

## FRESHWATER IWI LEADERS GROUP

### FRESHWATER AND RESOURCE MANAGEMENT REFORMS POSITION PAPER

21 FEBRUARY 2021

#### *General Comments*

The purpose of this position paper is to assist discussions between members of Te Tai Kaha (the **Collective**), and subsequent discussions with the Crown, in the content of the current Resource Management and Freshwater Rights and Interests reform work programmes. As agreed between members of the Collective, this paper is in summary form. The Freshwater ILG's position is that the Freshwater and Resource Management reforms are inter-connected and, on that basis, this position paper addresses both kaupapa.

This position paper is structured as follows:<sup>1</sup>

- General comments
- Governance
- Resource Management
- Freshwater Management
- Freshwater Allocation

The Freshwater Iwi Leaders Group (**Freshwater ILG**) have maintained that any engagement with the Crown in addressing iwi and hapū rights and interests in freshwater is premised on the following principles (which have been agreed by the National Iwi Chairs Forum since 2012):

1. Ko te Tiriti o Waitangi te tahuu o te kaupapa o te wai:  
*The Treaty is the framework for matters related to freshwater*
2. Te Mana o Te Wai:  
*The integrity of Water is maintained*
3. Te mana motuhake o ia wai o ia iwi ki te wai:  
*Control, use and respect sits with the people*
4. Te kaitiakitanga o nga hapū me nga iwi i te wai:  
*Iwi and hapū have inherent guardianship*
5. Te mana whakahaere o nga iwi me nga hapū ki te wai:  
*Iwi and hapū must have ability to express rights and authority*

In addition, the Freshwater ILG's starting point is that we have tino rangatiranga over our wai and therefore:

- Iwi or hapū have never willingly or knowingly relinquished rights and interests in, or authority over, their respective rivers, streams, lakes, puna or any other freshwater bodies.
- The Crown must recognise the Tino Rangatiratanga of iwi and hapū over our Wai (and bring an end to any suggestion that such rights must be "proven" by iwi and hapū).

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<sup>1</sup> Acknowledging that there are inherent overlaps between the content in the sections.

- The Crown has failed to respect, provide for and protect the special relationship of iwi and hapū with their respective rivers, streams, lakes, puna or any other freshwater bodies.
- The engagement of the Freshwater ILG or the Collective does not usurp the mana and or autonomy that each Iwi or hapū has in respect of their own relationship with the Crown and the necessity for engagement by the Crown with other Iwi or other Māori organisations on a wider scale remains.
- The Freshwater ILG considers that allocation, management and governance decisions must be made on a catchment by catchment basis and at a catchment level.
- Ngā Mātāpono ki te Wai (**attached**) provides a useful framework to guide discussions on the scope of iwi and hapū rights and interests with respect to freshwater.

**Attached** also, alongside Ngā Mātāpono ki te Wai, is a draft Freshwater ILG work-programme that also includes key propositions for the purposes of both the Freshwater and Resource Management reforms.

## Governance

- Te Tiriti o Waitangi underpins the members of the Collective’s relationship with the Crown and is the basis for engagement, solutions and opportunities for iwi and hapū on all issues regarding freshwater.
- The Freshwater ILG support the ability of iwi and hapū to exercise their mana motuhake, rangatiratanga, and mana whakahaere of their taonga. This also requires supporting iwi and hapū to restore and/or maintain their relationships with their wai – e.g Te Awa Tupua, ownership of beds amongst other solutions.
- Iwi and hapū want a greater involvement and participation in freshwater decision-making including the management and governance of freshwater at the national and regional level. The frameworks need to be robust, equitable and durable. This might include shared governance and partnership arrangements that genuinely provide for Iwi and hapū such as:
  - Recognise iwi have the authority and therefore, transfer of “powers” and resourcing to iwi and hapū to govern their wai.
  - Mandatory seats for iwi and hapū on Councils.
  - 50/50 representation and strong role in decision-making for iwi and hapū in central and regional government governance arrangements.
  - Mandatory requirement to have Iwi and hapū appointed Commissioners to hearing panels on major consenting processes that affect ngā taonga tuku iho.
  - Increased iwi and hapū representation on the new freshwater planning process panels or any new governance models created (including, but not limited to, repeal and replacement of freshwater planning process presently in Subpart 4 of Part 5 of present RMA”
- Co-designing and co-developing regional planning documents including recognition of mātauranga māori.
- Resource and funding to support iwi and hapū to exercise their mana whakahaere over their wai.

