Ministry for the Environment RMA Reforms on Natural & Built Environment

Submission to MfE RMA Reforms

Papa Pounamu Feedback on the Discussion Document *Transforming Aotearoa New Zealand's resource management system: Our future resource management system*

SUBMITTER INFORMATION

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1. Papa Pounamu acknowledge the opportunity provided by the Ministry for the Environment (MfE) to offer feedback on the Ministry for the Environment Consultation document: *Our future resource management system Materials for discussion; Te Pūnaha whakahaere rauemi o anameta Kaupapa kōrero*; November 2021.

2. This submission acknowledges our Papa Pounamu attendees at the MfE wānanga and their contributions and commentary. Papa Pounamu submits this feedback to MfE, together with submissions received from Rongowhakaata Iwi Trust, Te Korowai o Ngāruahine Trust, Mariana Waitai and Tahorakuri A1 Section 30 Trust as appended to this submission.

3. As a collaborative approach, Papa Pounamu have included the Notes from the three online wānanga which contain commentary from Papa Pounamu attendees including hapū/iwi kaitiaki. The wānanga notes are collated into a spreadsheet with additional commentary from Papa Pounamu including providing recommendations. The spreadsheet is included in this submission.

4. We appreciate the series of online wānanga MfE facilitated with Papa Pounamu during January and February 2022. The topic-specific wānanga being:

   - Wānanga 1: Regional Spatial Strategy + Natural Built Act Plan Development + Joint Committees (26th January);
   - Wānanga 2: Consenting + Enhanced Mana Whakahono ā Rohe (01 February); and
   - Wānanga 3: Role of the National Entity + National Planning Framework (16 February).

5. Our feedback begins with our overarching position and comments provided upfront in the introduction. In this, we provide a cautionary note regarding the (re)colonising processes that can happen through policy-making and a sense of hope that these reforms will overcome that status quo. We also offer our assistance to help with drafting Tiriti-based policy that empowers and enables iwi, hapū, Māori.

6. The remaining sections of the feedback are grouped into the following key areas:

   (i). Natural and Built Environments Act (draft exposure)
   (ii). Strategic planning
   (iii). Engagement and Representation
   (iv). Consenting, Compliance, and Monitoring
   (v). Funding
   (vi). Other Comments for Consideration
   (vii). Appendices - Iwi submissions

7. The list of MfE resource management reform questions for discussion in Appendix 1 of the Materials for Discussion document are covered by the four key areas: Strategic Planning, Engagement and Representation, Consenting, Compliance and Monitoring and Funding.

8. We understand our feedback "will help shape the Natural and Built Environment Act and Spatial Planning Act, for which Bills will be introduced into Parliament later in 2022" (MfE 2021).

9. Thank you for providing this opportunity to provide written feedback, noting the due date 28 February 2022, to MfE at RM.reform@mfe.govt.nz.

10. A delay with the MfE online wānanga 3 notes, raised concern that Papa Pounamu feedback from wananga 3 could not be incorporated in time for the feedback due date. A request was made and granted from the MfE Māori policy team for an extension of time for our Papa Pounamu feedback. Papa Pounamu was granted an extension date to submit feedback by 4 March 2022.

Introduction

> *Nā te mea i riro nā te Tiriti o Waitangi i motuhake ai te noho a te iwi me te Karauna: ā, nā te mea e tika ana kia whakaūtia anō te wairua o te wā i riro atu ai te kāwanatanga kia riro mai ai te mau tonu o te rangatiratanga e takoto nei i roto i te Tiriti o Waitangi: ā, nā te mea e tika ana kia mārama ko te whenua he taonga tuku iho e tino whakaaro nuitia ana e te iwi Māori, ā, nā tērā he whakahau kia mau tonu taua whenua ki te iwi nōna, ki ō rātou whānau, hapū hoki, a, a ki te whakangungu i ngā wāhi tapu hei whakamāmā i te nohotanga, i te whakahaeretanga, i te whakamahitanga o taua whenua hei painga mō te hunga nōna, mō ō rātou whānau, hapū hoki: ā, nā te mea e tika ana kia tū tonu he Te Kooti, ā, kia whakatakototia he tikanga hei āwhina i te iwi Māori kia taea ai ēnei kaupapa te whakatinana.*
>
> *Whereas the Treaty of Waitangi established the special relationship between the Māori people and the Crown: And whereas it is desirable that the spirit of the exchange of kawanatanga for the protection of rangatiratanga embodied in the Treaty of Waitangi be reaffirmed: And whereas it is desirable to recognise that land is a taonga tuku iho of special significance to Māori people and, for that reason, to promote the retention of that land in the hands of its owners, their whānau, and their hapū, and to protect wahi tapu: and to facilitate the occupation, development, and utilisation of that land for the benefit of its owners, their whānau, and their hapū: And whereas it is desirable to maintain a court and to establish mechanisms to assist the Māori people to achieve the implementation of these principles*
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> *Te Ture Whenua Māori Act 1993 Preamble*

11. While it has not always been easy, whānau, hapū, iwi, and marae participation in the resource management system has been largely in part, reactive to a system that has subdued us and our aspirations for our wai, whānau and whenua and put us to the side as stakeholders. Those of us who whakapapa to people and places through lineage, firmly roots us here in Aotearoa and nowhere else in this world. We welcome the opportunity this reform brings to ensure that our participation is as Tiriti o Waitangi partner's going forward.

12. "Māori resource management and planning are not new endeavours. Māori have practised resource management and planning according to their own customs, methods and lores since they first settled these shores[…] through sheer determination and innovation Māori have succeeded in maintaining continuity of linkage and guardianship over their natural environment" (Hirini Matunga in Kawharu (2002)).

13. Tangata whenua, people of the land; te oranga o te taiao, the wellness of the environment; kaitiakitanga, stewardship and guardianship. These are all Māori concepts. They have a whakapapa to people and places. They are then embodied practices. Hirini Moko Mead (2003) states that "Tikanga Māori might be described as Māori philosophy in practice and as such cannot be understood without making use and sense of te reo me ona tikanga. Mead (2003) continues on to say that "[a]ll tikanga Māori are firmly embedded in matauranga Māori, which might be seen as Māori philosophy as well as Māori knowledge.

14. Tuakana Nepe (1991) echoes similarly, "[t]he conceptualisation process is that which activates the Māori mind to receive, internalise, differentiate, and formulate, ideas and knowledge that is exclusively through 'te reo Māori'. Again, the reinforcement of concepts and words that are the exclusive domain of those who have whakapapa Māori, and with that whakapapa rights, responsibilities and obligations - therefore practice with people, place and time.

15. Whānau, hapū and iwi demand that previously the resource management system has fallen short on multiple fronts. This cannot continue to happen.

16. We support Dr. Anne-Marie Jackson's (2017) proposition that an appropriate management system in Aotearoa should deliver equitable outcomes for kaitiaki with degrees of authority dependent on context. Jackson proposes three contexts wherein authority ranges from 'control', to 'partnership models', to 'effective influence and appropriate priority'.

17. If the Minister and his Ministry are serious about how to increase Māori participation in the system and give effect to Te Tiriti o Waitangi, then they need to listen better. Hear us and create policy changes that are about how we fulfil our roles and responsibilities to our whakapapa, to support te oranga o te taiao, and so our kaitiaki can thrive.

18. **If you do not whakapapa to our place or our people and you do not have practice with our people. YOU ARE NOT the person to talk for our place or our people.**

A cautionary note on the subtle processes of (re)colonisation

19. Moana Jackson (1992) describes how the process of colonisation is "born of a cultural and racist arrogance which persists today – now more often covert rather than overt, more often cloaked in the newspeak of bicultural rhetoric or legal pluralism rather than the open bluster of colonialism". Furthermore, "in colonisation's current neoliberal form, the stories [of Māori philosophies] are being co-opted and redefined once again. These co-opted versions are used to further Crown interests — often as a clip-on perspective to its narratives of cultural respect and responsiveness. Too often these stories are removed from their historical and political beginnings and become a cultural garnish or a concert performance, rather than an expression of the independent power and integrity within which they are meant to exist…At one level, the practical steps involved in this envisioned ethic are necessarily political and constitutional because decolonisation cannot occur within the systems and institutions which colonisation has established. The restoration of place in a non-colonising future can only be assured with the recognition and effective exercise of iwi and hapū self-determination — not as a structural subset of colonising government structures, but as the basis of constitutionally independent polities" (Moana Jackson, 2021).

20. We acknowledge the increasing trend whereby concepts and values from te ao Māori (the Māori world or worldview) are being adopted and adapted into resource management policy and legislation. Te Mana o te Wai (TMOTW) is the epitome of this trend, and other recent additions have been noted above. We briefly discuss TMOTW to convey the subtle processes of re-colonisation and dangers of co-opting Māori terms and concepts - in the hope that the same mistakes will not be repeated. Rather, Papa Pounamu is hopeful that the current reforms will live up to the government's statement that they will provide stronger protection for the environment and stronger recognition of Te Tiriti and te ao Māori and take advantage of what the Minister has called "a once–in-a-generation opportunity to get this [system] right". Noting that it is more than that - the reforms are a once-in-two-centuries opportunity to get this right for Māori.

21. We acknowledge that TMOTW is a concept and framework which is derived out of te ao Māori, recognising the mana of the water itself and encouraging councils to engage tangata whenua and communities in freshwater planning and management. The recognition of our reo and the significance of te ao Māori, particularly in relation to the environment and reform of the resource management system within Aotearoa, is appreciated. However, the policy language is weak and ambiguous, devaluing Māori rights and interests to mere aspirations whilst making no promises that those aspirations will be provided for. Beneath the bicultural rhetoric there are no meaningful provisions (or penalties) that would recognise and provide for iwi/hapū sovereignty or guarantee equitable co-governance or co-management.

22. The only provisions for Māori in the National Policy Statement for Freshwater Management (NPSFM) are ambiguous requirements on councils that direct the "engagement" and "active involvement" of communities and tangata whenua (e.g. Sub-Part 1:3.2); that their "wishes" and aspirations are "expressed"; and that "every regional council must work with tangata whenua to investigate the use of mechanisms available under the Act, to involve tangata whenua in freshwater management". Responsibilities are supposed to be shared between local government and communities, including mana whenua. Regional councils are expected to establish independent hearing panels to inform freshwater planning. Panels should include one member (of five) with an understanding of tikanga Māori and mātauranga Māori, nominated by tangata whenua. Although this provides representation for Māori, it remains limited to a minority position, which perpetuates the compromise of Māori rights and interests, rather than fair and equitable outcomes and the ability for a plurality of independent governance and management by iwi/hapū/whānau to govern and manage their tupuna awa and other freshwater taonga as per Te Tiriti.

23. The extent to which tangata whenua become involved (or not) is determined by the goodwill, relationships, and political agendas of councils and their constituencies. This is a subtle process of re-colonisation that reinforces power inequities between local government authorities and mana whenua. Where there are strong existing relationships between the parties, the NPSFM may provide greater impetus for Māori engagement and leadership, and thus increasingly meaningful outcomes for those mana whenua (and their taonga). Whereas, in areas where those relationships are weaker, the policy is unlikely to provide positive outcomes. It may even exacerbate tensions between some councils and mana whenua. Like the language that reduces Māori freshwater rights and interests to mere aspirations, the governance positioning of Māori relegates them to the status of stakeholders (rather than Indigenous peoples and Treaty rights-holders).

24. As a concept based on te ao Māori, TMOTW does not guarantee the enabling of associated tikanga, mātauranga and rangatiratanga components necessary for its operationalisation. In emphasising the mana of the water, the policy stays silent about the mana of the people obligated to care for that water and the intrinsic relationship between the two. Mana is tightly interwoven with other conceptual regulators including mauri, wairua, and tapu, which have been passed down from the atua, to the tangata, to care for the whenua and the wai. A policy that dissociates mana (or any other conceptual regulator) from its wider cultural context does not support kaitiakitanga and the realising, restoring and upholding of te mana o te wai (or te oranga o te taiao) and the communities that depend on those resources. Regional councils themselves do not hold the mana to recognise, articulate, restore, and ensure TMOTW. Māori concepts and approaches require Māori people, values, tikanga and knowledge in order to be responsAbly[1] articulated, implemented, monitored, and evaluated.

25. The inclusion of a Māori concept (mana), without provision for Māori to appropriately interpret and enable that concept, is in fact appropriation and assimilation. It retells our stories (with no respect to their origin, their whakapapa, or iwi/hapū sovereignty rights to those stories and their future story-telling). It sets a dangerous precedent by (firstly) assuming the right of the government to (secondly) give the wider community licence to define 'te mana o te wai' and how it should be operationalised. Similarly, to TMOTW, the rights of Māori to exercise kaitiakitanga were recognised in the Resource Management Act 1991 (RMA), but the RMA did not create the necessary institutions and conditions for operationalising kaitiakitanga - causing numerous iwi and hapū grievances and litigation. We note that the Minister for the Environment (MfE, 2021) recognised that the RMA "has not... consistently given effect to the principles of Te Tiriti o Waitangi". And we ask how the Minister expects this to be addressed by the proposed reforms?

[1] Martin, B., Te Aho, L., & Humphries-Kil, M. (Eds.). (2018). ResponsAbility: Law and Governance for Living Well with the Earth (2nd ed.). Routledge. https://doi.org/10.4324/9780429467622.

26. We caution the Ministry and wider government of the subtle re-colonisation that continues within today's policy. The Waitangi Tribunal warned in 2016 that then-proposed freshwater provisions would not be Treaty compliant (Simpson Grierson, 2019, p. 3). The currently proposed reforms are similar with respect to Te Tiriti, and unfortunately, appear to reinforce western hegemony and cultural inequity between Māori and Pākehā. We note that the increasing use of te ao Māori concepts may create greater space for Māori to 'be Māori' but recommend that further work is required to ensure that all iwi, hapū are able to determine the restoration and future of ngā taonga katoa - their lands, resources and communities.

Our offering

27. Papa Pounamu notes the Ministry's ideas for implementing and transitioning to the future system. Papa Pounamu is happy to facilitate through their membership and assist MfE on how to work this best in each of the regions (14-16 JMCs) and especially to resource and support mahi that is already happening to ensure it continues. We discuss this further in the final section of this submission.

Submission Feedback: categorised by Key Areas of Interest

1. Natural and Built Environments Act

Purpose

28. Papa Pounamu supports inclusion in the purpose of a Te Ao Māori centred concept in the management in Aotearoa New Zealand's natural and built environments. Te Oranga o Te Taiao, or any other Te Ao Māori centred concept, is supported and is retained in the purpose.

