approaching full allocation, or which are already over-allocated.
37. We consider that further information is required to understand the detail of what constitutes ‘defined times’ in proposal 2.3 and the how the application of technical efficiency and/or good management practice standards would function for applications to permanently transfer consents.

Proposal 2.4 Investigate a package of measures to better enable transfers between users so allocated water and discharge allowances can move to higher valued uses

38. We support an investigation into a package of measures to better enable transfers of consents to higher valued uses.
39. However, we would expect that the outcomes of any investigation (including any recommendations) would be provided for public consultation. Based on the information provided in the Consultation Document, it is unclear how any such ‘package of measures’ would assist with addressing freshwater quality and quantity issues within catchments that are at or approaching full allocation, or are already fully or over-allocated. It is also not specified how this approach aligns with the proposal to require the application of technical efficiency and good management practice standards (proposals 2.1 to 2.3).

¹⁴ *Next steps for fresh water* Consultation Document, at page 22.

Proposal 2.5 Develop guidance on different methods of addressing over-allocation of water quality and/or quantity, if technical efficiency standards and good management practice standards are insufficient.

40. We consider that proposal 2.5 does not go far enough to addressing over-allocation and over-use, and does not provide a holistic view on how allocation rights should be distributed. Much of our rohe is either fully allocated or over-subscribed for surface water and also fully allocated for nitrogen discharge permits. As such we are already experiencing many issues with over-allocation.
41. Accordingly, a key issue is the inability for our Tūwharetoa Economic Authorities to access water and discharge contaminants, to enable the development of our land blocks. Barriers and restrictions, including historical legislation and past government policies, have limited the development of Māori land blocks. In this way, the first-in, first-served approach to water allocation provided by the RMA has rewarded those with ready access to capital, and by the same token generally disadvantaged Māori land owners. It is important that future policies and regulations do not further limit Māori land development but rather provide for Māori land development, the economic benefits of which will be felt wider than Tūwharetoa whānau, hapū and entities, and have a broader positive impact on the regional and national economy.
42. We recommend that the Government develop a suite of enforceable tools to support councils to address existing over-allocation while ensuring further water and discharge capacity are available for iwi and other new users.

Iwi Rights and Interests in Freshwater

Proposals

- 3.1 *Include a purpose statement in the NPS-FM which provides context about the meaning of Te Mana o te Wai and its status as the underpinning platform for community discussions on freshwater values, objectives and limits.*
- 3.2 *Require regional councils to reflect Te Mana o te Wai in their implementation of all relevant policies in the NPS-FM.*

43. We support proposals 3.1 and 3.2 as these amendments will provide greater clarity to the place and significance of 'Te Mana o Te Wai' for communities at large, not just iwi and hapū.
44. It is important to ensure that the requirement to provide for Te Mana o Te Wai in NPS-FM policy implementation is clear. The existing language in the Consultation Document refers to "reflecting" Te Mana o Te Wai in policy implementation. The term "reflect" lacks the judicial consideration and weight accorded other terms developed under the RMA. We say that "give effect to" is an appropriate term with respect to Te Mana o Te Wai implementation, given its significance as a concept to communities at large.

Proposals

- 3.3 *Councils must, at the outset of their freshwater planning process, engage with iwi and hapū to ensure all iwi and hapū relationships with water bodies in the region are identified in regional planning documents.*
- 3.4 *Councils must, when identifying values and setting objectives for particular freshwater management units, engage with any iwi and hapū that have relationships with water bodies in the freshwater management unit.*

45. We consider that proposals 3.3 and 3.4 are matters that should be occurring in any event when plans are prepared as a result of the requirements of the Schedule 1 planning process and Part 2 of the RMA. We therefore support these proposals but consider that it is appropriate that they are enhanced rather than simply represent a re-statement of existing obligations.
46. In accordance with the free, prior and informed rights of iwi as indigenous peoples under the United Nations Declaration for the Rights of Indigenous Peoples (UNDRIP), with respect to proposal 3.4, we suggest that Councils must not only engage with any iwi and hapū that have relationships with water bodies in an FMU when identifying values and setting objectives, but provide for the values and objectives identified by the relevant iwi and hapū within regional planning documents. Councils must also monitor the values and objectives identified by relevant iwi and hapū using mātauranga Māori to ensure that those values and objectives are accurately measured in a tikanga based framework. To this end, we refer to our call for provision of national direction on the compulsory use of mātauranga Māori indicators to measure and monitor water quality at paragraphs 28 and 29. Finally, Councils must also notify iwi and hapū of any resource consent applications that may or are likely to impact the water bodies identified.