## Resource Management

- The current resource management regime, largely regulated by the Resource Management Act 1991, is broken and in need of urgent and transformational reform.
- The Report of the Resource Management Review Panel (June 2020) – *New Directions for Resource Management in New Zealand*, has shaped Cabinet’s direction for replacing the current Resource Management Act 1991. The Freshwater ILG’s position on the Review Panel’s primary recommendations that affect iwi/hapū are:
  - The definition and status of Te Mana o Te Taiao and its related reference in any purpose of the proposed new Natural and Built Environments Act (the **NBA**), must have integrity and resonate in terms of Te Ao Māori and the innate (whakapapa) relationship (and associated) responsibilities between iwi and hapū and Te Taiao.
  - The obligation to *give effect to* the principles of Te Tiriti o Waitangi must be retained (noting that this falls short of a more fundamental obligation to give effect to Te Tiriti o Waitangi itself which necessarily should be the baseline for the Crown policy and legislation in Aotearoa in 2021). This important obligation should be mandatory on all persons exercising functions and powers under the NBA and the new Spatial Planning Act (the **SPA**), and importantly should not be undermined by other provisions in the NBA or the SPA
  - The definition of the “environment” must expressly recognise that the whakapapa relationship and associated responsibilities between iwi and hapū and Te Taiao are part of the “environment”, and should be recognised discretely from the generic reference to “peoples and community”.
  - The definition of sustainability must reflect iwi/hapū concepts of environmental management including the fundamental principle of the environment being able to sustain itself (not simply for the purpose of utilisation by and for the benefit of present and future generations).
  - Mātauranga Māori and recognition of the whakapapa relationship between iwi/hapū and the environment must be considered as part of the mandatory process to set “natural environment limits” (noting that iwi/hapū are intrinsically connected with the ‘natural environment’ as a matter of whakapapa and tikanga).
  - Hapū/iwi must be involved, through a partnership approach, in the setting of National Directions under the NBA and SPA.
  - The Freshwater ILG does not support National Direction, formulated by the Minister for the Environment, for giving effect to Te Tiriti.
  - The Freshwater ILG does not support a National Māori Advisory Board to monitor the performance of central and local government in giving effect to Te Tiriti. This is the role of iwi and hapū.
  - The Freshwater ILG supports enhancing the Mana Whakahono ā Rohe provisions and must be involved in co-developing these enhancements. Nothing in the reform should derogate from any current Mana Whakahono ā Rohe agreements.
  - The Freshwater ILG supports having positive obligations on local authorities to use transfer of powers and joint management provisions.
  - Iwi/hapū must be funded for undertaking resource management functions.
  - The appropriate terminology for use in the NBA for engagement is hapū and iwi.

- The allocation of natural resources is an integral component of the NBA that must sit within the frame of “natural environmental limits”. The NBA will only be certain and durable when iwi and hapū rights and interests in freshwater are resolved.
- Importantly, the Freshwater ILG considers the provisions of the NBA and SPA must not preclude, inhibit or limit the mechanisms required to substantively address and resolve the issue of freshwater rights and interests, and records that a new freshwater statute may be required which establishes a separate regime for freshwater governance, management and allocation or amends the terms of the NBA and SPA to accommodate such a regime.
- The Review Panel Report also recommends further consultation with Māori. The Freshwater ILG understands that Cabinet has determined not to undergo this consultation. The Freshwater ILG recommend this level of consultation occur, alongside direct engagement with the Collective, to ensure that robust resource management outcomes are implemented through this reform.

