



OIAD-957

11 April 2024

9(2)a

Dear 9(2)a

Thank you for your email of 14 February 2024 requesting the following under the Official Information Act 1982 (the Act):

I refer to the response to my Official Information Act (the Act) request of 21 December 2023 (reference OIAD-912), dated 12 February 2024.

Under the Act I request:

(a) the timing of the publication of the three documents that have been refused under section 18(d) of the Act, and the date the decision to publish these documents was made

(b) a copy of the "Treaty analysis for repeal of the NBA and SPA" BRF-3951 and "advice on Māori freshwater rights and interests BRF-3974, referred to in the document BRF-3971: Cabinet Legislation paper - Natural and Built Environment and Spatial Planning Repeal Bill which was released in part under cover of letter dated 12 February 2024.

As advised on 14 March 2024, the three documents refused in our previous response to you are now publicly available, and can be found at: environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/repealing-the-natural-and-built-environment-act-nba-2023-and-spatial-planning-act-spa-2023/.

Regarding the second part of your request, we are providing *BRF-3974* to you in full. Please note that Appendix One of this paper has been released in part, with some information withheld under section 9(2)(h) of the Act, to maintain professional legal privilege.

You have the right to seek an investigation and review by the Ombudsman of my decision on this request, in accordance with section 28(3) of the Act. The relevant details can be found at: www.ombudsman.parliament.nz.

Yours sincerely

Electronically approved by Clare Maihi

Clare Maihi

General Manager – Te Tiriti and Te Ao Māori
Ministry for the Environment | Manatū Mō Te Taiao



BRF-3974: Overview of Māori freshwater rights and interests

Date submitted: 6 December 2023

Tracking number: BRF-3974

Security level: In-confidence

MfE priority: Non-urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Chris BISHOP Minister Responsible for RMA Reform	<p>Indicate whether you would like to meet with officials to discuss this briefing</p> <p>Indicate whether you would like any further information on Māori freshwater rights and interests</p>	N/A
cc Hon Penny SIMMONDS Minister for the Environment		

Actions for Minister's office staff
Return the signed briefing to the Ministry for the Environment (ministerials@mfe.govt.nz).

Appendices and attachments
<ol style="list-style-type: none"> Appendix 1 – Overview of Māori freshwater rights and interests Appendix 2 – Freshwater Iwi Leaders Group framework “Ngā Mātāpono ki te Wai”

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
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Minister's comments

BRF-3974: Overview of Māori freshwater rights and interests

Key messages

1. You have requested a background briefing on Māori freshwater rights and interests. Attached at **Appendix 1** is an overview that addresses:
 - the four dimensions of Māori freshwater rights and interests
 - Crown positions on Māori freshwater rights and interests
 - Treaty settlements with redress relating to freshwater
 - Crown engagement to date with Māori on freshwater rights and interests
 - the Freshwater Working Group and related provisions in the Natural and Built Environment Act 2023, and
 - a summary of relevant litigation currently underway.
2. This briefing is being provided alongside development of the draft Cabinet paper “Replacing the National Policy Statement for Freshwater 2020, and addressing its implementation in the interim”.
3. Also attached is the Freshwater Iwi Leaders Group framework for freshwater rights and interests (“Ngā Mātāpono ki te Wai”) that is referenced in Appendix 1 (see **Appendix 2**).
4. More detailed background briefings will be provided to you next week on:
 - litigation relating to Māori freshwater rights and interests, and
 - Treaty settlements.
5. Officials can provide additional information if useful, for example, on:
 - the legal framework for freshwater
 - options that have been explored historically for addressing the economic dimension of rights and interests, and
 - the draft Terms of Reference for the Freshwater Working Group, which were developed prior to the general election through engagement with Freshwater Iwi Leaders Group.

Recommendations

We recommend that you:

- a. **indicate** whether you would like to meet with officials to discuss this briefing

Yes | No

- b. **indicate** whether you would like any further information on Māori freshwater rights and interests.