29. Papa Pounamu recommend that further work is undertaken to ensure that Te Oranga o te Taiao will be upheld across the entire system, whilst recognising the importance of providing for localised interpretations of Te Oranga o te Taiao, and/or any other Te Ao Māori centred concept.

30. There are a number of ways Te Oranga o Te Taiao could be upheld. However, there must be ongoing national and regional engagement on terms "kaitiakitanga" and "mātauranga" to ensure these are founded in and expressed through tikanga Māori and assist with furthering the purpose of the Bill to uphold Te Oranga o te Taiao, and its implementation throughout the Bill and subordinate instruments.

31. In addition to recognising the intrinsic relationship of 'iwi and hapū' within Te Oranga o te Taiao interpretation, Papa Pounamu also proposes the introduction of whenua Māori trusts and incorporations and customary marine title holders

    - *Te Oranga o te Taiao incorporates the intrinsic relationship of iwi, hapū, whenua Māori trusts and incorporations and customary marine title holders and te Taiao.*

32. The beneficiaries of both whenua Māori trust, and incorporations and customary marine title holders can demonstrate their ancestral and intrinsic relationship to their lands and moana and therefore are part of te Taiao. It is important that this intrinsic relationship is equally recognised in the new Act.

33. It will also be important that the implementation of Te Oranga o te Taiao upholds its integrity and purpose, which is not only the well-being of the natural environment, its interconnectedness and life sustaining capacity but also the intrinsic relationship between iwi, hapū, whenua Māori trusts and incorporations and customary marine title holders and te Taiao. For Te Oranga o te Taiao to be upheld, co-develop implementation processes, frameworks and plans must be directed to, and pursued by, the Crown and Local Authorities.

Te Tiriti o Waitangi

34. In the first instance, Papa Pounamu supports "giving effect to" Te Tiriti o Waitangi.

35. The ancestral relationship of beneficiaries of whenua Māori trusts and incorporations and customary marine title holders have possessions that are based on customary rights. These entities should be recognised in the new Act and 'given effect to' via preferential treatment for use, development and protection and listed within the environmental outcomes clause.

Environmental limits

36. Papa Pounamu promotes to the Ministry that the new Act is clear on the role of mātauranga and tikanga to inform, and to be considered in equal parts with, the science in the setting of limits.

Environmental outcomes

37. Papa Pounamu wishes to reinforce that the environmental outcomes for the new Act need to be interpreted through the lens of Te Oranga o te Taiao (to require where outcomes may conflict, an approach or interpretation that enables Te Oranga o te Taiao is upheld).

38. Also, consistent with submission points above, the provision for preferential treatment for use, development and protection of possessions held under whenua Māori trusts and incorporations and customary marine title holders are considered and listed as environmental outcomes of the new Act.

2. Planning and Strategy

- National Planning Framework
- Regional spatial strategies
- NBA plans

39. Reading the engagement material, Te Tiriti is being used as a mechanism for partnership, from a Māori planning practitioner's experience, it should be at the forefront of this document. Which should sit along with other modes of legislation which will interact with the RMA reform. These should include but not limited to;
    - He Whakaputanga o Niu Tīreni 1835: and
    - Te Tiriti o Waitangi 1840.
    - Suppression of Rebellion Act 1863
    - New Zealand Settlements Act 1863
    - Tohunga Suppression Act 1907
    - Public Works Act 1981
    - RMA 1990
    - Wai262 1991
    - United Nations Declaration of the Rights of Indigenous Peoples;
    - Marine and Coastal Area (Takutai Moana) Act 2011
    - Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released 2011
    - Kāinga Ora - Homes and Communities Act 2019
    - Urban Development Act 2020
    - Covid19 Fast Track Act 2020
    - The National Policy Statement for Freshwater Management 2020
    - Taumata Arowai–the Water Services Regulator Act 2020

40. It is unclear how the RMA reforms interact with these other pieces of legislation.

Māori Rights and Responsibilities in Freshwater[2]

41. Papa Pounamu agree that the starting place for determining Māori Rights and Responsibilities is tikanga and Te Tiriti o Waitangi.

42. There is concern that there is no progress made by the Government in advancing Māori Rights and Responsibilities, including hapū and iwi rights in relation to freshwater (and other taonga).

43. The reforms cannot be completed accurately without identifying the full extent of Māori rights and responsibilities in freshwater and protecting and accommodating those rights and responsibilities in the new resource management system. Papa Pounamu are strongly of the view that the Natural and Built Environment Act (NBA) needs to include a preservation clause that says it is not intended to, and it does not, adversely affect Māori rights in freshwater and geothermal bodies:

44. One option is a clause preserving all pre-existing Māori rights: i.e. "This Act shall not compromise, disadvantage or otherwise inhibit or limit any customary rights, any aboriginal title rights or any rights arising under Te Tiriti o Waitangi in respect of freshwater or geothermal bodies."

45. Such a clause needs to be supported by a mechanism to actively protect Māori rights in freshwater and geothermal bodies prior to their full identification. Options include: a moratorium on allocation of further freshwater rights; or "tagging" all existing permits making permit holders aware of the potential the permit might be resumed, if needed to satisfy Māori rights in freshwater; limiting the term of renewals; and dealing with the "first in first served principle" and automatic renewals in the current system.

46. Hapū and Iwi should not be reduced to "co-design and co-development". We are Tiriti partners and as such should be given that respect in regard to the design of the policy and legislation.

47. This is reiterated in the submission from Mariana Waitai who advises:

> *If hapū/iwi are not the acknowledged or stated monitors within the proposed Framework, then monitoring the effectiveness of the support or services provided within that framework, then again, the recognition and respect of hapū/iwi and their Mana Motuhake status is removed to be a tangata whenua position reduce to a Māori rep.*

48. The Ngaruahine Trust submission also advises:

> *Iwi are not interested in co-management. There is no benefit for uri in implementing policies and rules which others have created without our input. Co-governance is the objective as once Iwi/Hapū core values and bottom lines are in place there will be little need to be involved in resource management. Our role then becomes participants as Iwi/Hapū in partnership with our local communities. A Wai Māori forum set up by our regional council has been ineffective as Hapū participants have differing levels of knowledge and understanding. This works well for Council as they can dismiss any consultation requirements in order to be efficient.*

Iwi Management Plans

49. Bad experiences with iwi management plans (IMPs). The non-statutory status of IMPs is a barrier to Territorial and Local Authorities implementing Iwi and Hapū bottom lines for te Taiao. This experience is also conveyed in the submission from Te Korowai o Ngaruahine Trust who advise[3]:

[2] Te Tai Kaha Māori Collective

[3] Te Korowai o Ngaruahine Trust submission attached in the Appendices

'We developed and published our environmental plan last year. Requests to MfE for technical assistance were met with a dumbfounded look despite the fact that there was a provision in our Deed of Settlement and relationship agreement. The non-statutory status of Iwi Management Plans is a barrier to implementing Iwi and Hapū bottom lines for the Taiao. They need to have greater weighting in national direction and regional policy statements.

50. The submission from Tahorakuri A1 Section 30 Trust also expresses their concerns as well:

> *With regards to Iwi Management Plans (IMPs) our rūnanga developed an IMP but it did not involve us and is not specifically relevant for our whenua or aspirations. IMPs should not be a government default for planning or management with/for/by Maori landowners. As far as we can tell, they have little influence over government agencies, plans, or outcomes for our region, rohe, or our specific whenua. Unfortunately, due to the colonised system and how IMPs are currently valued (or lack of) in the system, we do not see these as powerful tools that can ensure the outcomes we want.*

51. The concept of IMPs needs to also be reassessed and re-designed to encompass the interests and responsibilities of hapū/whānau/iwi. They should depict the broader range of Māori rights and responsibilities in natural resources, including freshwater and geothermal resources.

52. Like other hapū/iwi/Māori feedback included in the Discussion Document (p.46), Papa Pounamu:

- gives general support for inclusion of Te Oranga o te Taiao in the NBA Bill's purpose, but a desire for stronger language to require it to be upheld and reflect the relationship between hapū/iwi/Māori and te taiao. It is critical that mana whenua articulate what this concept means within their context (for their people/place) and in accordance with their reo and tikanga.
- is concerned about how the Tiriti clause will be interpreted and performance will be monitored. We agree with other feedback that the Tiriti clause should be strengthened to honour the Treaty partnership and give effect to the articles of Te Tiriti rather than the principles.
- tautoko Te Oranga o Te Taiao is for Tangata Whenua/Mana whenua to define not the Crown/Ministry.
- advise the reforms should reference other legislation like Wai262 claim concerning obligations of iwi and hapū to act as kaitiaki (cultural guardians) towards taonga (treasured things) such as traditional knowledge, artistic and cultural works, important places, and flora and fauna that are significant to iwi or hapū identity. Subsequent recommendations captured in the Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released 2011.

Outcomes and environmental limits (p.46)

- Concern with lack of hierarchy of outcomes and potential for inappropriate trade-offs
- Environmental limits must be set at regional level with iwi and hapū and using mātauranga Māori; national limits not flexible enough to deal with local application
- A clear link is needed between limits and Te Oranga o te Taiao, in line with kaupapa Māori
- Biophysical limits alone are not consistent with tikanga Māori because they do not factor in holistic wellbeing of complex, interconnected systems

3. Engagement and Representation

- RSS and NBA joint committees
- Role of local government in the future system
- National Māori entity
- Joint committee composition

Regional Spatial Strategy and Natural and Built Environments Act Plans and Joint Committees

53. The current system for hapū/iwi/Māori involvement in resource management planning has been inadequate. Hapū/iwi/Māori should determine their involvement in resource management planning and processes to support and enable their priorities for regional spatial planning and regional natural and built environmental plans.

54. The submission from Tahorakuri A1 Section 30 Trust reiterates this and advises:

> *We support strategic planning that is holistic, integrated and considers both land and water together. We also support a system that is Te Tiriti o Waitangi based and acknowledges te ao Māori, and which supports, empowers, and enables kaitiakitanga. Our understanding of kaitiakitanga is that it requires rangatiratanga (decision making power and authority), mātauranga Māori (in our case mātauranga-a-hapū and whānau), and tikanga (also hapū and whānau based).*
>
> *We need a system that provides for and enables those things, fully. Rather than the current, and proposed system which picks and chooses te ao Māori principles and concepts but separates them from their whakapapa and their wider cultural context, which is needed to be authentic and operationalised. Otherwise, we see this as further colonisation of our worldview, values, and principles – and plain co-option. Using our concepts in such a way, also gives the government a licence to enable non-Māori to assimilate our concepts, reo etc. by letting them 'define' and measure them. This is unacceptable.*

Joint Committees

55. The appointment of hapū/iwi/Māori representatives to RSS and NBA joint committees, should be based on 50/50 Māori membership. Appointment should be made through self-determined Māori processes (Mana Motuhake) and be time bound. This is reiterated in the attached spreadsheet from Papa Pounamu attendees, as well as the submission from Rongowhakaata Trust and Ngāruahine Trust.

56. There should also be requirements for hapū/iwi/Māori representatives to regularly report and consult with those who hold relevant rights, interests, and responsibilities; as well as mechanisms to allow for hapū/iwi/Māori representatives to be held to account and replaced in defined circumstances. Arrangements should also be specified that include appropriate mediation and resolution processes / determinator mechanisms, which should also be time bound.

57. The proposed National Entity set out the Engagement Document: Our future resource management system: Te pūnaha whakahaere rauemi o anamata, does not give effect to the principle of partnership, envisaged by Te Tiriti o Waitangi.

Mana Whakahono ā Rohe

58. Processes should be reassessed and re-designed to ensure they provide for and recognise the primary "rights holders" of hapū, ahi kā, Māori landowners, individuals whānau and hapū confederations, in accordance with tikanga and Te Tiriti o Waitangi.

59. Ahi ka/Māori landowners are not captured by the current RMA provisions, yet in accordance with tikanga and Te Tiriti o Waitangi they are "rights holders" in natural resources, including freshwater.

60. Enhance Mana Whakahono ā Rohe arrangements, integrated with transfers of powers and joint management agreements. Where hapū/iwi seek the application of transfer of powers and joint management agreements, then any devolving of Local Government (LG) roles and responsibilities to hapū/iwi, should require and include the allocated LG funding for the delivery of those roles and responsibilities.

61. Additionally, the Rongowhakaata submission suggests two avenues to provide for hapū/iwi values, and relationships and interests, rights and responsibilities. These avenues are:

    (i). That the requirement for a local authority to undertake a full public notification process by way of the special consultative procedure set out in section 83 of the Local Government Act 2002 is waived in the proposed new legislation. This is in the context of the partnership relationship between iwi authorities and local authorities and the crown.

    (ii). That resourcing for the development of Mana Whakahono ā Rohe is provided by the relevant local authority (in the case of Te Tairāwhiti, this would be Gisborne District Council as a unitary authority). Such resourcing would include fees paid for iwi and hapū participants and any supporting legal or other expert advice. Alternatively, if a National Entity was satisfactorily established and funding made available, this could potentially be a conduit for such resourcing.

s33 Transfer of Powers

62. LG is required to implement their responsibilities for compliance, monitoring and enforcement. Councils will appropriately fund this obligation through the recruitment of staff to implement responsibilities or shared internal resources to meet statutory requirements and/or associated training for legalities associated with enforcement.

63. Where LG may apply a s33 Transfer of powers through negotiations with tangata whenua (if taken up), then this should include the required resourcing and training together with the associated funding LG allocates to this obligation to ensure statutory compliance for their responsibilities. Any devolving of powers must include associated budgets and utilisation of shared resources such as internal systems, and staff training.

s36B Power to make joint management agreements

64. RMA s36B specifies a local authority that wants to make a JMA must: notify the Minister, satisfy requirements and is an efficient method of performing and exercising the function, power, or duty; and include details of resources required to administer the agreement; and how administrative costs of the JMA will be met.

65. Current wording in S36B is silent on resourcing hapū/iwi to participate in processes (Hearings, Monitoring, etc.). Where consents or activities have imposed on Māori rights and responsibilities, or hapū/iwi participate in formal processes and procedures including preparing expert evidence, being an expert witness, etc., hapū/iwi/Māori more often than not undertake their kaitiakitanga without remuneration for their expertise as mātauranga Māori experts, including a lack of genuine respect for hapū/iwi tikanga and values (CVA / CIA). More often than not, hapū/iwi participate in these council and formal processes because of their kaitiaki obligations, as reiterated in the submission from Mariana Waitai where the 'effectiveness' of discussions with the applicant occurred post lodgement of consent and included a Terms of Reference and remuneration schedule.