Proposal 3.5 Amendment of the RMA to establish 'mana whakahono a rohe' arrangements

47. The Trust Board has previously supported mana whakahono a-rohe arrangements through its submission on the Resource Legislation Amendment Bill (the **Bill**), identifying that the arrangements proposed in this process are preferred, and should replace, Iwi Participation Arrangements included in the Bill so as not to complicate and confuse iwi and council engagement.
48. We suggest some further modifications to address all of the Trust Board's concerns, namely that mana whakahono a rohe arrangements direct councils to achieve targeted outcomes, like participation in decision making, and that they expressly cover any collaborative and streamlined (or other alternative) planning processes arising out of the reforms.

Proposal 3.6 Amendment of the RMA to provide a greater role for iwi within the water conservation order application process

49. We support a greater role for iwi within the water conservation order (**WCO**) process. Despite the amendments to the WCO application process being included in the 'iwi rights and interests' section of the Consultation Document, we note that of the five proposed amendments, only two of the criteria are relevant to enhancing the iwi role within the process. Those are:
 - (a) to provide evidence of consultation with relevant iwi and have one person nominated by the relevant iwi represented on the Special Tribunal convened to hear the application; and
 - (b) require the Special Tribunal for a WCO (and, where relevant, the Environment Court) to consider the needs of iwi/tangata whenua.
50. Based on the above, we support proposal 3.6 in part.

Proposal 3.7 The Ministry for the Environment will facilitate and resource programmes to support councils and iwi/hapū to engage effectively in freshwater planning and decision-making, including collaborative planning.

51. The Government has rightly identified that implementation of the proposals concerning iwi rights and interests will require support. However, identification of support has been limited to facilitating and resourcing programmes. Iwi and hapū will require funding to ensure they can effectively engage in these processes, in particular, any mana whakahono a rohe arrangements. Without funding, the ability for iwi to effectively respond to and engage with Councils will depend on the funding and resourcing iwi have at their disposal and may therefore impact the level of engagement in resource management processes they are able to achieve.

Proposal 3.8 The Government will consider if additional funding is required to develop or improve water infrastructure at marae and papakāinga

52. We support the proposal for additional funding by the Government for water infrastructure at marae and papakāinga. This is particularly critical where full- or over-allocation of fresh water has meant that access to a clean, safe water supply is no longer available. Access to clean and safe drinking water supplies on marae is a priority for Ngāti Tūwharetoa.
53. The marae and surrounding papakāinga are the centrepiece of Māori community life, and in rural communities marae can often act as the focal point for the wider community, including in matters such as civil defence events. A wide range of events and activities regularly occur at marae including kōhanga reo, school visits and educational programmes, tangihanga, weddings, birthday celebrations, unveilings, wānanga, workshops and land meetings. Access to clean and safe drinking water supplies on marae is therefore a matter of public health.
54. Visiting a marae is also the primary Māori cultural experience for the majority of New Zealanders,¹⁵ and is a key tourism attraction. Support to improve water systems and supplies is therefore an investment not just in marae but also in the whole community and in New Zealand's tourism industry.

Improving access to clean, safe drinking water for our marae or papakāinga

55. When it comes to access to clean and safe drinking water for marae and papakāinga, the issues with really whether marae and papakāinga have access to reticulated treated drinking-water supply. The *Te kai manawa ora: Marae food safety initiative survey* conducted by the NZFSA indicates potential safety issues with the water on marae due to the low level of treatment.¹⁶ NZFSA found that over half the marae surveyed had their own water supply that included two sources, one of which was a roof supply. Only 38 percent of supplies were treated, and in one third of these cases this was by boiling the water. Only 31 percent of marae had their water supply tested for E. coli.¹⁷
56. A number of the marae and papakāinga within the rohe of Ngāti Tūwharetoa lack access to a reticulated treated drinking-water supply. We are aware that in the absence of access to a

¹⁵ MCH (2009). *Cultural Indicators for New Zealand: Tohu Ahurea mō Aotearoa*, Ministry for Culture and Heritage, June 2009.