Yes | No

Signatures



Clare Maihi
General Manager – Te Tiriti and Te Ao Māori
Ministry for the Environment
6 December 2012

Hon Chris BISHOP
Minister Responsible for RMA Reform

Date:

Appendix 1: Overview of Māori freshwater rights and interests

Please see the appendix attached in the email to the Minister's office.

Appendix 2: Freshwater Iwi Leaders Group framework “Ngā Mātāpono ki te Wai”

Please see the appendix attached in the email to the Minister’s office.

Appendix 1 Overview of Māori freshwater rights and interests

- 1 Māori have long called for recognition of their rights and interests in freshwater. The processes for engagement between Māori and the Crown on these issues have been underway for over a decade and have been documented in two reports from the Waitangi Tribunal. There have been steps forward through tranches of water policy reform and some settlements of historic Treaty claims, while issues around economic or “proprietary” interests have seen the least progress.
- 2 This overview note covers:
 - dimensions of Māori freshwater rights and interests
 - Crown positions on Māori freshwater rights and interests
 - Treaty settlements with redress relating to freshwater
 - Crown engagement with Māori on freshwater rights and interests
 - the Freshwater Working Group and related provisions in the Natural and Built Environment Act 2023, and
 - a summary of relevant litigation underway.

Dimensions of Māori freshwater rights and interests

- 3 While there are a range of ways that Māori aspirations with respect to freshwater are articulated, the key dimensions can be broadly summarised as¹:
 - *Improving water quality and the health of ecosystems and waterways*: this has consistently been identified as the most important issue
 - *Governance/Management/Decision-making*: Māori want to be involved in freshwater decision-making, and to have the capacity, capability and resources to do so effectively
 - *Recognition*: ensuring there is formal recognition of iwi/hapū relationships with particular freshwater bodies
 - *Economic development*: Māori want to be able to access and use water resources (ie, water takes and discharge rights) in order to realise and express their economic and development interests (within the context of a holistic view of Te Mana o te Wai).
- 4 Central to concepts of Māori freshwater rights and interests are the relationships of iwi, hapu and other Māori groups with particular waterbodies.

Crown positions on Māori freshwater rights and interests

- 5 In 2012, Deputy Prime Minister Hon Bill English acknowledged in an affidavit to the High Court, on behalf of the Crown, that Māori have rights and interests in freshwater and geothermal resources. This occurred in proceedings related to the Crown’s policy to sell up to 49 percent of shares in four state-owned power companies. This acknowledgement was recorded in the Supreme Court in 2013 as follows:

Mr English summarised the Crown position as being that it acknowledges that Māori have “rights and interests in water and geothermal resources”...The Crown position is that any

¹ This summary was developed from hui on freshwater run by the Freshwater Iwi Leaders Group across New Zealand between 2014-15.

recognition must “involve mechanisms that relate to the on-going use of those resources, and may include decision-making roles in relation to care, protection, use, access and allocation, and/or charges or rentals for use. Currently the Ministry for the Environment has responsibility for progressing policy development around these issues.” The Court should accept that it is not an empty exercise.²