66. Any future JMA or any form of agreements to be proposed in the new resource system must be explicit with regard to budgets for hapū/iwi engagement, also chargeable remuneration of hapū/iwi services i.e., CVA, CIA, or as mātauranga Māori experts, and allocated funding for participation and/or mātauranga Māori expertise in formal council processes and procedures i.e., mātauranga Māori expert witness, expert evidence, etc.

4. Consenting, Compliance, and Monitoring

- Consenting
- Compliance, monitoring and enforcement
- Monitoring and system oversight

Consenting

67. Papa Pounamu acknowledge that the consent process is complex, costly and slow, however we are of the view that this is because the practice is constrained through compartmentalisation of natural resources (e.g freshwater/coastal marine/air) and the isolation created between consenting planners and/or teams.

68. Te Oranga o te Taiao is a Te Ao Māori approach to resource management. It is a holistic, whole of system perspective that needs to be complemented by the consenting regime and the practice of consent planners.

69. The future of consenting in the new Act must demand of 'persons' that exercise power, functions and duties for consenting under the Act to consider the natural environment in its entirety (and as defined in the new Act) rather than in its individual parts.

Permissive Consent Regime

70. Papa Pounamu note that one of the RMA reform objectives is to reduce the need for consenting, while ensuring environmental safeguards are still in place.

71. Papa Pounamu are concerned that this intended move towards a more permissive consenting regime (whilst being ambitious that safeguards are in place), will not achieve the purpose of the new Act, and the environmental outcomes that it seeks.

72. Trade-offs exist in consenting, and these trade-offs in most cases do not fare well for Māori, especially when the overall broad judgment approach perverse the planning practice. Some examples are provided below.

> ***Example: Covid-19 Fast Track: Matawii Water Storage Reservoir, Ngawha, Northland***
> *An example of failure is the Covid19 EPA Fast-track consent for The Matawii Water Storage Reservoir in Ngawha, Northland. Main findings from granted consent included but not limited to;*
>
> *"Māori issues: (i) Necessity for conditions of consent to provide for consistency with the provisions of the Treaty of Waitangi. (ii) Necessity for conditions of consent to provide for recognition and support for the relationship of Māori with their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga; (iii) Necessity for conditions concerning water quality, ecology, hydrology and archaeology to recognise and support the foregoing; (iv) Necessity for a kaitiaki liaison group."*
>
> *Covid19 EPA Fast-track consent system has meant little engagement and opportunity for tangata whenua. The Crown, applicant, consultants, council (local and regional), are not engaging with mandated iwi, hapū entities and trusts, mana whenua were not even classed as interested parties prior to lodgement of the consent. Consultants did not engage directly with mana whenua mandated hapū representatives prior to lodgement.*
>
> *Experience for Ngāti Rangi hapū ki Ngawha is the Covid19 EPA Fast-track process, is unreasonable and lacked to consult directly with tangata whenua, the applicant ignored hapū rights and interests and continued to not acknowledge Ngati Rangi as mana whenua. This lack of adequate*

consultation and partnership with tangata whenua is still on-going. The project is now in the construction and monitoring phase, mana whenua are still not being supported by councils (district and regional). Both councils are still weighing up responsibilities for the agreed consent conditions. Hard to understand the practicalities of how this process protects mana whenua on the ground and how the RMA reforms and MFE would support mana whenua interests. The developer and councils don't have adequate funding to provide mana whenua with the resourcing needed to lead monitoring requirements. It would be great if MFE could support through a separate fund or for the reforms to include the requirement for applicants to provide funding for Treaty-compliance through all stages of the project. Not just in the consenting, monitoring phase but throughout the build and long after the project has been completed. This could look like restoration and enhancement planting, maintenance, on-going monitoring by kaitiaki for the built project in compliance with their consented conditions which may have a life-time of 25yrs+. These may be defined by mana whenua through mechanisms like Te Oranga o Te Taiao, NPA plans, CIAs, CVAs, IMPs, CMPs, on-going kaitiaki investigations and monitoring, etc. Treaty- compliance and strict repercussions for breaching of consent should be upheld by councils. Once natural resources, wahi tapu, mahinga kai, awa, have been depleted and removed, how are we to accept the loss of whakapapa to our Taiao as mana whenua. Reference Wai 262 Claim (1991) our whakapapa to flora and fauna. Subsequent recommendations captured in the Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released 2011.

In session two it was noted by MFE that it proposed to alleviate costs for developers and applicants through "removing unreasonable costs" defined by councils (district and regional) or through the rapid Covid19 EPA Fast-track process. There needs to be a counter objective to protect the rangatiratanga and mana motuhake of tangata whenua as noted in Art. 2 of the Tiriti o Waitangi; this maybe but not limited to; the protection and delivery of mana whenua lead initiatives and projects like IMPs, HMPs CIA's, mana whenua, kaitiaki monitoring, protection of hapū and whānau owned land blocks, restoration of ngahere, moana, etc.

Example Resource Consent Variation: Upokongaro Pedestrian Footbridge across Te Awa Tupua

Wanganui District Council had to apply to Horizons Regional Council for a variation consent to raise the granted pedestrian footbridge 800mm to keep it safe from floods (the pedestrian footbridge was built on land and awaiting installation across Te Awa Tupua). This required consultation under the RMA as well as Te Awa Tupua (Whanganui River Claims Settlement) Act 2017. Council failed to take into account the Te Awa Tupua Act or adhere to advice from Nga Tangata Tiaki o Whanganui (PSGE) to consult with tangata whenua, the local hapū Nga Paerangi. Eventually engagement took place with 'hapū', the affected parties (RMA term), who had various concerns, including care of Upokongaro stream, whitebait in the area, traffic management, landscaping and effects on a nearby urupā. The Council Mayor publicly accepted responsibility for the error to engage with hapū, and the delays in the construction of the footbridge, and appreciated the community were upset.

***Lessons learnt**:*

- *Poor understanding from local authorities on what Te Awa Tupua legislation actually means.*
- *Standard council practices were applied to a s127 variation to a resource consent, in particular a tick box consultation approach.*
- *No clear communication plan from Council to inform the local community, business community and the Whanganui cycling community with the reasons for the delay to install the footbridge.*
- *Assumptions made by the community that iwi were the hold up for installing the footbridge.*

- *Time and costs to Council mounted up, with the Civil Construction contractors redirected to undertake other works, pending resource consent approval.*
- *Post engagement with hapū, the lesson learnt from Council is 'this sets a template for how Council should be doing this in the future'.*
- *Treaty settlements are happening across Aotearoa. However, local authorities are not clear of their role with these new arrangements.*
- *Transition to a new system, should include adequate pilot testing as part of the reform process across the rohe and environments i.e., whenua, awa, moana, tawhirimatea. See section 6A Transition pathway, Model Projects of this submission with further comment on this matter. Papa Pounamu have the appropriate networks to connect directly with mana whenua groups on the ground doing the work and can provide MFE with appropriate contacts.*

Example hapū/Iwi partnership project: Te Pūwaha - Whanganui Port Revitalisation

Te Awa Tupua is an indivisible and living whole, comprising the Whanganui River from the mountain to the sea. Te Pā Auroa na Te Awa Tupua provides a new framework for the Whanganui River centred on Te Awa Tupua, as well as provides for the legal recognition of Te Awa Tupua and legal recognition and effect of Tupua te Kawa.

The project Te Pūwaha, in Whanganui is an example of Whanganui iwi in all levels of the project asserting Tupua te Kawa, the natural law and value system of Te Awa Tupua.

Te Pūwaha is a partnership involving Whanganui Iwi and five other groups invested into the project: Whanganui District Council, Horizon Regional Council, Q-West Boat Builders, Whanganui District Employment Training Trust and Central government. The total investment in Te Pūwaha is over $50 million, with infrastructure works carried out over three tranches or phases.

Te Pūwaha made a commitment to ensure that the project is inclusive, and the wider community is involved in the plans for the port, in line with the legal status of the Whanganui River as Te Awa Tupua. "The status of the river as Te Awa Tupua implores us to work more collaboratively and to keep the wellbeing of the people and the river at the heart of the project".

*'*Tupua te Kawa*' guides all decision making in respect of the Whanganui River. Tupua te Kawa is the natural law and value system of Te Awa Tupua. The values embedded in Tupua te Kawa can broadly be described as:*

- *The metaphysical and indivisible nature of the Whanganui River*
- *The intrinsic and inalienable place of hapū and iwi as the River*
- *Community empowerment via collective obligation to work collaboratively for the benefit of Te Awa Tupua*

Tupua te Kawa provided the foundation to bring about the alignment of the parties and to better coordinate how the Te Pūwaha project provides for iwi, youth, and local community groups. These values are essential to the success of the project. The revitalisation will enable better utilisation of the traditional Whanganui port area and new Marine Precinct for boat servicing. It will improve the aesthetic appearance of the area, making it attractive to current and new users, creating jobs and training opportunities for local people.

Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 is a powerful legislation that is not about working in silos, but instead Te Pā Auroa nā Te Awa Tupua has the utmost and absolute potential than any reform to transform the way we operate and live for and within our environments, whether it is environment, cultural, or political.

Permitted Activities

73. Permitted activities are generally not well monitored, nor enforced, by local authorities. It only becomes an issue for inspection if the neighbouring property owner and concerned citizen lodges a complaint/matter with Council.

74. The reliance on monitoring and enforcement of permitted activities (includes existing use rights) to support the new Act's approach to reduce consenting needs to be re-considered. Wider tools/powers need to be available, and that favour, Council if more permitted activities are being sought for the new consenting regime.

75. It is unknown at this stage by Papa Pounamu on whether third party certification will bring certainty. It will depend on the activity that is permitted, and the expertise of the person(s) that certifies.

76. Papa Pounamu proposes that it is written in the new Act that cultural/Te Ao Māori conditions within Permitted Activities can only be certified by iwi/hapū or their nominee.

Notification

77. With the notification process, Papa Pounamu propose that the new Act extends beyond the current two affected groups identified in section 95B(2) of the RMA to include iwi/hapū that have lodged iwi/hapū management plans with local authorities, and any Treaty Settlement established entity (i.e Waikato River Authority).

78. This inclusion of parties in the notification process aligns with section 6 of the new Act to give effect to Te Tiriti o Waitangi.

Assessment Reporting

79. The new Act introduces a Te Ao Māori concept in its purpose. Papa Pounamu proposes that the assessment reports prepared by iwi/hapū is given primary weighting on Te Oranga o te Taiao, whilst also providing a perspective on section 5(1(b) of the new Act.

80. Cultural values/impact assessment reports (CVA/CIA) need to be re-named to better align with the new Act.

Consideration of Applications

81. Papa Pounamu propose the following to be included in the prescribed subsections for considerations of applications:

    - Consent authority must have regard to any relevant provisions of an iwi/hapū management plan and any Treaty settlement legislated policy document and/or management plan
    - Consent authority must not grant resource consent that is contrary to statutory acknowledgements and any other Treaty settlement legislated policy document and/or management plan (e.g., Te Ture Whaimana o Te Awa o Waikato/Vision and Strategy for the Waikato River).

82. Also, for clarity/consistency of the new Act, Papa Pounamu proposes a slight amendment to the wording the following prescribed subsection to recognise Te Oranga o te Taiao and avoid compartmentalising the environment:

    - Consent authority must have regard to any effects on the natural environment and built environment

Extending Mana Whakahono ā Rohe

83. Papa Pounamu supports any extension in legislation of partnership arrangements that provides for iwi/hapū participation in consenting, compliance, monitoring and enforcement.

84. Resourcing the participation of iwi/hapū via Mana Whakahono ā Rohe should be a mandatory requirement.

Whenua Māori and Customary Marine Title

85. Papa Pounamu proposes that Māori Trusts and organisations that administer and manage the holdings and interests of whenua Māori and Customary Marine Titles on behalf of beneficiaries, are identified in the new Act and are given permitted and/or controlled activity statuses in the use, development and/or protection of their holdings and interests where it aligns with environmental outcomes.

86. In summary, a permissive consenting regime does not benefit Māori as there is currently a lack of competence and capability in the planning practice to recognise and provide for Māori values, perspectives, rights and interests.

Compliance, Monitoring and Enforcement

87. Cost recovery with compliance monitoring of permitted activities is supported by Papa Pounamu if it is in a manner towards achieving the purpose and environmental outcomes of the new Act.

88. Papa Pounamu encourages that the new Act clearly states that where arrangements with iwi /hapū are in place, and where agreed compliance monitoring duties and functions are shared, or delegated to, iwi/hapū, that the cost to iwi/hapū are recoverable under the same provision.

89. In addition, Papa Pounamu are of the opinion that iwi/hapū participation in compliance and enforcement decision-making via iwi partnership arrangements, is viewed as independent and not subject to inappropriate influence or bias, even though iwi/hapū are partners with their local authority.

Monitoring and system oversight

Oversight

90. Papa Pounamu supports a monitoring system that engages with Māori at a national, regional and local levels on how to incorporate Te Ao Māori/tikanga Māori frameworks/perspectives (includes mātauranga Māori).

91. Additionally, Papa Pounamu promotes the importance of information equity, where monitoring information is fair and reasonably distributed to iwi/hapū.

5. Funding

(related hapū/iwi/Māori feedback p.46)

- *Funding in the current system for hapū/iwi/Māori participation has been inadequate, and areas that will need greater funding in the future include implementation, monitoring and enforcement*
- *Increased funding needed for the development of hapū and IMPs, and funding to implement them in partnership with planning committees and councils*

92. Funding participation should support Māori in all roles as Te Tiriti partners as well as users of the system. In the case of Māori as users of the system, they should be supported to remedy historical inequities, to actively protect Māori rights and to promote Te Tiriti o Waitangi right to development. Funding should be annual and ongoing, should be adequate to achieve the outcomes sought, and allow a level of autonomy over the budget and decisions about building capability and capacity. Some examples of funding are provided below.

Examples/Case studies

93. Below is a list of examples and case studies where funding models have recognised tangata whenua as experts and funding has been allocated. The examples summarised below outline an iwi governance model, iwi kaitiaki model, iwi project model, and hapū experts model.