### ***Freshwater Management***

- Te Mana o te Wai is paramount.
- The health and wellbeing of waterways is the cornerstone of freshwater management. The continuous supply of freshwater is seen as fundamental to the sustainable social, environmental, cultural and economic development of iwi and hapū.
- The Freshwater ILG advocates for continual improvement to the quality of freshwater in Aotearoa over time in a way that improves the health and wellbeing of people but also our social, cultural and economic prosperity, which in turn is good for New Zealand Inc.
- The overarching view of Iwi and hapū is a long-term one that favours intergenerational equity ahead of the shorter term (often economic) “benefits” that often dominate governmental and commercial decision-making.
- The Freshwater ILG advocate that the RM Reform provides an opportunity to ensure a more holistic approach to the way freshwater is managed e.g flora, fauna and wider eco-system health of our waterways.
- The Freshwater ILG advocate better connections across all current reform relating to freshwater including Three Waters, RM Reforms, Climate Change and Rights and Interests in Freshwater amongst others.

### ***Freshwater Allocation***

- The Freshwater ILG believe that a substantive part of resolving iwi and hapū rights and interests in freshwater will entail an allocation of freshwater quantity and quality for commercial use and, to grow iwi and hapū economic prosperity. Ultimately, iwi and hapū want an allocation of water.
- An allocation of freshwater is not premised on, or subject to, developing land.
- The Freshwater ILG are clear that over-allocation of freshwater, at the catchment scale, must be addressed prior to any further allocations of water, including to iwi.
- The Freshwater ILG strongly oppose any strengthening of the existing resource consent regime until such time as the iwi and hapū freshwater rights and interests are addressed.

- The first in first served approach to allocation must be reformed. The Freshwater ILG oppose this approach to resource allocation.
- A bold approach is required to generate headroom within overallocated catchments) including:
  - Setting sustainable limits for our wai including recognising mātauranga māori as benchmarks.
  - Mandatory reasonable technical efficiency and use testing/measures for existing permit holders [either on review of conditions or expiry of permit].
  - Investment in water storage infrastructure to generate new water [provided within limits].
  - Council-administered reduction in existing allocation on review of consent conditions or on expiry and reallocation of resource consents [staged percentage reductions in volume].
  - Claw back paper overallocation through review of consent conditions or on expiry and reallocation of resource consents.
  - Incentivising the voluntary surrender of permits [all or part of resource consents].
  - Enforce common expiry dates to allow for the effective use of these criteria.
  - Use of priority status in freshwater plans to reserve allocation for iwi/hapū.
  - Strategic acquisition of permits by Crown for purpose of reserving allocation for iwi/hapū.
- The Freshwater ILG commissioned Sapere Group to develop economic based evidence to support their engagement with the Crown to address iwi rights and interests in freshwater. Sapere Group concluded there were net benefits of an iwi/hapū allocation and, from transitioning to a stronger rights-based regime including:
  - Benefit of pricing, transparency and path to market.
  - Benefit of awakening sleeper consents – \$370 million if 5 percent of the sleeper share is re-allocated.
  - Less costly droughts – \$500 – \$630 million dollar benefit from a large-scale drought.
  - Less costly method of reducing over-allocations.
  - Reduced costs of conflicts – savings on processes like Variation 6 (\$3.7 million, 3 years) and Rakaia Selwyn Groundwater Zone (\$2.5 million, 2 years).
  - Better capital formation.
- Further work from Sapere will determine the likelihood of current water users (eg, those with resource consents) accepting an iwi allocation and a shift towards a stronger rights-based regime and, the incentives on iwi/hapū to behave in a commercially rationale way.

# 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

# ADDRESSING IWI/HAPŪ RIGHTS THROUGH RESOURCE MANAGEMENT ACT AND FRESHWATER REFORMS

Formal recognition of iwi/hapū relationships with their wai

## PROVIDE FOR RECOGNITION OF WAI

- Ownership of the bed of waterbodies, riparian margins and water column above beds [eg, Lake Taupo]
- Statutory recognition of all ancestral awa, puna and roto in through legislative instruments [eg, Te Awa Tupua]
- Mandatory requirement to give effect to the special relationship between iwi/hapū and water in local authority RMA planning documents,
- Giving effect to existing Treaty of Waitangi settlement legislation and implementing existing regulatory and legislative requirements [eg, Te Ture Whaimana, hierarchy of obligations in NPS-FM 2020]