- 6 Successive governments have since been addressing how to put the 2012 acknowledgement into practice. The focus has generally been on freshwater as a priority due to the complexity of the resource and issues around scarcity, rather than trying to progress geothermal issues simultaneously.
- 7 In 2015, the National-led Government set five ‘bottom lines’ for freshwater [CAB Min (15)1/9 refers]:
 - no-one owns freshwater, including the Crown
 - there will be no generic share of freshwater resources provided for iwi
 - there will be no national settlement of iwi/hapū claims to freshwater
 - freshwater needs to be managed locally on a catchment-by-catchment basis within the national freshwater management framework, and
 - the next stage of freshwater reform will include national-level tools to provide for iwi/hapū rights and interests.
- 8 The Labour-led Government in 2018 reframed the Crown position with the following parameters [ENV-18-MIN-0032 refers]:
 - the Crown and Māori have a key shared interest in improving the quality of New Zealand’s freshwater, including the ecosystem health of our waterways;
 - the Crown and Māori have a shared interest in ensuring sustainable, efficient, and equitable access to and management of freshwater resources;
 - no one owns freshwater – it belongs to everyone, and we all have a guardianship role to look after it;
 - the Crown acknowledges that Māori have rights and interests in freshwater, including accessing freshwater resources to achieve their fair development aspirations for under-developed land;
 - the Crown acknowledges that existing users also have interests that must be considered;
 - the Crown will work with Māori and regional government to consider how, on a catchment by catchment basis, freshwater resources can be accessed fairly so as to achieve the development of under-developed land, based on the following principles:
 - the need to gather key catchment-level information on Māori land development opportunities and the current situation in those catchments in terms of water quality, water takes and existing capital investments;
 - any change to existing allocation method is achieved in a way and at a pace that takes into account the interests of existing users and the public interest in the optimal use of the resource; and

² *New Zealand Māori Council v Attorney General* [2013] NZSC 6, [2013] 3 NZLR 31 at [145].

- the need to ensure that solutions for water meet sustainable limits for swimmability, ecological health and human health, being the values captured by 'Te Mana o Te Wai'.

Key findings from the Waitangi Tribunal

- 9 The Waitangi Tribunal's inquiry into the National Freshwater and Geothermal Resources Claim (Wai 2358) was divided into stages, allowing in 2012 for the most urgent part of the inquiry to be heard first. This first part related to the potential impact on Māori rights and interests in fresh water from the imminent sale of shares in one of the four state-owned power companies.
- 10 In its Stage 1 report in 2012, the Tribunal found that:
- Māori had rights and interests in their water bodies for which the closest English equivalent in 1840 was ownership rights, and that such rights were confirmed, guaranteed, and protected by the Treaty of Waitangi, save to the extent that there was an expectation that the waters would be shared with the incoming settlers.³
- 11 In 2019, the Tribunal released the Stage 2 report for Wai 2358, which focused on the Crown's freshwater management regime and its reforms.⁴ Key findings included:
- the Resource Management Act (RMA) 1991 is not consistent with Treaty principles, that the Treaty clause is weak, and that Māori interests have often been balanced out in freshwater decision-making
 - the RMA does not provide adequately for the tino rangatiratanga and the kaitiakitanga of iwi and hapū over their freshwater taonga
 - provisions to enable transfer of functions and powers to iwi and joint management agreements had been underutilised due to barriers within the RMA and lack of incentives
 - the Treaty standard for freshwater is co-governance and there should be an independent national body established on a co-governance basis with Māori (a water commission)
 - the National Policy Statement on Freshwater Management (NPS FM) 2017 failed to meet the Treaty standard of active protection of freshwater taonga
 - past barriers (including some of the Crown's making) have prevented Māori from accessing water in the RMA's first-in, first-served system, breaching the Treaty principle of equity
 - a new allocation system should be created which:
 - replaces the 'first in, first served' system and phases out over-allocation
 - arranges for an allocation of water for the development of Māori land (including land returned in Treaty settlements) where such allocation is sustainable
 - provides a percentage of water to iwi and hapū according to a regional, catchment-based scheme that is perpetually renewable and inalienable (except by lease or some other form of temporary transfer), or investigate alternatives where this is not possible (such as creating headroom or providing compensation)
 - investigates possible mechanisms for 'proprietary redress', including royalties.

³ Waitangi Tribunal (2012) *The stage one report on the National Freshwater and Geothermal Resources claim.*

⁴ Waitangi Tribunal (2019) *The stage two report on the National Freshwater and Geothermal Resources claim.*

- 12 The Crown is currently participating in Stage 3 of Wai 2358, which focuses on geothermal resources. This stage is currently in the pre-hearing phase.