Benefits of case study funding models

- give effect to Te Tiriti o Waitangi to provide greater recognition of te ao Māori, including mātauranga Māori.
- improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.
- in partnership can protect and where necessary restore the natural environment, including its capacity to provide for the wellbeing of present and future generations.
- better enable development within environmental limits, including housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure.

***Example Iwi Governance**: Auckland Council (AC) and the Independent Māori Statutory Board (IMSB)*

- *Auckland Council and the Independent Māori Statutory Board were established under legislation Local Government (Auckland Council) Act 2009 (the '**Act**').*
- *IMSB were established to assist AC to make decisions, perform functions, and exercise powers by[4]*
  - *Promoting cultural, economic, environmental, and socials issues of significance for: mana whenua groups; and mataawaka of Tāmaki Makaurau; and*
  - *Ensure that the Council acts in accordance with statutory provisions referring to the Treaty of Waitangi.*

***Funding:** Funding the IMSB Schedule 2 of the Act:[5]*

- *AC must meet the reasonable costs of IMSB, including Board Operations, Secretariat, establishing committees, and seeking and obtaining advice.*
- *IMSB and AC must make an annual funding agreement on the amount of money and level of servicing that AC provides to the IMSB, including an annual work plan.*

Comment

- *This is a funding model to support Māori at a mandated iwi governance level in Tāmaki Makaurau to advance the interests of Māori in Tāmaki Makaurau.*
- *Council is the funder for IMSB within parameters as outlined in Schedule 2, clause 20 Funding.*
- *IMSB is not a substitute for direct engagement and consultation with mana whenua and mataawaka in Tāmaki Makaurau.*
- *Advantage / disadvantages to this funding approach are:*
  - *Funding obligations are explicit on who funds IMSB, what is funded, and the inclusion of funding agreements with associated work plans at a region wide level.*
  - *Funding is subject to the Long Term Plan and Annual Plan review process.*
  - *Proactive and forecasting for Māori outcomes are visible and accountable for delivery.*

***EXAMPLE IWI GOVERNANCE & KAITIAKI**: Ngā Mana Whenua o Tāmaki Makaurau (MW) and Auckland Council (AC)*

- *Tāmaki Makaurau rohe comprises of 19 ngā mana whenua o Tāmaki Makaurau.*
- *AC has established forums across Council and Council-controlled organisations (CCO) to support mana whenua participation and engagement at the mana whenua governance level and at the kaitiaki level.*

[4] Local Government (Auckland Council) Act 2009, section 81 Establishment and purpose of board.

[5] Ibid, Schedule 2, Clause 20 Funding.

***Funding**: Mana whenua participation and engagement*

- *AC fund mana whenua participation in the established forums such as direction setting (MW governance) and for projects and programmes (MW kaitiaki).*
- *Funding arrangements vary across Council and CCO, and include instruments such as capacity agreements, funding agreements, or specific project /programme arrangements.*
- ***Comment***
- *The funding approaches vary at Council but includes funding at MW governance and MW Kaitiaki levels.*
- *Engagement Forums across multiple CCO and AC creates engagement fatigue for mana whenua, especially with significant development works occurring in Tāmaki Makaurau. Other Crown agencies such as Waka Kotahi, Kāinga Ora are also engaging with MW.*
- *Multiple forums can create a reactive approach to projects and works. This can reduce MW ability to influence direction setting due to continually repeating their kōrero across multiple Crown agencies.*
- *Advantage / disadvantages to this funding approach are:*
    - *MW governance and MW kaitiaki are remunerated for their participation and contribution at all forums.*
    - *MW are experts in their tikanga, cultural values, cultural landscapes and are not afforded the same level of expertise as an Arborist, a Landscape Architect, an Archaeologist, or an Engineer. Cultural Value assessments or Cultural Impact assessments are MW expert reports, and not a response to a request for feedback. Funding is required to appropriately recognise MW as experts in tikanga and mātauranga Māori in their rohe.*

***EXAMPLE OPERATIONAL PROJECT**: Auckland Council Māori Cultural Heritage Programme*

- *AC and MW defined and implemented the Māori Cultural Heritage project (MCHP).*
- *The MCHP was an AC commitment in the Unitary Plan to identify, protect and enhance tangible and intangible values of MW cultural heritage.*

***Funding**: MCHP*

- *AC Long Term Plan process secured 10yrs funding to develop and deliver with MW the MCHP.*
- *LTP funding supported the MCHP with MW Governance and Kaitiaki to develop and implement an appropriate methodology to identify, protect and enhance tangible and intangible values of MW cultural heritage.*
- *Advantages / disadvantages to this funding approach are:*
    - *An overarching relationship agreement exists for each of the 19 MW. This is a key MW agreement to enable AC staff developing council strategies, policies, projects, and programmes to engage MW services through various arrangements.*
    - *MW Governance and MW Kaitiaki are funded to participate and progress the MCHP. For each iwi, an Annual Service agreement and deliverables are agreed and funded for the MCHP.*
    - *MW determine their involvement in resource management planning and processes to support their priorities for protection and management of sites of significance.*
    - *AC staff are guided by MW to appropriately reflect and establish Māori values and views in resource management policy.*
    - *MW participation results in robust planning provisions that meet legislative requirements and support kaitiakitanga.*
    - *Develop and maintain relationships with MW.*

EXAMPLE HAPŪ EXPERTS: Ngāti Apa Ngā Wairiki, Te Runanga o Tupoho (TW) & Dept of Corrections Ara Poutama (AP)

- *AP Resource Consent Application: Discharge to Water. Replace the current discharge permit with new expiry term 1 July 2044.*
- *TW initial hui pre-lodgement application. TW engagement post-lodgement application.*
- *The effectiveness of engagement undertaken differed between pre and post lodgement of the application.*

Comment

- *TW were opposed to the lodged application as their cultural values outlined in the Cultural Assessment reports and Mātauranga Māori report were not genuinely considered or reflected from post discussions.*
- *Further engagement with TW occurred post-lodgement resulting in a ToR and remuneration schedule to ensure effective and ongoing participation with TW.*

***Funding**: TW Engagement*

- *Post-lodgement discussions between AP and TW prepared and agreed a Terms of Reference and remuneration schedule.*
- *AP agreed to fund TW mātauranga Māori Engineer (post lodgement).*
- *Advantages / disadvantages to this funding approach are:*
  - *Funding for TW ongoing involvement agreed through a Terms of Reference post-lodgement.*
  - *TW source a mātauranga Māori Engineer to assess the application and prepare a Mātauranga Māori report. AP agree to fund TW Environmental Planner and Mātauranga Māori Engineer.*
  - *Post-application funding agreements are reactive as a result of hapū opposition to an application. Discussions post-lodgement of applications create time, effort and cost delays for both parties and do not give genuine meaningful outcomes for the betterment of Te Taiao.*

6. OTHER COMMENTS FOR CONSIDERATION…

6A. Implementation, Transition Pathways and 'Model Projects'

94. Adequate pilot, testing and 'model projects' should be part of the reform process. One 'model project' is not enough. We recommend 3-5 mana whenua lead test projects across Aotearoa, varying in complexity from overlapping mana whenua interests, district councils, coastal, inland, conservation lands, urban environments, working with Te Mana o Te Wai, etc. Outcomes to provide learnings, rigor, testing and monitoring of the transition period from the current RMA into the new system. These 'model projects' can engage with all parts of the new legislation NBA and SPA, model RSS and NBA plans, engagement process with mana whenua, IMPs, funding streams, Te Oranga o Te Taiao, Mana Whakahono ā Rohe, etc.

95. Learning from testing provides the ability to modify parts of the legislation after lodgement to the house and can support real time changes to the new system, new legislation NBA and SPA, model RSS and NBA plans, which benefit both Treaty partners. This creates quality assurance and insurance for the new processes, to alter and change the policy that suits/aids mana whenua lead projects on the ground. It also encourages co-design.

96. Papa Pounamu have the appropriate networks to connect directly with mana whenua groups on the ground doing the work and can provide MFE with appropriate contacts.

A culture, capacity and capability work programme will promote, support and respond to the needs of the future system, identifying new skills and capabilities and the nature of system culture change required.

A digital transformation work programme recognises that technology is integral to the future system to improve efficiency and to enable hapū/iwi/Māori and others to participate more fully in the system. This work will explore the role central government and/or regions could have in the provision and support of digital technologies.

97. For system improvements and efficiencies to enable hapū/iwi/Māori to participate in any new system, needs engagement with the end user such as hapū/iwi/Māori. This is to ensure regulatory processes support the capacity of iwi/hapū/Māori and are practical and usable. Council systems such as resource consent databases for lodged and granted consents should be accessible online for iwi/hapū/Māori so they can efficiently identify priority applications.

98. An example of a Shared Information portal is from Auckland Council who have developed a database (Te Matapuna) for ngā mana whenua o Tāmaki Makaurau. This demonstrates shared information portals / systems can be appropriately set up with security protocols to provide efficiency for mana whenua, as well as provide real time consenting information. The regulatory services process for a long time was to use an excel spread sheet for all lodged resource consents and was sent to mana whenua each week via email. This approach for sharing information became an inefficient use of mana whenua time but was a high priority because of the rate of development happening across Tāmaki Makaurau and potential impact on hapū/iwi for their relationship, culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

99. Papa Pounamu suggests MfE engage and consult with Data Specialist Kirikowhai Mikaere, who is the lead technician for the NICF Data ILG. Te Wehi Development by Design is a specialised consultancy working with data and systems to empower iwi to design their own development and pathways of transformation through data and information, strategy, creativity and innovation. They work with Iwi or their partners - private and Crown. Crown agencies include Stats NZ Tatauranga Aotearoa, Te Puni Kōkiri, NZQA and MBIE.

6B. Mana Whakahaere Councils(?)

On p.46 of the Appendix 2: Summary of hapū/iwi/Māori feedback, there is a particular item in the column, "Feedback from hapū/iwi/ Māori submissions" which says:

- *Support for 50/50 partnership at national and regional levels, co-governance with iwi and hapū and support for mana whakahaere councils; includes reference to hapū mana motuhake*

100. Questions for MfE:

- What is this feedback item in reference to?
- Was there a proposal for mana whakahaere councils? If not, how has MfE interpreted this feedback, and are such councils being considered?
- This is potentially an idea that Papa Pounamu is interested in and based on feedback from our members and other iwi/hapū/Māori affiliates, could be something that we would support and could help MfE to include in its reforms.

6C. Use of Te Reo Māori

101. Most often, consultants only look at the RMA (Resource Management Act1991) to ensure requirements are met (i.e., checking the boxes) and do not delve deeper into the realm of tikanga or mātauranga Māori. The consultant takes a superficial attitude either because that is all that is legally required or due to lack of knowledge and insight, rapidly wiping over these cultural values including the use of Te Reo Māori me ōna tikanga.

102. Te Reo Māori is protected as a taonga under Article 2 of Te Tīriti o Waitangi; there should be a set of 'terms of reference' or 'kupu conventions' for its use in the legislation, policy, and all written forms throughout the RMA reform process. There is a subtle re-colonization of the use and meaning of Te Reo Māori me ōna tikanga to promote the biculturalism of this country without the respect for our taonga and the use of our reo. The use and its meaning are the role of tangata whenua to define not the Crown or MFE.

103. Often Te Reo Māori is poorly translated into English, it lacks in capturing the core values and essence of what one expresses in Te Reo Māori me ōna tikanga. These translations for the use of our kupu thus sit outside of its cultural context creating misinformation. The use of Te Reo Māori kupu or Te Reo Māori terms

throughout the legislation and reform process should be prescriptive around its use. This is the role of tangata whenua to define not the Crown or MFE.

104. These should consider the values set out in the following documents, these include but not limited to;
- Te Tīriti o Waitangi 1840
- Waitangi Tribunal's Report: Te Reo Māori claim 1986
- Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released 2011
- Te Ture mō Te Reo Māori 2016

105. The intention is to minimise the lack of understanding and interpretation that can create misunderstandings around terminology or methodology for example in the monitoring and compliance space amongst central government, ministries, local and regional councils, etc. and their interpretation of Te Reo Māori terms throughout the legislation/new acts. They may contradict the tikanga and kawa of local hapū whānau in their rōhe.

6D. Next Steps

106. As mentioned previously, we understand our feedback "will help shape the Natural and Built Environment Act and Spatial Planning Act, for which Bills will be introduced into Parliament later in 2022".

107. As raised at the online wānanga series by attendees, Papa Pounamu request MfE to consider how and when to communicate the outcome of the feedback submitted and decisions made. In particular, to advise where feedback has been accepted or declined with an explanation. Please consider an appropriate form of communication, as written communications are not always effective communication routes for our members of Māori professionals and Kaitiaki practitioners.

108. This is an important step for MfE to Papa Pounamu support open and transparent processes, as a result of focussed engagement with Papa Pounamu members.

109. Future communications can be made with the Key Contacts noted in the submitter information section.

7. Appendices - Iwi feedback submission to MfE RMA Reforms wānanga online series.

Attachment 1 Rongowhakaata Iwi Trust - 24 February 2022

Attachment 2 Te Korowai o Ngāruahine Trust - 24 February 2022

Attachment 3 Mariana Waitai - 18 February 2022

Attachment 4 Tahorakuri A1 Section 30 Trust – 4 March 2022

Attachment 5 MfE Papa Pounamu RMA Reforms wānanga online sessions Jan/Feb 2022 – Wānanga Notes.

ATTACHMENT 1

MfE RMA Reforms wānanga online sessions Jan/Feb 2022
Rongowhakaata Iwi Trust Feedback submission
24 February 2022

RONGOWHAKAATA
IWI TRUST

RIT submission re Exposure Draft of the NBA and consultation materials re the overall proposed RM reforms Feb 2022

1. Background

The following submission is from Rongowhakaata Iwi Trust (RIT) the iwi authority that represents the people of Rongowhakaata.

Rongowhakaata tribal boundaries encompass Te Tairāwhiti from Te Kowhai at Te Wherowhero lagoon inland to Te Arai Headwaters, continuing to Te Reinga in the south-west, and north, past Kai-iti, Wainui to Pouawa. Our iwi has over 6,000 members of which 40% live within the Gisborne District Council area. We are Mana Whenua for our *rohe* including a large portion of Gisborne City Business District.

Rongowhakaata has played a significant role in NZ's history and national identity, including the collision events of Cook in 1769, Rongowhakaata land, language, culture and lives lost during the late 1860's to a devastating effect. Living with the curse of Poverty Bay on our place, has significant irony to it. Our wellbeing and health redress must include the restoration of vitality to our places, our people, and our expressed identity.