## LITIGATION PATHWAYS TO ADDRESS RIGHTS AND INTERESTS

- It is acknowledged that any iwi/hapū or other group is entitled to pursue the issue of rights and interests through litigation, noting:
  - the High Court proceedings commenced by Ngāi Tahu
  - the Wai 2358 Inquiry and Report of the Waitangi Tribunal
  - possible future proceedings regarding Porotū Springs

Increase iwi/hapū participation at all levels of freshwater decision-making

## IWI AND HAPŪ DECISION-MAKING

- Expand the use of transfer of power to iwi/hapū under s33 of the RMA
- Mandatory seat for iwi/hapū on the establishment of any new allocation or water management boards
- Explore direct appointment of iwi representatives on local authorities as opposed to Māori ward seats

## STRENGTHEN THE ROLE OF IWI AND HAPŪ IN PLANNING PROCESSES

- Co-design development of freshwater plans with iwi/hapū to give effect to the NPS-FM 2020.
- Protect integrity of existing arrangements made under Treaty settlement legislation and formal relationship agreements under RMA [Mana Whakahono-a-rohe]
- Requirement to include at least one iwi commissioner on all freshwater plans made under NPS-FM 2020 [eg, Freshwater Planning Process; s80A of RMA]
- Support iwi/hapū resource and capacity to participate in freshwater governance and management processes

## STRENGTHEN THE ROLE OF IWI IN OPERATIONAL PROCESSES

- Mandatory requirement to consider Cultural Impact Assessments [written by mana whenua hapū] as expert technical reports
- Enhance the status of Iwi Management Plans in the RMA processes
- Inclusion of mātauranga Māori as a critical strand for resource management decision making across all policy development, projects and monitoring
- Compulsory guidance/training for elected members and council staff on the Treaty partnership and engaging with tāngata whenua

Reform of the Resource Management Act 1991 (including Three Waters and Freshwater Reforms)

## MANDATORY CONTENT FOR INTEGRATION INTO RESOURCE MANAGEMENT ACT REFORM (INCLUDING THREE WATERS AND FRESHWATER REFORMS)

- Requirement to give effect to Treaty of Waitangi that pervades all sections of the RMA (including any replacement or related environmental legislation)
- Implement recommendations of the Randerson Report as they relate to the management of natural and physical resources [including freshwater]:
  - giving effect to Treaty of Waitangi [may include new NPS setting out how ToW is given effect to]
  - participation of "mana whenua" to co-design all management, governance and decision-making matters [including protecting existing Treaty settlement requirements and RMA participation pathways]
  - legislative re-framing to put in place National Built Environment Act (NBEA) and Spatial Planning Act (SPA)
  - framing requirement of "Te Mana o te Taiao" as a fundamental component of the NBEA purpose [could be similar to giving effect to the hierarchy of obligations under the NPS-FM 2020]
  - new principles for NBEA predicated on positively framed outcomes [replacing matters of national importance and including responsiveness to rapidly changing climate]
  - design of process to set mandatory environmental limits under NBEA [could be similar to the national bottom lines in the NPS-FM 2020 and include setting targets to advance aspirational goals]
  - specification of new regime to allocate natural resources [including new review powers to modify/extinguish permits if mandatory environmental limits are threatened, consideration of the use of economic instruments to complement regulation]
  - stronger enforcement requirements to uphold mandatory environmental limits [predicated on improved monitoring performance and direction to respond to poor performance]
  - national oversight of performance in implementing NBEA and SPA [separate bodies and/or retasked Parliamentary Commissioner to the Environment role]
  - resourcing to upskill and build capacity of "mana whenua" to actively participate in NBEA and SPA [to ensure meaningful engagement]
- Implementing recommendations of WAI262 and WAI2356 reports as they relate to the management of natural and physical resources [including freshwater]:
  - fundamental plank of reformed RMA must be to give effect to the Treaty of Waitangi [address non-compliance issues and must pervade the entire reformed RMA]
  - inserting Te Mana o te Wai as a matter of national importance and increasing the statutory weight of Iwi Management Plans
  - implementing a national co-governance body [ensure Treaty principles and Māori values, rights, and interests are fully incorporated in freshwater policy and management]
  - addressing the chronic underfunding of iwi and hapū to participate effectively in the management of freshwater
  - new allocation regime that is co-designed with Māori that:
    - recognises Māori proprietary rights and economic interests through the provision of 'proprietary redress' [perpetually renewable and inalienable right, royalties on existing permitted rights etc]
    - provides for Te Mana o te Wai
    - replaces first in first served allocation method and addresses over-allocation [where this exists]
    - identifies a percentage of water for iwi/hapū according to a regional, catchment-based scheme [devised by national Co-Governance Board]
- Allocation regime predicated on implementing Ngā Matapono ki te Wai framework:
  - statutory recognition of relationship between iwi/hapū and fresh water bodies woven into the NBEA
  - limits set for freshwater through giving effect to hierarchy of obligations and delivery of NOF [akin to mandatory environmental limits under NBEA]
  - cornerstone of allocation regime must be an inalienable right in perpetuity for iwi/hapū to access proportion of water [ground and surface] for economic use that is subject to applicable management framework [right can be temporarily leased provided limits in management framework are not breached and transfer is explicitly provided for]
  - allocative instruments can take a number of forms and must be premised on limits being set [determining the allocable volume within a management unit]
  - transition between the existing allocation regime and new co-designed allocation regime is likely to be 35-years [to balance sunk investment costs with certainty of reforms]