Treaty settlements with redress relating to freshwater

- 13 Redress related to freshwater has been delivered through a range of mechanisms in settlements of historic Treaty claims, with the most significant being through the Waikato and Whanganui river settlements. Since 2010, Cabinet-approved guidelines have applied to the approach to negotiations over natural resource management through Treaty settlements [CAB Min (10) 23/3 refers].
- 14 The Waikato River settlements⁵ provide for a set of arrangements including the Waikato River Authority (WRA), which comprises five Crown and five River iwi appointees (Waikato-Tainui, Tūwharetoa, Te Arawa River Iwi, Raukawa and Maniapoto each appoint one member).
- 15 The WRA sets the primary direction through the Vision and Strategy (“Te Ture Whaimana”), which is deemed to be part of the Waikato Regional Policy Statement, to achieve the restoration and protection of the health and wellbeing of the river. There are also arrangements with the individual iwi, including joint management arrangements with councils.
- 16 The settlement also provided a \$220 million clean-up fund for the river, which is administered by the WRA.
- 17 The Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 conferred legal personhood on Te Awa Tupua as an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements.
- 18 There is a co-management arrangement with “Te Pou Tupua” (two persons) acting as the “human face” of Te Awa Tupua, the legal person. Te Pou Tupua is appointed via a process by the Crown and river iwi. There is also a strategy group that comprises a broad range of representatives of organisations with interests in the Whanganui River, including iwi, that develops a strategy document that must be given “particular regard” to under several pieces of legislation including the RMA (“Te Heke Ngahuru”).
- 19 These settlements do not extinguish or limit any customary right that may exist in relation to these rivers.
- 20 The Waitangi Tribunal found that these river settlements have provided for the exercise of tino rangatiratanga over these rivers in its Wai 2358 Stage Two report.

Crown engagement with Māori on freshwater rights and interests

- 21 Māori customary rights in freshwater are commonly expressed as sitting at the local level and deriving from whakapapa-based relationships with specific freshwater bodies. However, the main vehicles for intensive engagement on progressing policy and legislation over last 15 years have been through working with national-level iwi/Māori groups. The key engagement processes over this period are outlined below.

⁵ The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, the Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Act 2010, and the Nga Wai o Maniapoto (Waipa River) Act 2012.

Engagement with Freshwater Iwi Leaders Group from 2009-2017

- 22 Between 2009-2017, the Government engaged with Freshwater Iwi Leaders Group (FILG) under a communication and information exchange protocol covering national policy on freshwater management, including water allocation and quality. During this period there were several stages of joint work between the Government and FILG and their advisors, including from 2015 a Cabinet-approved workplan to fulfil the Government's 2012 commitment to address rights and interests [CAB Min (15) 1/9 refers].
- 23 During this period, FILG developed the “Ngā Mātāpono ki te Wai” framework for guiding discussions on progressing Māori rights and interests. The key components of Ngā Mātāpono (attached in full at **Appendix 2**) comprise:
- governance (includes national direction with local flexibility and alignment with Te Tiriti settlements)
 - limit setting (includes giving effect to Te Mana o te Wai)
 - allocation (includes an iwi and hapū allocation of water secured within their catchment; a right to access water (not ownership))
 - transition (includes phasing in over time to allow existing users to adjust).
- 24 Key outcomes during this period included:
- the introduction of objectives and attributes which made substantial progress toward managing water quality
 - a requirement in the NPS-FM 2014 for councils to ‘involve’ Māori in freshwater management, and to work with iwi and hapū to ensure that their values are identified and reflected in freshwater management
 - introduction of the concept of Te Mana o te Wai in the NPS FM in 2014 and expanded on in a 2017 amendment, and
 - Mana Whakahono a Rohe (iwi participation) arrangements were included in the Resource Management Act 1991 through the Resource Legislation Amendment Act 2017.
- 25 While a work programme on water allocation reform and related iwi and hapū rights and interests was undertaken, it did not result in any substantive policy changes.
- 26 The FILG/Crown engagement operated in parallel with the Land and Water Forum (LAWF) process (2009-2018). LAWF brought together over 50 stakeholders and organisations with an interest in freshwater and land management as well as iwi, seeking to forge a detailed and durable consensus on key issues, especially the principle of managing water quality within limits. LAWF's reports and recommendations contributed to the changes to the NPS FM during this period, however, most of its recommendations relating to allocation reform and Māori rights and interests were not taken forward by the government of the day.
- 27 LAWF noted that the outstanding issue of rights and interests creates uncertainties in the freshwater management system that, left unresolved, makes achieving a long-term durable framework for the management of fresh water more difficult, costly and time consuming.⁶