This submission is based on a reading of the following documents:

- The government's 'Exposure Draft of the Natural and Built Environments Bill (the Draft NBA) (NZ Govt).
- 'Our future resource management system: Materials for discussion. Te pūnaha whakahaere rauemi o anamata. Kaupapa korero' (NZ Govt).
- 'The Reform of the Resource Management Act 1991, Te whakahoutanga i te Ture Whakahaere Rawa' (MfE).
- 'Natural and Built Environments Bill Parliamentary paper on the exposure draft UPDATED' (NZ Govt).

2. Submission on matters raised in Te whakahoutanga i te Ture Whakahaere Rawa and Te pūnaha whakahaere rauemi o anamata

2.1 The proposed National Entity

The consultation document 'Te whakahoutanga i te Ture Whakahaere Rawa', produced by MfE, refers to the development of a National Entity that could potentially help enable iwi and hapū participation in resource management, adjudicate on the performance of crown entities and local authorities in giving effect to Te Tiriti and inform the development of the National Planning Framework (NPF). Nevertheless, the Exposure Draft of the NBA does not refer to any such entity and is silent on how the NPF would be prepared, although Te pūnaha whakahaere rauemi o anamata (NZ Govt) does discuss the potential development of a NE (pp 37ff).

Nevertheless, 'Te pūnaha whakahaere rauemi o anamata' does make the following statements:

> *The process to develop the NPF must be transparent and allow for flexibility, to ensure its development is proportionate to the scope of the direction. The process must allow for expertise, including mātauranga Māori, to inform decision-making.*

> *The Randerson Panel also recommended that national direction should only be prepared by the Minister for the Environment (with the Minister of Conservation where currently involved under the RMA), to ensure the integrity and cohesion of national direction and the outcomes they seek to achieve are not undermined. It is proposed that the Minister for the Environment would make final decisions (with the Minister for Conservation where appropriate).* (pp23-24)

Without clear direction from central government, RIT submit that the composition and functions of any such National Entity (NE) as suggested in Te whakahoutanga i te Ture Whakahaere Rawa should be clearly outlined, and its powers circumscribed. That is, the NE should perform the functions of a wharekai, not a wharenui. It should be tasked with providing resources to support hapū/iwi decision making and participation at a regional scale. The role and function of the NE should also include facilitating direct hapū/iwi input into the development of the NPF and to advocate and uphold the decisions of mana whenua and their relationship with the taiao. Such an approach would be consistent with giving effect to Te Tiriti. RIT also supports the NE having a system oversight and monitoring role over the processes of engagement and ensuring that Te Tiriti partnerships are working effectively at the regional level.

National, and indeed in some cases regional bodies, that are designed to reflect pan-iwi and hapū interests are often dominated by the larger tribal groupings while the views and interests of smaller iwi may be subsumed. This needs to be protected against. The NE must enhance, not subsume or undermine in any way, mana whenua decision making in their own rohe or their special relationship with the taiao. RIT submit that there needs to be an effective mechanism in developing the NPF that provides for regional iwi voices to be heard and provided for on matters that affect them. To do otherwise would usurp the rights and responsibilities that kaitiakitanga confers on mana whenua, and fail to give effect to Te Tiriti.

2.2 Development of the National Policy Framework

RIT believe that it is essential that the development of the NPF is attentive and responsive to iwi and hapū voices at a regional scale in order to not 'inadvertently usurp the mana of iwi, hapū and rights holders at place' (Te whakahoutanga i te Ture Whakahaere Rawa, Slide 28). The setting of environmental targets and limits is not an 'objective' exercise, but instead depends on the weighting of value that applies to a specific setting, landscape or organism. With the sole responsibility for developing the NPF appearing to reside with the government, via the Minister for the Environment, the potential is ever-present for cultural bias and for iwi and hapū voices and interests to be subsumed.

Such a situation fails to give effect to Te Tiriti. RIT submit that mechanisms to ensure regional iwi and hapū have opportunities for participation at all levels of the planning framework, strategy and making processes are critical to ensuring that the diversity and specificity of iwi and hapū values and relationships, and interests, rights and responsibilities are effectively recognised and provided for.

2.3 Joint Committees (referred to in the DRAFT NBA as Planning Committees)

The functions and composition of Planning Committees are set out in ss 23-25 and Schedules 2 and 3 of the Draft NBA. The Schedules are silent on these matters, however, and placeholders apply. These committees are referred to in Te whakahoutanga i te Ture Whakahaere Rawa as 'Joint Commitees' (Slides 24, 29, 31, 32), a term not used in the Draft NBA but referred to in Te pūnaha whakahaere rauemi o anamata (pp 37ff).

> *23 Planning committees*
> *(1) A planning committee must be appointed for each region.*

(2) The committee's functions are—

(a) to make and maintain the plan for a region using the process set out in Schedule 2; and

(b) to approve or reject recommendations made by an independent hearings panel after it considers

submissions on the plan; and

(c) to set any environmental limits for the region that the national planning framework authorizes

the committee to set (see section 7).

(3) Provisions on the membership and support of a planning committee are set out in Schedule 3. (Draft NBA)

In order to give effect to Te Tiriti and ensure that the mana of iwi and hapū is upheld, RIT submit that all appropriately mandated iwi and hapū in a region must be represented on any such Committee. Further, that it is encumbent on each mandated iwi and hapū to determine their own representation. This would require a region by region approach to the composition of any such committee, and establishment of the tikanga underpinning its decision making and other processes.

RIT also submit that regional iwi and hapū involvement should be specifically included in the secretariat supporting the Planning Committee. This is necessary to facilitate a mana whenua, mana moana understanding of taonga tuku iho within the Committee itself, and ensure that kaitiakitanga, mātauranga Māori, tikanga and kawa are kept at the forefront of regional planning and decision making.

2.4 Mana Whakahono a Rohe

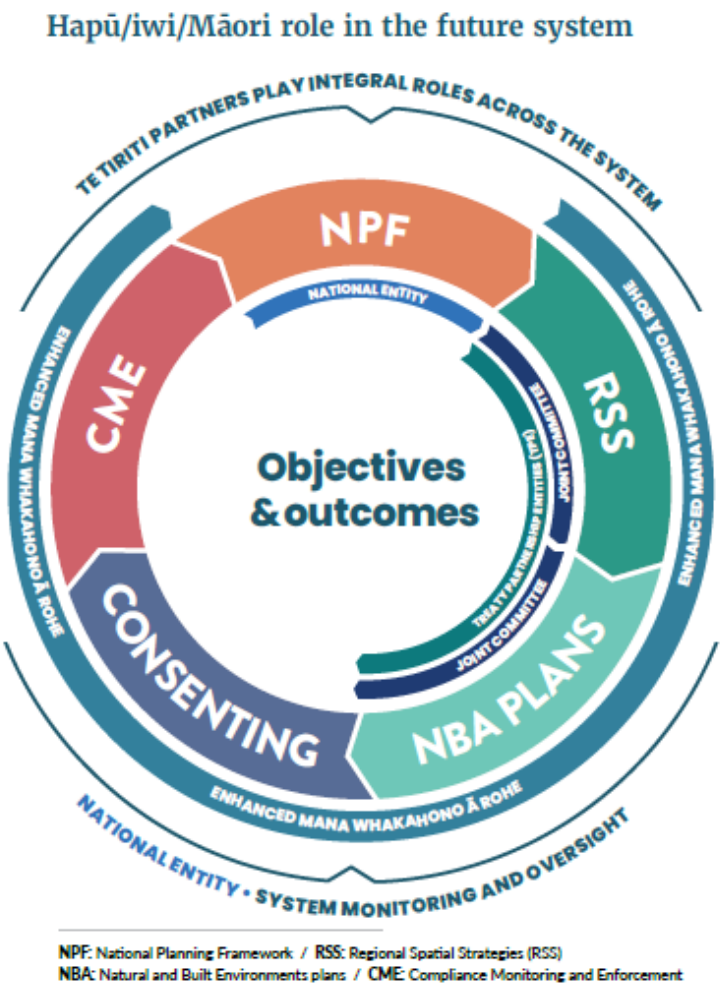
Although absent from the Draft NBA, reference is made in 'Te pūnaha whakahaere rauemi o anamata' (NZ Govt) and 'Te whakahoutanga i te Ture Whakahaere Rawa' (MfE) to iwi and hapū participation in the proposed resource management reforms through an enhanced Mana Whakahono a Rohe (RMA 1991 ss58L to 58U) process. This is described diagrammatically in the documents referred to above and copied at p4 of this submission.

How such enhancement to the existing Mana Whakahono ā Rohe might take place is not identified in the consultation documents, although reference is made to the integration of the existing ability of local authorities to provide for a 'Transfer of powers' (RMA1991 s33) to iwi authorities, or the 'Power to make joint management agreements' (RMA1991 s36B) with a public authority, iwi authority, and group that represents hapū for the purposes of the RMA1991.

RIT submit that at this early stage, two avenues are evident that may enhance the ability of Mana Whakahono ā Rohe to provide for iwi and hapū values and relationships and interests, rights and responsibilities. These avenues are as follows:

1. That the requirement for a local authority to undertake a full public notification process by way of the special consultative procedure set out in section 83 of the Local Government Act 2002 is waived in the proposed new legislation. This is in the context of the partnership relationship between iwi authorities and local authorities and the crown.

2. That resourcing for the development of Mana Whakahono ā Rohe is provided by the relevant local authority (in the case of Te Tairāwhiti, this would be Gisborne District Council as a unitary authority). Such resourcing would include fees paid for iwi and hapū participants and any supporting legal or other expert advice. Alternatively, if a National Entity was satisfactorily established and funding made available, this could potentially be a conduit for such resourcing.



3. Submission on the Draft Exposure Natural and Built Environments Bill (the Draft NBA)

3.1 Background

In this section of our submission, RIT consider the Exposure Draft of the NBA (Draft NBA). Commentary is provided on those sections of the Draft NBA that are problematic, or where clarification may be required. On sections not referred to, RIT's position is neutral or supportive.

3.2 Interpretation: mitigate

RIT submits that the use of the term 'mitigate' should not be used to include 'to offset or provide compensation', but rather 'to make an activity less serious or harmful' (e.g. by restricting the scale of the activity or changing the way it is to be undertaken). To offset or provide compensation for harm, e.g. to the environment, is usually understood as to provide remedy.

3.3 Interpretation: precautionary approach is an approach that, in order to protect the natural environment if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty.

RIT submits that there is some confusion in the definition. Does 'taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty' refer to:

1. Not undertaking a proposed activity that may be threatening serious adverse effects, or limiting the way that activity is undertaken so there is reasonable certainty that serious adverse effects will be avoided (the appproach that RIT could endorse); or
2. Allowing an activity to go ahead despite the threat it might pose for serious or irreversible harm to the environment even where there is scientific uncertainty?

3.4 Interpretation: river
RIT submit that the definition should include 'a stream that previously drained a wetland but that may now be dry or intermittent due to wetland drainage'.

3.5 s5 Purpose
S1 (a) and s3 (a) to (c): RIT submit a query as to why the phrase Te Mana o Te Wai is being replaced with Te Oranga o Te Wai? RIT submit that it is important that the phrase accurately embodies the spiritual and whakapapa relationships that mana whenua have with Te Taiao.

S3 (d): RIT submit that including 'the essential relationship between the health of the natural environment and its capacity to sustain all life' in the scope of Te Oranga o Te Taiao ignores the impacts of exotic pests on our indigenous ecosystems and landscapes. RIT recommend a change in wording of s3(d) to: 'the essential relationship between the health of the natural environment and its capacity to sustain indigenous ecosystems and landscapes'.

3.6 s7 Environmental limits
RIT submit that 'cultural vitality' should be included in the list of values to be protected (s7(1)).

3.7 s8 Environmental outcomes
RIT submit that it would be appropriate to make the following changes (in underlined text) to s8 Environmental outcomes:

1. S8(e): in respect of the coast, lakes, rivers, wetlands, and their margins,—
   (i) <u>where appropriate</u> public access to and along them is protected or enhanced; and
   (ii) their natural character is preserved:
2. S8(h): cultural heritage, including cultural landscapes, is identified, protected, and sustained through active management that is proportionate to its cultural values <u>as determined by mana whenua</u>:
3. S8(i): protected customary rights are recognised <u>and provided for</u>:

3.8 s9 National Planning Framework
RIT have provided the bulk of our submission re the NPF above in s2.2 of this document, 'Development of the National Policy Framework'. However, RIT also submit that s8 Environmental outcomes (f) 'the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga is restored and protected:' should be included in the NBA s13 'Topics that national planning framework must include'.

3.9 s15 Implementation of national planning framework
RIT submit that s15 requires further explanation as to where, when and how certain provisions in the NPF must be given effect to in the NBA plans and regional spatial strategies.

3.10 s18 Implementation principles
RIT submit that further explanation of s18 is required.

3.11 s24 Considerations relevant to planning committee decisions
RIT submit that an additional matter for consideration should be: 'the relationship of Maori and their

culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.'

3.12 Schedule 1 Preparation of national planning framework and Schedule 2 Preparation of natural and built environments plans

RIT submit that as there are only 'place holders' available for these critical topic areas, it is very difficult if not impossible at this stage to interpret the intent or structural aspects of the proposed legislation.

3.13 Schedule 3 Planning committees: s3 Appointment of mana whenua members

RIT submit that, in Te Tairāwhiti, each authority that is recognised as representing iwi and hapū will have a representative on the planning committee. The selection of each representative will be determined through the decision-making processes of the relevant authority.

3.14 Schedule 3 Planning committees: s5 Planning committee secretariat

RIT submit that a new clause needs to be inserted in Schedule 3 that identifies that the Secretariat will include a number of members who can articulate the values and relationships, and interests, rights, and responsibilities, including kaitiakitanga, tikanga and mātauranga, of the iwi and hapū of the region.

3.15 General comments

RIT submit that the absence of explicit reference in the Draft NBA to the integration of National Policy Statements (NPS) and National Environmental Standards (NES) is of concern, given the disparate nature of some current NPS and NES as regards the relationships between mana whenua and their taonga tuku iho.

Rongowhakaata Iwi Trust
February 24, 2022

ATTACHMENT 2

MfE RMA Reforms wānanga online sessions Jan/Feb 2022
Te Korowai o Ngāruahine Trust Feedback Submission
24 February 2022

TE KOROWAI O
NGĀRUAHINE
TRUST

Tēnā koe,

Please find attached comments on behalf of Te Korowai o Ngāruahine Trust regarding the Ministry for the Environment's RMA reforms.