¹⁶ The frequent use of marae by children, who are likely to be vulnerable to water borne infections, heightens the need to provide safe drinking-water.

¹⁷ NZFSA (2008). *Te kai manawa ora: Marae food safety initiative survey*. New Zealand Food Safety Authority Position Paper No. 01/08. 12 p.

reticulated treated water supply a suitable standard of treatment can be achieved by water treatment plant packages. However, the initial capital and ongoing operating costs of these water treatment systems is expensive and difficult for marae committees to maintain.

57. Therefore, we recommend that the Government fund the installation and maintenance of water treatment plant packages at all marae and papakāinga not connected to a reticulated treated drinking-water supply. A nationwide survey should be undertaken by the Government to identify which marae and papakāinga do not have access to reticulated water supplies and funding then provided to install and maintain water treatment plant packages as required.
58. In addition to the recommendation above, access to clean, safe drinking water for marae and papakāinga could be facilitated by the following means:
 - (a) Directing, through the NPS-FM or the Resource Legislation Amendment Bill, that customary take provisions for marae and papakāinga are provided for before baseline allocations are set in a regional plan.
 - (b) directing through the NPS-FM or the Resource Legislation Amendment Bill that water takes for marae and papakāinga be made permitted in all regional plans; such water takes should be considered on similar terms as municipal water takes for providing potable water to communities, towns and cities; or
 - (c) section 14(3) of the RMA could be amended to include fresh water taken or used for the communal benefit of marae and papakāinga as an activity not requiring resource consent.

Freshwater Funding

Proposal 4.1 The Government proposes to provide funding to eligible projects that deliver environmental rather than economic benefits

59. The Government proposes to provide funding to initiatives that “support users to move to managing within quality and quantity limits.” We support this proposal, conditional on the following proposition. We do not consider that it is appropriate for the fund to be available to individual land user applicants, because the effect will be to support selected and few applicants to internalise the cost of the negative externalities of land development and water use. That should more appropriately be borne by land users because of the inability for those funds to be applied broadly to their best use.
60. However, we do see a role for the funds in supporting projects that will have a broader impact across catchments and multiple users.

CONCLUSION

61. Aotearoa is blessed with abundant freshwater resources and for decades this abundance has ‘masked’ the full impact of poor water management practices on behalf of successive governments. In recent decades, these failings have begun to manifest in waterways that do not flow as they once did, that do not support healthy populations of aquatic life, and that do not sustain communities. This degradation of the mauri of our Wai Māori must be addressed.
62. Ngāti Tūwharetoa holds rangatiratanga and mana whenua over Wai Māori within our rohe. Our customary rights have always existed separate to any other right recognised by the Crown.

63. As kaitiaki, Ngāti Tūwharetoa has an intrinsic duty to ensure the mauri, and the physical and spiritual health of our environment (inclusive of our whenua and water resources) is maintained, protected and enhanced.
64. Ngāti Tūwharetoa's interests and rights in Wai Māori are unique in that we have legal ownership rights in respect of many of the waterways within our rohe and are significant landowners within our rohe (the largest landowner within the Taupō District).
65. We support a review of the existing national freshwater management framework. However, we consider that the proposals contained within the Consultation Document, as put forward by the Government, are fragmented and do not go far enough. We consider that the proposed approach does not enable a fulsome conversation and as such has limited potential to result in a management framework that achieves iwi, and broader community, aspirations for freshwater.
66. Any proposals to amend the freshwater management framework and/or pre-empt changes to our relationship with our ancestral taonga, for our rohe must necessarily require the free, prior and informed consent of Ngāti Tūwharetoa.

Please do not hesitate to contact the Tūwharetoa Māori Trust Board office to discuss any parts of this submission further.

Naku noa,

Topia Rameka
Chief Executive Officer