⁶ “Land and Water Forum advice on improving water quality: preventing degradation and addressing sediment and nitrogen - May 2018” available at <http://www.landandwater.org.nz/>

Kāhui Wai Māori input into Essential Freshwater 2018-2020

28 In 2018, the Kāhui Wai Māori (KWM) was appointed by the Minister for the Environment to provide a range of Māori perspectives and expertise to input into the Essential Freshwater work programme. KWM contributed to the NPS FM 2020 – in particular in the further expansion of Te Mana o te Wai and the elevation of mahinga kai as a compulsory value. KWM released a report to the Minister in 2019 with recommendations for restoring the health of waterbodies and on freshwater rights and interests.⁷

Engagement with national iwi/Māori groups on resource management reform 2020-2023

29 In 2020, key iwi/Māori groups came together to engage with the Government on Māori rights and interests in freshwater and resource management reform. These groups then decided to engage separately in parallel with the Government on these issues, as:

- FILG and Te Wai Māori Trust, and
- Te Tai Kaha, which comprises New Zealand Māori Council, Federation of Māori Authorities, and Ngā Kaiārahi o te Mana o te Wai Māori (the members from KWM).

30 Both sets of iwi/Māori groups considered that progress was made in the NPS-FM 2020 by the enhanced recognition of Te Mana o te Wai and elevation of mahinga kai as a compulsory value. They described the key outstanding dimensions of rights and interests as including both a Treaty-based governance, and management framework and the equitable allocation of freshwater resources [CBC-MIN-20-0119 refers].

31 The groups indicated at that time that Te Mana o te Wai and Ngā Mātāpono ki te Wai should be the guiding frameworks for discussions on progressing MRI.

32 The two sets of groups played a key role in the inclusion of certain provisions in the Natural and Built Environment Act (NBA) 2023, including:

- contributing to the development of “Oranga o te Taiao” in the purpose of the NBA (both groups)
- the “preservation clause” for Māori freshwater rights and interests at section 750 that references the Crown’s 2012 acknowledgement, which both sets of groups advocated for (albeit each with different drafting)
- the National Māori Entity (sections 66-81), which was supported by Te Tai Kaha but opposed by FILG, and
- The Freshwater Working Group and related provisions on engagement between the Crown and iwi and hapū at the local level to develop agreed allocation statements (sections 96-100), which were proposed by FILG.

Freshwater Working Group and related NBA provisions

33 The NBA requires the Minister for the Environment to establish a Freshwater Working Group (FWG) that is to be appointed by the Crown and iwi and hapū. The purpose of the Group is to produce a report by October 2024 that makes recommendations on:

- matters relating to freshwater allocation; and
- a process for engagement between the Crown and iwi and hapū, at the regional or local level, on freshwater allocation.

⁷ “Te Mana o te Wai: The Health of our Wai, the Health of our Nation”, Kāhui Wai Māori Report to Hon Minister David Parker, April 2019.