Hapū/Iwi/Māori participation in RSS & NBA plan development and Joint Committees

- Are you aware of examples where co-design and co-development with hapū/iwi for spatial planning documents have worked / not worked? Have these documents been implemented as expected? What are the challenges experienced to implement the aspirations?

- What are your experiences with Iwi Management Plans? Good/Bad. Are these plans appropriately funded to produce with hapū/iwi? What are the challenges to implement the Iwi Management Plans?

  We developed and published our environmental plan last year. Requests to MfE for technical assistance were met with a dumbfounded look despite the fact that there was a provision in our Deed of Settlement and relationship agreement. The non-statutory status of Iwi Management Plans is a barrier to implementing Iwi and Hapū bottom lines for the Taiao. They need to have greater weighting in national direction and regional policy statements.

- What are the challenges to a meaningful partnership and relationship with Local Authorities? What examples do you know of where Local Authorities are undertaking partnership with hapū/iwi? Good or bad examples.

  One of the greatest barriers I see with regional council is the good old boys network. There are a central core of older, white males who have been in decision making positions since the RMA was brought in. They have an institutional culture which is hard to change and is based on facilitating profitable land uses (usually dairy farming) rather than regulating the environmental impacts of land use. This is slowly changing with the introduction of more women who are more open minded and future focused. On the other hand, our relationship with our district council is progressive and enabling of partnership. They have shown courage and humility for a number of challenges including the introduction of Māori wards and an Iwi right of first refusal policy for surplus council properties.

- Are there examples where co-governance or co-management for the care of Papatūānuku have worked or not worked? What have been the challenges with these joint committees?

  Iwi are not interested in co-management. There is no benefit for uri in implementing policies and rules which others have created without our input. Co-governance is the objective as once Iwi/Hapū core values and bottom lines are in place there will be little need to be involved in resource management. Our role then becomes participants as Iwi/Hapū in partnership with our local communities. A Wai Māori forum set up by our regional council has been ineffective as Hapū participants have differing levels of knowledge and understanding. This works well for council as they can dismiss any consultation requirements in order to be efficient.

Wānanga 2: Consenting + Enhanced Mana Whakahono ā Rohe (p30)

Hapū/Iwi/Māori participation in NBA consenting, compliance, monitoring and enforcement including the use of enhanced Mana Whakahono ā Rohe

- What changes do you want for effective consenting process? What is needed for hapū/iwi to effectively participate in monitoring and compliance for consents?

  We have three appointed representatives on the regional councils consents and regulatory committee via our regional treaty settlements. However, all this committee does is review granted consents and provide recommendations to the council. The aspirations for these positions was to participate directly in the decision making processes of the council. Consent officers seem to be a law unto themselves but do by and large address part 2 of the RMA. The length consents are granted for should be reduced. The conditions of consents need to be reflective of the contents of IMP's especially bottom lines i.e. no discharges to water.

- Are Iwi Management Plans working in your rohe? If not, why not? Are there other management plans/tools that work for you? What are the challenges experienced with Territorial Authorities?

  IMP's in our rohe range from 1 to 20 years old. They could probably all be reviewed and updated to be fit for the NBA. In terms of the Taiao, IMP's address RMA and non-RMA processes. Iwi/Hapū need to be involved in co-writing the regional policy statement. As a key document, we can be fairly confident that all regional and district plans will be consistent with it. We deal with three district councils, and they all have different ways of notifying us of consent applications. At times they fail to identify the relevant Iwi authority. At other times they overload us with engagement demands.

Wānanga 3: Role of the National Entity + National Planning Framework (p23)

The role of the National Entity in monitoring & system oversight and the development of the National Planning framework

- What are your expectations for a National Entity? Representation, Communication, Regional Engagement, Decision making, etc.

  Co-governance whether at a waka or Iwi level.

- What are your expectations from a National Planning Framework? Representation, Reporting, Funding, Environmental outcomes, Environmental limits, etc.

  Environmental bottom lines. Coupling of positive social outcomes to the enhanced mauri of the Taiao. Measurement of mauri based on the ability of future generations to harvest from the taiao to support their basic needs.

- To achieve Te Oranga o Te Taiao, what would you support for the wellbeing of Papatūānuku and Te Taiao? What is not an acceptable impact/effect on the wellbeing of Papatūānuku and Te Taiao?

  Papatūānuku is enshrined in Pākehā law as a legal identity to recognise, honour and protect her inherent rights to exist, thrive and evolve. Discharges of anything, whether treated or untreated, directly to water are Taiao bottom lines which are non-negotiable. Land fills and contaminated land are also dubious but require a better understanding of impacts on mauri.

Additional Free text can be provided on your template, letter head, or on additional paper.

- What are your dreams for Te Oranga o Te Taiao?

  That needs to be, and will be, defined by our Hapū.

Nāku iti nei,

Dion Luke

Pouuruhi Taiao, Te Korowai o Ngāruahine Trust

ATTACHMENT 3

MfE RMA Reforms wānanga online sessions Jan/Feb 2022
Mariana Waitai
18 February 2022

Mariana Waitai - E mokopuna nō Te Awa Tupua a Whanganui.

Text feedback 18 February 2022

- Insert and replace kupu ‘effective’ with ‘effectiveness’ into policy. Clarification required of ‘who assesses effectiveness, of what, and for whom’.

- Governance defines their own goals, objectives, strategies, actions within the parameters of their Terms of Reference.
  - Hapū/iwi who are impacted at their source (not PGSE) and are not effectively involved at the decision making table from the very beginning.
  - Hapū continue to be marginalised by legalised authorities and recognised iwi entities.

- If hapū/iwi are not the acknowledged or stated monitors within the proposed Framework, then monitoring the effectiveness of the support or services provided within that framework, then again, the recognition and respect of hapū/iwi and their Mana Motuhake status is removed to be a tangata whenua position reduce to a Māori rep.

- Ngā Wairiki Ngāti Apa, Ngāti Tumango and Te Runanga o Tupoho vs Ara Poutama (Dept of Corrections) Discharge of water consent (currently in Appeal).
  - Hapū/iwi engaged a mātauranga civil engineer to prepare a report for iwi. Hapū/Iwi identified their specialist and was funded by Ara Poutama.
  - This collaborative mahi experience enabled hapū/iwi to refer their chosen mātauranga Māori Engineer to Whanganui District Council (WDC) and request council to contract and pay for his advice as Tupoho Whanganui Integrated Water Plan consultant. This led to utilising his mātauranga Māori Engineering expertise for inclusion within WDC future integrated water network system within residential, industrial domestic development projects.
  - This is an example of hapū/iwi effectiveness in action.
  - Corrections were resistant. Whanganui District Council were proactively progressive.
  - Hapū / iwi are the designers and controllers of their own destiny.

- Effectiveness within any framework is dependent on what benefits are distributed, where they are distributed, by whom, at whose cost or what cost.

- Within Te Runanga o Tamaupoko and Te Runanga o Tupoho, the development of the ‘Outstanding Natural Landscapes ‘Ko Ta Whanganui Titiro / Whanganui Hapu Iwi World View Cultural Assessment’ was only achieved through designing and implementing an effective engagement process for Ngā hapū input. Each hapū outlined their own protection mechanisms for upholding their Mana Motuhake within their Whanganuitanga whakapapa.

- Specific hapū engagement in relation to activities within their rohe, rather than just consultation with the iwi body at large. This will allow for the voice of the hapū to be heard clearly and the values and effects to be considered at the source.

- The engagement process is identified as a monitoring tool to measure effectiveness of any authority / entity.

ATTACHMENT 4

MfE RMA Reforms wānanga online sessions Jan/Feb 2022
Tahorakuri A1 Section 30 Trust
4 March 2022

Tahorakuri
A1 Section 30
Ahuwhenua Trust

Ministry for the Environment

Submission to MfE RMA Reforms

Tahorakuri A130 Ahuwhenua Trust feedback on the Discussion Document Transforming Aotearoa New Zealand's resource management system: Our future resource management system

SUBMITTER INFORMATION

Name: Tahorakuri A1 section 30 Ahuwhenua Trust (Teresa Kora, Tristan Taylor, Lara Taylor)

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Contact: Lara Taylor (submitter) / Tess Kora (Acting Chairperson)

Introduction

We, the Trustees of Tahorakuri A130 Ahuwhenua Trust, acknowledge the opportunity provided by the Ministry for the Environment to offer our feedback on the discussion document: Ministry for the Environment 2021. Transforming Aotearoa New Zealand's resource management system: Our future resource management system - Materials for Discussion. Wellington: Ministry for the Environment.

Our submission summarises some of our key concerns and interests (below). However, we also support everything (in full) submitted by Papa Pounamu on behalf of Māori planners, practitioners, and whānau around Aotearoa.

We understand that our feedback "will help shape the Natural and Built Environment Act and Spatial Planning Act, for which Bills will be introduced into Parliament later in 2022" (MfE 2021).

Thank you for providing this opportunity to provide written feedback,noting it is due by 28 February 2022, to Mfe at RM.reform@mfe.govt.nz.

Feedback

We are the Trustees of 55ha, on behalf of 248 owners. Our whenua lies on the banks of the Waikato awa, between Reporoa and Taupō. It is also adjacent to our tupuna marae, Tahu Matua. We have aspirations to re-develop an eco-papakainga on our whenua, which is currently covered in vegetation and 'unused'. We propose that this would be an ideal site for MfE to partner with a Maori freehold land Trust, as a pilot co-planning and development along with the respective councils and other necessary parties.

We have been developing the concept for over ten years now. We have signfiicant amounts of research and mātauranga. Our Trust has established relationships with GNS Science, Manaaki Whenua Landcare Research, University of Auckland (school of engineering), Contact Energy and others who are helping us to understand the state of our whenua and where/what we could develop on our land. The next stage is to work with planners to understand the rules, provisions, and how we can lift our aspirations and plans off the paper – for our people.

We are aware that there are already some good examples that could inform MfE and the reforms, where hapū and whanau have been empowered and enabled to plan, develop and manage their lands and resources in alignment with their values and aspirations – such as those in Tamaki Makaurau which were iwi-led with support from Auckland Council. We note that some examples are highlighted in this report https://eds.org.nz/resources/documents/reports/caring-for-the-landscapes-of-aotearoa-new-zealand-%e2%80%a8/, noting that one of our Trustees was involved in this publication. And we also note and support the examples highlighted throughout the submission by Papa Pounamu.

We understand that the provisions in the Unitary Plan were enabling enough for (more) culturally appropriate planning and development to happen. However, we are also aware that provisions differ between regions. Our whenua is in the Waikato region, Taupo district. Our land is adjacent to the river, and we sit on geothermal resources. There has been irreparable damage to our whenua and cultural sites from a government commissioned and owned geothermal powerstation on our whenua (now owned by Contact Energy).

With regards to Iwi Management Plans (IMPs) our runanga developed an IMP but it did not involve us and is not specifically relevant for our whenua or aspirations. IMPs should not be a government default for planning or management with/for/by Maori landowners. As far as we can tell, they have little influence over government agencies, plans, or outcomes for our region, rohe, or our specific whenua. Unfortunely, due to the colonised system and how IMPs are currently valued (or lack of) in the system, we do not see these as powerful tools that can ensure the outcomes we want.

We (like other Maori landowners) are not interested joint management committees perse because they have little impact for us on the ground. Co-governance committees are needed so that we have Maori representation ensuring high-level outcomes for us. If established with appropriate power-sharing, those Maori may actually be able to create necessary shifts in policy, planning, practice to enable us on the ground to develop our papakainga and other 'Maori' infrastructure in line with our values and principles.

Resource management provisions, including consenting and monitoring requirements, need to be enabling for Maori landowners and marae and then those working in consenting need to be able to interpret Maori planning and practices so that activities are consented appropriately (and other

activities that will impact adversely on our whenua are not consented). Aside from high-level joint management committees and agreements, there needs to be a mechanism to ensure that Ahu Whenua scale, and marae scale are empowered too – how will MFE/Crown ensure the 'trickle down' empowerment from regional/rohe scale agreements to us on our landblocks?

We support strategic planning that is holistic, integrated and considers both land and water together. We also support a system that is Titiri o Waitangi based and acknowledges te ao Māori, and which supports, empowers and enables kaitakitanga. Our understanding of kaitiakitanga is that it requires rangatiratanga (decision making power and authority), mātauranga Māori (in our case mātauranga-a-hapū and whānau), and tikanga (also hapū and whānau based).

We need a system that provides for and enables those things, fully. Rather than the current, and proposed system which picks and chooses te ao Māori principles and concepts but separates them from their whakapapa and their wider cultural context, which is needed to be authentic and operationalised. Otherwise, we see this as further colonisation of our worldview, values, and principles – and plain co-option. Using our concepts in such a way, also gives the government a licence to enable non-Māori to assimilate our concepts, reo etc. by letting them 'define' and measure them. This is unacceptable.

Support for Papa Pounamu

Please note – As outlined in the introduction, the Tahorakuri A130 Ahuwhenua Trust support, [in full, the submission made (on the reforms and this discussion document that we are submitting on today) by Papa Pounamu – the Māori and Pacific Peoples' Special Interest Group of the New Zealand Planning Institute.

Please also accept this submission on Friday March 4th (noting feedback was requested by Monday 28th February). We understand there was a delay that caused Papa Pounamu to be granted an extension until this date, and hope that this further extends to those working with (and cross-referencing) Papa Pounamu.