## INVOLVEMENT IN RMA REFORM

- Engagement and Communication protocol [or similar] between Labour Government and the Freshwater Iwi Leaders Group, Te Wai Māori, Kahui Wai Māori, New Zealand Māori Council and Federation of Māori Authorities
- Prime Minister, Senior Cabinet Minister and Iwi Leadership agree on process, resourcing and timeframes for senior Crown officials and technicians to engage on all aspects of the RMA reforms, including drafting and reporting to cabinet.

## IMPLEMENTATION OF NPS-FM

- Agree on process, resourcing and timeframes for senior Crown officials and technicians to engage on the implementation of the NPS-FM 2020:
  - Give effect to the hierarchy of obligations
  - Process to deliver the NOF
  - Timeframes to notify freshwater plan changes
  - Our Land and Water Challenge projects

Develop a range of mechanisms to enable iwi/hapū to access freshwater resources to realise and express their economic interests

## GENERATE HEADROOM WITHIN FULLY-ALLOCATED CATCHMENTS

- Employ one or more of the following options:
- mandatory reasonable technical efficiency and use testing/measures for existing permit holders [either on review of conditions or expiry of permit]
  - investment in water storage infrastructure to generate new water [provided within limits]
  - council-administered reduction in existing allocation on review of consent conditions or phased renewal of resource consents [staged percentage reductions in volume]
  - claw back paper overallocation through review of consent conditions or phased renewal of resource consents.
  - incentivising the voluntary surrender of permits [all or part of resource consents]
  - enforce common expiry dates to allow for the effective use of these criteria
  - use of priority status in freshwater plans to reserve allocation for iwi/hapū
  - strategic acquisition of permits by Crown for purpose of reserving allocation for iwi/hapū

## SPECTRUM OF OPTIONS TO DELIVER IWI AND HAPŪ ALLOCATION OF WATER AT A CATCHMENT SCALE

- The co-design of any new allocation framework [within or alongside reformed RMA that assumes give effect to Te Mana o te Wai and Te Tiriti] based on permitting regime:
  - proprietary right for iwi and hapū to a proportion of available water [surface and ground water] that is perpetually renewable, inalienable and leaseable
- Failing (1), specification of proprietary right for iwi and hapū [as set out above] and co-design of new allocation framework [as set out above]:
  - royalties on permits/authorisations to take and use water
  - joint venture partnerships between iwi/hapū and existing holders of permits/authorisations to take and use water
  - joint venture partnerships for iwi/hapū to operate water supply infrastructure and treatment plants [take and use water for municipal supply] + waste water treatment plants [recycled potable water supply]
  - cash settlement
- Failing (1) and (2), if existing allocation regime under RMA continues:
  - provide for priority status [reservation] of any newly available water [expired, reduced, surrendered permits] or newly created headroom through storage infrastructure
  - reserve a proportion of currently available water