- 34 The NBA also includes a statutory engagement obligation following the FWG report process between the Crown and iwi and hapū at the local to produce an agreed “allocation statement”. These statements would then be required to be incorporated into the natural and built environment plan for the region.
- 35 After NBA passage, initial steps to establish the FWG were taken but the Group was not stood up. Draft terms of reference (ToR) were developed through engagement predominantly with FILG. The draft ToR address:
- the skills and expertise required by members of the FWG
 - the process for the appointment, by the Crown and iwi and hapū, of the members of the FWG
 - matters to be considered and dealt with by the FWG; and
 - engagement that the FWG should undertake in the course of deliberation.
- 36 FWG candidates were identified by the Crown and iwi and hapū through processes consistent with appointment processes set out in the draft ToR. The Crown candidates included: Bill Bayfield (proposed Crown co-Chair), Doug Leeder, Traci Houpapa, Lain Jager and Suzie Greenhalgh. The iwi and hapū candidates included: Rukumoana Schaafhausen (iwi/hapū co-Chair), Lisa Tumahai, John Bishara and Olivia Hall.
- 37 On 13 October, the former Minister for the Environment wrote to the Chair of FILG and the Crown candidates advising them that the establishment processes would need to be completed after the election.

Litigation underway

38 9(2)(h)

39

NGA MATAPONO KI TE WAI

OBJECTIVES

- Improved Water Quality – Mana o Te Wai
- Realise value of water resources (including economic)
- Enduring future iwi relationship with water bodies

VALUES

- Ki uta ki tai
- Mana
- Mauri
- Kaitiakitanga
- Wairua
- Intergenerational decision making (mo tatou a mo nga uri)
- Mana Atua Mana Tangata

Allocable Quantum

Instream Limit

GOVERNANCE

- Joint Iwi/Community
 - Including Collaborative Stakeholder Group
 - Direct iwi involvement in decision making
- Central
 - NPS
 - NES
 - EPA
- Local flexibility
- Local/regional governance
 - Planning
 - Limits
 - Allocation
 - Monitoring
 - Enforcement
 - Restoration
 - Rentals/Rating
- Build on existing Treaty Settlements

LIMITS

- Gives effect to Mana Atua Mana Tangata
- Balance instream values with economic use
- Mana Tangata
 - Ceremonial
 - Drinking
 - Transportation
 - Economic
 - Recreation
 - Food Gathering
- Quantity
- Quality
- Providing for instream values and uses

ALLOCATION

- National framework
- Increased certainty for all users via better defined rights
- Move to highest value use over time
- Iwi allocation (economic development)
 - Proportional
 - Allocated to iwi within catchment
 - Perpetual
 - Subject to environmental controls
 - Inalienable
 - Transferable
 - Right to access water (not ownership)
- Additional interests may exist outside of this framework

TRANSITION

- Phase in over time to allow existing users to adjust
- Allocating water to iwi may take time in over/fully allocated catchments
- Length of transition critical to avoid 'shocks' by allowing existing users to adapt
- Create certainty for existing users on new regime
- Community/iwi determine allocation objectives via planning regime
- Limit setting process

PRINCIPLES

- Mana o te Wai
- Te Tiriti o Waitangi te tahuu o te Wai
- Te Mana Motuhake o ia wai o ia iwi ki te wai
- Te kaitiakitanga o nga hapu me nga iwi ki te wai
- Te mana whakahaere o nga iwi me nga hapu ki te wai

OBJECTIVES

- Improving and maintaining water quality — te mana o te wai — is a first order objective for iwi and all New Zealanders
- Water is a valuable resource and has the potential to deliver significant benefits including economic benefits, for iwi and the community,
 - Maximising the value of water (including social, economic, cultural and environmental benefits) for the community, including government, iwi, and all users, will require better definition of the bundle of rights attached to water
 - This requires recognising iwi rights and interests through:
 - providing for iwi in governance and decision making roles
 - recognising iwi values in the decision making framework and
 - providing iwi with an equitable allocation of water quantity and quality.
- Iwi want to re-establish and maintain an enduring relationship with their ancestral/ traditional water-bodies — mana whakahaere — recognising both their inherent mana and associated kaitiaki responsibilities over these water bodies. This includes being able to share equitably in any development capacity associated with a water body (allocable quantum).