Signed:

Lara Taylor – on behalf of the Tahorakuri A1 section 30 Ahuwhenua Trust

ATTACHMENT 5

MfE RMA Reforms wānanga online sessions Jan/Feb 2022
MfE Wānanga Notes from Papa Pounamu online series
Wānanga 1 – 26 January 2022
Wānanga 2 – 1 February 2022
Wānanga 3 – 16 February 2022

Our Future Resource Management System: Materials for Discussion - Te Pūnaha whakahaere rauemi o anamata

	Papa Pounamu Feedback Wananga Session Notes	MfE Response	Support / Support in part / Oppose / Recommendation	Additional feedback from Papa Pounamu
	26 Jan 2022 - Wananga 1			**Papa Pounamu Commentary**
National entity / System Oversight and Monitoring	New act is outcomes based – moving towards environmental limits / how is Te Ao Māori being considered in developing those limits?	This will be the role of the National Entity. NBA Plan making would help to identify some of the measures and how they would be monitored – there are also other mechanisms through consents.		
	When we do participate – what is the monitoring regime to monitor those outcomes?	Tiriti Performance will be monitored via the national entity. The proposed National Entity has the role in preparing the National Planning Framework to create the national standards and monitoring the system.		
	We should not have to undertake consultation on IMPs they reflect iwi / hapū perspectives need more onus on policy people with Councils and MfE to be able to demonstrate that they have given effect to Te Tiriti and understand the mātauranga. Some responsibility needs to sit with Crown to have cultural capabilities.			
	What are the reverse expectations for Tangata Whenua to assess the capability of policy makers in implementing Te Tiriti and 'give effect'?			
	Outcomes for iwi / hapū on ground will be directed to an Iwi Authority – a lot of the burden will still sit with the Territorial Authority. The National Entity will have lots of outcomes to monitor – a key one will be to monitoring the relationship between iwi / hapū and the Territorial Authority.			
	Where is the direction in the assessment criteria to ensure that mātauranga Māori is captured in some way?			
				Support in part: Any National Entity / Maori Commission must be an entity that has powers to effect change for Te Oranga o Te Taiao. See Rongowhakaata Iwi Trust submission section 2.1 National Entity
	Is a Māori commission being established to deal with governance across the environment?		Support in part	Oppose: Any National Maori Entity or Maori Commission as an Advisory Entity which in nature has no teeth.
				Schedule 3 Planning Committee: Should include a requirement that all members of the Planning Committees are culturally competent in regional tikanga and te ao Māori/ mātauranga Māori. For the avoidance of doubt this is to be in addition to specific expertise in te ao Māori, tikanga and mātauranga Māori by iwi representatives and/or appointees.
Joint Committee Composition	How many Joint Committees will there be?	Each region will have a Joint Committee for preparing RSS and a JC for preparing the NBA plan, so 14-16	Recommendation	See Rongowhakaata submission section 2.3 Joint Committees
	Capacity / Capability is needed from both sides "Ponying up" what is the incentive for Māori to come to the partnership, especially when we are not resourced, and it is less than a 50:50 partnership.		Recommendation	Planning Committee: A Terms of Reference should include a requirement for Committee meetings to be held across the rohe to be visible and accessible to hapu/whanau/iwi and nga hapori.
	More discussion needed with MfE on the composition of Joint Committees to understand how this will give effect to te Tiriti?			
				hapu/whanau/iwi/Maori landowners - policy language needs to give effect to Maori rights and responsibilities and be inclusive of hapu, whanau, iwi, Maori landowners, hapu collectives/confederations. - the reformed system must accommodate the different layers of Maori rights, interests and responsibilities.
	Language used – iwi / Māori are "participants" – reads as they are just stakeholders. We need to be leaders in designing the plan – seriously need to look at language.		support	- Maori rights and responsibilities exist in accordance with tikanga Maori and Te Tiriti, and all rights translate to the practice of whanaungatanga, mana, manaakitanga, kaitikaitanga, tapu/noa/utu, and rangatiratanga.
Integrated Partnership Processes / Mana Whakahono ā Rohe / Joint Management Arrangements / Transfers of Powers	Current criteria for transfers under section 33 are a bit restrictive – hard to meet. Possibly need to add a criteria along the lines of 'giving better effect to the mauri of te taiao" At present the focus is on efficiency.			s33 transfer of monitoring powers: Example is Tuwharetoa Trust Board and Waikato Regional Council. Council funding previously allocated to regulatory monitoring and compliance officers, can be transferred to the TT Board entity with the transfer of powers and responsibilities.
				Joint Management Agreements - primary parties are hapu/iwi and LG. - agreements to explicitly outline funding regime for hapu/iwi involvement in decision making to clarify and confirm boundaries for decision-making. - agreements to explicitly outline funding for kaitiaki representation as experts for Hearings, where appropriate.
	The funding/resourcing from local and central govt to iwi/hapū/Māori is not aligned with policy intentions or framework. As an example, Ngāti Porou and Gisborne District Council have a joint management agreement under section 36B of the RMA. They have had for 8 years. The most recent hearing involved an applicant with 5 paid consultants, Council representatives all paid for and Ngāti Porou representatives that were all volunteers.		Recommendation	LG relationship agreements with hapu/iwi can be a mechanism to express parties needs and principles to work together and craft the parameters of their own unique relationship roadmap. Implementation of the relationship agreement is delivered through various funding arrangements such as Service agreements for projects; Engagement agreements for LG Forums for hapu/iwi participation and contribution; Annual Funding agreements with associated work plans; Regulatory Level of Service agreements, etc.
	In order to empower mechanisms for hapū/iwi such as Mana Whakahono ā Rohe or JMA's, s33 Transfers of Powers, there needs to be an active push for iwi and hapū to take up these mechanisms including associated budgets that the local authorities have for decision making responsibilities.		Support	See comments above.
	The current system is inequitable where participants are not equally resourced.			See PP submission section Funding examples as well as notes within this spreadsheet.
	Policy makers need to consider how the intent of "giving effect to Te Tiriti" actually be reflected in practice with the way we work on the ground when we are not resourced to participate?			
	Will the NBA Plans be similar to the Auckland Unitary Plan?	The Current Auckland Unitary Plan may be similar to the reformed systems for NBA Plans; and The Current Auckland Plan may be similar to a Regional Spatial Strategy.		
Plan Development	Secretariats need to have the appropriate skill sets to understand mātauranga Māori and have appropriate capability to inform decision makers			See Rongowhakaata Iwi Trust submission, section 2.3 Joint Committees. Hapu/iwi/whanau/Maori/Ahi ka/Marae
	Skill base – needs to represent / understand both hapū / iwi interests and have technical skills eg, planning. How do we make sure the right skill base exists?		Recommendation	Engage tangata whenua, they have whakapapa to people and places and have the right skill base for tikanga, kawa and matauranga Maori.
	What is the make up on the Joint Committee? - Should have a mix of skill sets – need to have the māngai – to represent the pursuit of whānau / need to connect with the tūhono – to represent the cascade of Māori policy in the plans. Needs to be a mix of both.			
	Need to acknowledge the transition period to build capacity and capability of councils / iwi / hapū to participate.		Recommendation	Pilot testing/ model project: See PP submission referring to pilot testing referencing to 3-5 model projects during transition period, with outcomes to provide learnings, rigor, testing and monitoring of the transition period from the current RMA into the new system.
				LG elections: Post elections, Council staff should include in a Council Induction workshops with all Council elected members Te Tiriti training, with hapu/iwi included in providing training. An annual internal Te Tiriti refresher course could identify where elected members roles have made a difference or not, also where issues can be raised. This could build on relationships at rangatira ki te rangatira level and include an annual review with hapu/iwi and elected members.
	Why do iwi / hapū have to upskill we already understand te Tiriti – there is an equal capacity issue on councils to understand this.		Recommendation	Te Tiriti 101 training should be required for Council staff and training implemented with hapu/iwi to enable hapu/iwi tikanga and matauranga Maori in their rohe. A Te Tirit training schedule (and other types of training such as Cultural Induction 101) can be included in a Level of Service agreement with an associated work programme to ensure hapu/iwi are engaged, available, supported, and appropraitely funded.

Our Future Resource Management System: Materials for Discussion - Te Pūnaha whakahaere rauemi o anamata

	Papa Pounamu Feedback Wananga Session Notes	MfE Response		Additional feedback from Papa Pounamu
	Acknowledge – both parties need to build capacity / capability – on Crown side		Recommendation	CG/LG can include hapu/iwi in various training programmes such as training on Council regulatory processes and procedures, Making Good Decisions, National policy development, etc. Parties to identify appropriate funding mechanism to support hapu/iwi involvement and capabilty building to contribute to appropriate ways of working with hapu/iwi.
	Lack of resourcing on Māori side to participate – Crown is resourced.	The engagement material approved by Minister Parker is clear that 50:50 governance is not being considered. Our-future-resource-management-system-materials-for-discussion.pdf (environment.govt.nz)		
	If we have equivalent resourcing to local govt / crown we would be unstoppable. How do we build our resourcing capability?			
	It's not our first time discussing these issues – how do we harness and build the capacity / capability of Papa Pounamu to support this – we are the ones on the ground and can help to guide implementation. We are different from the national groups you are engaging with and need to be included in the kōrero.		Support	Papa Pounamu have the appropriate networks to connect directly with mana whenua groups on the ground doing the work and can provide MFE with appropriate contacts.
	We are seen as a third party to this relationship – there needs to be some robust accountability / clear directives from the policies to reflect Te Tirit partnership on the ground.			
	Disproportionate representation even at this hui – 7 MfE reps but we have single person repping whole iwi / whole hapū / council consents / EPA consents etc – and now the expectation that they should also be going on joint committees.		Recommendation	Partnership means 50:50 at all levels of the new system. This includes funding to build hapu/iwi capacity to support hapu/iwi succession planning for future generations and to support avenues for rangatahi to persue as future kaitiaki.
	Work capacity is already at its peak – we aren't seeing it at the coal face level. AT the moment we have fast tracks, water consents through the roof.			
	When RCs / TAs ask us to provide feedback on a single RC – it goes back to 1-2 people who are usually operating at a voluntary capacity.			
	Hearings Commissioners – do not all have the cultural capacity to understand the consent issues coming through to make sure Te Tiriti is being addressed.			
				See comments above re: LG Elected members induction training & Te Tiriti training.
	We have councils who do not even know who iwi / hapū reps are – when they are supposed to be considering cultural effects as part of their statutory obligations under Schedule 4 RMA.		Recommendation	Councils to build Te Tiriti capability in partnership with hapu/iwi/Maori to understand the implication of policy, provisions including decisions made on wai, whenua, te Taiao, and tangata whenua (place and people).
	We need to start hearing what the outcomes / outputs of policy will mean for us. Leaving things until submission stage is far too late.			
Resourcing Māori participation in the new system	Having greater power at the table is relevant but being able to resource Māori participation is key to success in the new system. We feel constantly marginalised by Councils when putting forward resourcing applications for consultation. Our skillset is undervalued and largely we participate on a voluntary basis. There is limited funding available to cover the costs of our time and technical expertise, which impacts our ability to participate.			Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released 2011; Te Taumata Tuarua Volume 1; 3.6.3 A commitment to capacity building. Recomenedation of MFE to commit to the capacity to participate in the RMA process and the management of their taonga. Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released 2011; Te Taumata Tuarua Volume 1. https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68356416/KoAotearoaTeneiTT2Vol1W.pdf
	Practitioners on the ground/kaitiaki are getting caught up working to define with central government agencies (DIA, MfE) and councils the framework and values and getting dragged away from doing their mahi. It is not an equal playing field we do not have the same level of resourcing as any of the Crown entities, even PSGE's do not have the required funding to participate in the current system effectively.		Recommendation.	Funding tools/mechanisms etc, are required to build hapu/iwi capbabilty and capacity. This funding should be annual and ongoing. Hapu/iwi/Maori should be able to determine how funding is utilised. Funding to be defined by Maori for Maori.
	There are heaps on the ground mahi that does not get funded. It is difficult to capture these costs as they are not reported or recorded to show the actual cost of our participation.		Recommendation.	Hapu/iwi/Maori are experts in their tikanga, matauranga Maori across their rohe. Funding Tangata Whenua as experts aligns to consultants expertise which LG / CG purchse where required i.e., Archaeologist, Engineer, Landscape Architect, etc. Tangata Whenua are experts in their tikanga, cultural values and matauranga Maori and should be budgeted for, and funded alongside consultants sourced for works, projects, etc. Unfortunately, the manaakitanga of hapu/iwi/Maori is exploited i.e., voluntary services; this is not appropriate. This is detrimental to relationships between parties as well as not understanding the value of hapu/iwi tikanga and matauranga Maori. CG/LG should be required to have relationship agreements as partners with hapu/iwi, with implementation of the agreement delivered through various funding mechanims, as noted above, or other forms of funding mechanisms. There should be flexibility built into levels of funding i.e. local, regional, national; to support implementation of agreements or funding arrangements agreed amongst the parties involved. For example, LG has the LTP process and if hapu/iwi arent active in this space, then opportunities are missed until the next round each 3yrs. LGA reforms need to consider flexibilty.
	If iwi/hapū/Māori do not see an increase in resourcing, they cannot grow their capacity and capability and will then limit their participation throughout the system, including in the decision-making roles.			
	Iwi/hapū/Māori need clear, funded pathways from research and policy to becoming active agents in legislation and action in the system	Resourcing for iwi/hapū is being discussed by Iwi Chairs and Ministers currently and is something we are mindful of and working to see how we can address in the new system. Iwi chairs have raised it for the whole system. We are working to see how we can address it for the 'system' not PSGES's, more in line with the Te Pūtahitanga re policy hubs.	Support in part. Recommendation	Support in part for Iwi Chairs to influence / advocate Ministers to address resourcing for the whole system. Recommendation: The voice of hapu/iwi/Maori should be engaged as well to understand the gaps for funding, practicalities of implementing funding on the ground (not just at iwi governance level), and identify ways of funding efficiency for time, costs and efforts. For example, why have mulitple hui from mulitple Crown agencies (local authorities, territorial authorities, Waka Kotahi, Kainga Ora, etc), where hapu/iwi/Maori are repeating the same korero, ano, ano, me ano. Local hapu/iwi/Maori can offer solutions of what is happening on the ground in their area and identify more appropriate avenues to communicate and partner with Crown agencies. CG/LG could communicate their annual work programme to hapu/iwi/Maori and parties can come together to identify commons goals and priorities to plan for all parties annual involvement and commitments.
Enagement with Maori Groups	Who are the authorities MfE currently engage with on a National Level and how successful have these been in advocating for Māori?	MfE's Māori Policy and Partnering Team work to get feedback from ILG and TTK as well as session like this into papers written by other workstreams across the RM Reform Team. Ideally, they go into the ground-floor policy thinking but at the very least they are required to complete a Treaty Impact Analysis and we can include advice there, which does get to Ministers making decisions. We have people for whom much of their job is to ensure policy analysts are incorporating Tiriti me te ao Māori matters into their papers to Ministers. It is making a difference; we are still using Select Committee submissions to make our points too.		
	The attendees stated that Papa Pounamu should be the rōpū MfE work with on this kaupapa as they have the "on the marae" experience and expertise.			Papa Pounamu is a Maori Planning network comprising of professionals and experts such as hapu/iwi Kaitiaki, Planners, Engineers, Landscape Architects, etc. Papa Pounamu is a technical interest group which focuses on Maori and Pacific peoples in the NZ planning framework, and the integration of Maori perspectives in resource management planning and decision making. Papa Pounamu have the appropriate networks to connect directly with tangata whenua groups on the ground doing the work and can provide MFE with appropriate contacts.
Role of Iwi Management Plans (IMP) to inform Regional Spatial Strategies (RSS) and Natural and Built Environments Act (NBA) Plan development and	In this slide pack along with the discussion document, there seems to an absence of uplifting or information on how Iwi Management Plans will be incorporated.	There is working still ongoing on how the IMP will sit in the new system, work on who/where the IMP would come from, how it would get implemented into the new system.		