ALLOCATION

- Allocating water to both consumptive and non-consumptive uses is central to effectively managing water and realizing the highest possible value from the resource
- Increasing certainty to all water users via more defined rights is an important factor in maximizing the value of water
- Enabling water to flow to highest and best use (e.g. transfers)
- Recognising iwi rights and interests through an equitable allocation of allocable quantum
- Allocation to iwi who uphold mana in catchment
- National Framework for allocation
- Characteristics of 'iwi allocation'
 - Proportional
 - Perpetual
 - Transferable
 - Inalienable
 - Subject to standard environmental controls
 - Right to access water (not ownership of water)
- Proportional allocation of allocable quantum within a catchment — equitable allocation does not mean all iwi will receive same quantity of water
- Iwi allocation recognises residual iwi rights and interests in water common to all iwi. Some iwi may be able to claim/prove additional rights and interests depending on particular situations (e.g. Poroti Springs)

GOVERNANCE

- Providing iwi with a direct role in the governance and decision-making processes for fresh water is crucial to recognising and providing for iwi rights and interests.
- ILG support the recommendations in LAWF report regarding collaborative decision making but need to also go further and ensure iwi sit at decision making table at all levels
- Iwi must be involved in both central government decision-making (e.g. NPS, NES, EPA) and regional/local government.
- This will require flexibility to meet regional/local circumstances and fresh thinking regarding local government structures
- Existing Treaty settlement framework tools are inadequate (joint advisory committees, advisory boards)
- Existing settlement mechanisms may provide a starting point where appropriate but can be enhanced and developed further
- Enduring structures will need to develop over time as capacity and capability develop

TRANSITIONAL PHASE

- Shifting from the current regime to a new regime with more clearly defined rights including recognition and provision for iwi rights and interests will require a transitional phase to ensure existing water users and rights holders are not unfairly prejudiced
- Ensuring a 'soft landing' for existing users into new regime will be important
- Where unallocated water is available within a catchment this could be directly allocated to iwi
- Where catchments are fully or over-allocated accessing available water for allocation to iwi may take some time. This timeframe may need to be negotiated on a case by case basis (possibly within a national framework?).
- Decisions will be required on how existing rights holders should be transitioned into new regime, e.g.
 - Grandfathering
 - Re-allocation on expiry
 - Recognition of existing investment
 - How to manage re-allocation to iwi
- Transitional limits required in interim until governance arrangements can establish regional/local limits.

VALUES

- Recognising the values of iwi in the decision-making framework is an important aspect of the iwi connection with their water bodies.
- While these may vary iwi to iwi, recognising a set of common iwi values within the decision-making framework is central to establishing the enduring connection between iwi and their water-bodies.
- Mana Atua
 - Mauri
 - Wairua
 - Natural character
 - Mana
 - Life supporting
 - Ecology
 - Biodiversity
 - Native fish
- Mana Tangata
 - Ceremonial
 - Drinking
 - Transportation
 - Economic
 - Recreation
 - Food Gathering
- These values include:
 - Intergenerational decision making
 - Ki uta ki tai, mountains to the sea integrated land and water management across the whole catchment
 - Mana (both of the water, and iwi exercising mana over it)
 - Mauri (protecting the inherent life supporting capacity of the wai)
 - Kaitiakitanga
 - Wairua

LIMIT SETTING

- A robust planning regime, including enforceable limits is central to achieving the stated objectives for water management reforms
- Limits are required for both water quality and water quantity
- Enforcing limits will require transitioning to the new regime, particularly in catchments requiring improvements in water quality or where water is over-allocated
- Balance between protecting in-stream values and maximizing the economic value of the allocable quantum — iwi working with wider community to establish a balance via governance mechanisms
- Range of values (including economic e.g. tourism) provided through in-stream values