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implementation				
				Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released 2011; Te Taumata Tuarua Volume 1; 3.6.1 Enhanced iwi management plans, it is described that these should act as the linchpin for Treaty-compliance in the RMA current system. The plans should not be the only way in which whānau, hapu and kaitiaki can engage in the RMA process. The development of these plans need acess to relevant experts, practitioners, lawyers, planners etc. In that instnace there should be no hiderance on iwi/hapu to seek funding to create these IMPs. Currrently iwi and hapu have to compete for funding. Which then removes them from the process to influence the environmental decision making.
	Attendees were keen to hear what opportunities are there for Iwi Management Plans have in the new system?	The Randerson Panel recommended that IMPs continue to have the same weighting "take into account." A key challenge for the role of IMPs in the new system is that not every iwi /hapū has one, nor do some want them or feel like they need one. A key question for iwi / hapū / Māori is where do you think it is most value to be putting their effort - into drafting IMPs or direct input into drafting of RSS and NBA Plans or both?		
	In an ideal world, IMP would be a mandatory part of the district plan, how can iwi write this IMP is a way that all planners can interpret.			
	Local authorities often reference IMPs in their decision-making, but they do not have the technical /cultural competency to interpret them correctly- hence why Iwi/hapū are not comfortable in solely using IMPs to inform decision making.			
	Currently, there are Māori planners that are writing the "Māori" aspects of their district plans but again not everyone has that level of resourcing or relationship with their local authorities.			
	There are equity issues within iwi/hapū/Māori on the development of their IMP, there are disproportionate skill sets, some iwi do not have the knowledge or the resourcing for IMP.			
				See submission. The concept of iwi management plans needs to also be reassessed and re-designed to encompass the interests and responsibilities of hapu/whanau/iwi.
				Existing IMP or other hapu/iwi plans should be given affect to. These documents include hapu/iwi outcomes for Te Taiao and should be given weight.
	There are a lot of iwi/hapū that have invested into developing an IMP, would be awful if they have to change it all again in the new system.	What needs to be in the legislation that would ensure IMP were better protected/incorporated?		Transition to any new regime should be funded for hapu/iwi to develop their documents. Hapu/iwi to determine their approach for use of funding for IMP or hapu/iwi plans.
				IMP are hapu/iwi documents at a point in time, and further engagement with hapu/iwi is required to check on status of plans. Development in regions are moving fast, so an IMP is not a tick box exercise for Council. Relationships with hapu/iwi are more than plans.
				Council could offer skilled staff services (Planners, Policy Analysts, etc) to work along side hapu/iwi to support capability building with council technical process and plan development; and vice versa for staff to build capability relating to Maori values and hapu/iwi aspirations and outcomes. However this does not replace ongoing
	Better protection for Iwi/Hapū/Mana whenua engagement as seen before councils use the IMP and forgo engagement with mana whenua, both need to work in tandem.		Recommendation	relationships or building relationships with hapu/iwi/Maori.
	Attendees asked how/who has the responsibility to ensure and monitor that the Crown is giving effect to te Tiriti, and that councils will give effect to the IMP/ and the relationship to iwi/hapū?			
	All well and good to have IMPs – issue is the disproportionate skill set that iwi have that councils do not have. The pre-work to require these to be used. Iwi need the resourcing and knowledge of how to use IMPs to inform these processes.			See recommendation above.
	When will the engagement on IMPs be undertaken to inform policy? - Time is now to do this via this current engagement process / any learnings / feedback.			
	Ngāti Rarawa have just been through a process of preparing one. Lack of guidance has been a blessing and a curse – really important to let us know if this is going to change – we have already invested a lot of effort to developing these.			
	Hard to give feedback until we have seen the details?			
	When will we be able to see more detail of how IMPs will work in the new system and how will this engagement feedback be incorporated?	We do not have any specific engagement planned on IMP's the current engagement is the opportunity to provide your feedback on IMPs in the new system. We currently work with our Iwi Technician groups, FILG and TTK, MfE gets direction and informs decision. This engagement which is		
	Rowena Cudby, Ngāti Rarawa, noted she would be keen to be involved in that korero, especially around IMP, as a frontline, at the coal-face person.	A key policy decision we are considering right now that would be valuable to seek your feedback on today would be to understand what would you like to see in legislation to ensure greater weight for IMPs in future – do we need something stronger than "take into account" does the legislation need to be more directive on how IMPs should be considered in different processes and functions in the system?	Support Recommendation	Papa have the appropriate networks to connect directly with mana whenua groups on the ground doing the work and can provide MfE with appropriate contacts.
	•More direction / guidance to planners on how to use them / integrate them into plans – iwi do put a lot of effort to drafting these. Greater weighting maybe an option / or clearer guidance on how they should be used.			
	•Note: There is a place for detailed discussions on IMPs in this process.		Support	See Papa Pounamu submission on IMP and Consenting
	Would be prudent to bring in whanau who have more recently developed these to talk about how they would like them to be implemented – IMPs are a powerful tool to support implementation. Early discussions will help to make this more robust.			
	As an alternative to IMP's, we have provided Position statements to council to inform plan making. (Smart Growth).		Recommendation	MfE to review existing tool in use Position Statements (Smart Growth) as noted by PP attendee
	Need to consider case law and what has already been achieved. Some of those achievements through current legal process – would like to see more of the detail and how these will be incorporated – Justice Williams refers to them as our common law. .			
	Caution from some groups not wanting the IMP to become a substitute for engagement with iwi. This sometimes happens in practice – where unable to engage with iwi. Needs some common ground around how they should be used – referring to an IMP should not be seen as a replacement for engagement.			
	Hapū / iwi / Māori have always been in a reactive position			
	Only way to participate need to have a lot of expertise to fully appreciate the rights we have – we go in with our mātauranga.			
	System is designed for a pakeha world view.			
	There is no mechanism for a strictly mātauranga based view.			
	Iwi Spatial Plan as a starting point to inform Regional Spatial Strategies. We understand Mauri / kaitiaki from our view. From there the hapū / iwi management plans and Cultural Impact Assessments could then be formed.			
	We need a place to be able to put together our information as we see it – by Māori / for Māori.			
RM Reform Engagement Process	There is a lot of expertise online here – do not want to see what we are saying being lost in translation.	Feedback closes 28 February 2022 – Māori Policy Papers will be taken to Ministers in April. We are working through the high-level policy decisions to help inform drafting legislation. What you tell us now will inform policy papers that will inform the drafting of legislation for the SPA and NBA Bills which will be released later this year via a Select Committee Process. Select Committee Process will be a more formal process to make submissions on the Bill. There is another workstream on Transition and Implementation on what support we need to offer to iwi / hapū / councils to implement. We have been doing engagement along the way – each round informs policy decisions being made. Also, the opportunity to reflect your feedback through your submissions you might be doing already for iwi / hapū / Māori organisations and also potential to do it via Papa Pounamu.		PP tautoko this korero. PP request MfE consider how and when MfE will communicate the outcome of the feedback submitted and decisions made, and in particular advise where feedback has been are accepted or declined with an explanation.
	How do we know that these engagement / submissions will be incorporated in the legislation, how can we better work together to get a draft that is actually going to work?		Support	Please consider an appropriate form of communication and not only written comms as this is not always effective communication for iwi/hapu/Maori.

Our Future Resource Management System: Materials for Discussion - Te Pūnaha whakahaere rauemi o anamata

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	Is there a set of ethics for appropriate engagement processes? What is the accountability on the Crown/Councils/Government to take on board our feedback?			
Role for iwi, hapū and / or Māori in secretariats to joint committees	It should be a mix of mātauranga Māori / technical skills based and representatives of iwi / hapū. But the composition should be defined by iwi/hapū/Māori. In an ideal world, all planners would have the expertise in mātauranga Māori – currently a shortage of skills and capacity building will take time. Lack of capacity and capability building on mātauranga Māori for the Crown. Again, lack of resourcing of the Māori side will be a barrier Less than 50/50 is not partnership. Work capacity is already at its peak, should be coming through the ground/grass roots levels. Water consents, fast track consents etc Iwi/Hapū/Māori are always reactive and responsive. The new system needs to change this. Role of Joint Committees and secretariat will be key to success – building those relationships right from the start. Auckland is 10 years down the track and still work to be done to build relationships. Agree – needs clear direction in legislation.	What should be the role for iwi, hapū and/or Māori in secretariats to joint committees? Do we need to be quite directive on how councils need to work with iwi – similar to the Local Government Auckland Council Act that provided the direction for establishment of the Independent Māori Statutory Board (IMSB)?	Support Recommendation	Role for hapu/iwi/Maori in secretariats to Joint Committees should be defined by hapu/iwi/Maori. See Rongowhaka Iwi Trust submission for further references to the Secretariat.
SPA and Up zoning legislation	Enabling Housing Supply and other matters Bill has gone through another reading. What is the relationship to the SPA	RSS will be a high strategic level / NBA would then implement that legislation. The RSS would signal areas for development and how that would integrate with infrastructure / transport corridors. RSS will be informed by the NPSUD – this will then translate into the regional documents; some will come through the National Planning Framework.		
Questions from the Chat	What is the process to appoint RSS committees? How does Te Oranga o te taiao operate on a hapū and whānau level? Will big chunks of existing case law be carried over i.e., in relation to retaining avoid/remedy/mitigate With regional and unitary council boundaries proposed for RSSs how should cross-boundary issues be addressed? Has there been any more conversation around the Mātauranga Māori Panel/commission that Aroha Mead suggested? To what degree should regional spatial strategies and implementation agreements drive resource management change and commit partners to deliver investment?	This is still to be determined This is still to be determined This is still to be determined Through independent cost-benefit analysis of the issues, this would inform the appropriation of budget and phasing by providing weighting to the priority and benefit realisation for involved local authorities. Suggest an agreed sub-committee of the RSS committee inclusive of Māori Yes and No. Not specifically for RM Reform but yes more broadly across other programmes including MfE science programme. I think one of the keys to that Panel is via TPK Wai262 programme. For legislation to be Tiriti compliant and enabling of kaitiakitanga it needs to enable rangatiratanga, mātauranga and tikanga – without all factors it is not legit/authentic or likely to change much. A link was shared to Anne-Marie Jackson work on rangatiratanga and kaitiakitanga. Hamish Rennie provided his email address Hamish.rennie@lincoln.ac.nz for people to get in touch regarding work has done on s 33 Transfers of Power Implementation agreements should be enforceable in courts, so that it provides a level of certainty, security for community, investors, and Māori, and overcome the issue for political change/direction where promises get broken.		
	01 Feb 2022 - Wananga 2			
Important to understand what is meant by the term 'unreasonable costs' in relation to the role of Māori in the new system?	Clarity sought over the term of "unreasonable costs of development." Sounded like the provision is trying to reduce costs for the developer or the resource-consent applicant. That seems to be yet another avenue or provision where developers or resource-consent applicants can try and limit engagement/CIA with iwi/hapū/Māori where the opposite should be occurring, should be more requirements for Māori engagement and CIA's and funding to do so. The wording does not sit right. Unreasonable costs centre around what is non-notifiable and notifiable consent. Currently, on the ground the consents you (Māori groups) want to be notified on are the one that's Councils decide are the ones that do not need it. Need to guarantee that the unreasonable part does not become discretionary and negatively affect Māori interests. How do you research the "with Māori", many Māori practitioners, iwi hapū planners work for free, everyone here today from Papa Pounamu is here voluntarily. For many the relationship with local govt is not we need to work together on this, it is who have you got. If you look at a submission from developers must interactions around permitted activities for example in terms of earth works less than 500m3 being moved at any one time, there is no need for a consent, and therefore if the council notifies the owner of the land that they should still get a CIA, or monitoring done of the property because it is part of a cultural landscape. The developers complain that this is an unreasonable request from council because it is a permitted activity, Councils do not support/protect tangata whenua. In the current system CIAs and engagement with Māori is definitely seen by developers as "unreasonable" requests need to make sure that these are protected. Need to do some work on how to protect cultural landscapes, even if the activity is non-notifiable. Experience for Ngāti Rangi that a project that went through the Fast track EPA process, unreasonable in this process was to consult with tangata whenua, not acknowledge the mana whenua. Still going through the process now in the monitoring space and are still not being supported by council, by district and regional. Hard to understand the practicalities of how this protects tangata whenua on the ground. Quite interested in how the NBA will interact with the EPA Fast Track. In this process the iwi/hapū have 258 conditions with that build, they were not acknowledged as the tangata whenua, the councils find certain people that have whakapapa and say yes to them; however, they do not have mandates to speak for mana whenua, how will this be regulated? •Fast Track system has meant little engagement and opportunity for Māori. They are not engaging with mandated iwi and trusts, not even classed as interested parties. Reading the engagement material, saw that Te Tiriti is being used as a mechanism for partnership, from Māori planning practitioners experience, it should be the forefront of this document. To alleviate costs for developers through "removing unreasonable costs" or the Fast Track process there needs to be a counter objective to protect, CIA's mana whenua engagement etc. Within the budget of a development, developers do not account for Māori implementation, Māori engagement and Māori interests. That needs to be considered when defining "unreasonable costs". Māori implementation costs need to be factored into every development, should be expected by developers.	•The NBA – will ensure that measures to avoid, remedy or mitigate adverse effects do not place unreasonable costs on development and resource use. It is the outcome that is seeking to be achieved, we are looking at ways in which we can create efficiencies. Reducing the number of consents required, for example for straight forward activities and making plans clearer. It is trying to limit the unreasonable costs like the need for a consent to build a new veranda in your backyard. Within te Tiriti components, Te Oranga o te Taiao, things like CIA's would not be considered as unreasonable. We need to understand that this needed to reach to the ground, and how to get accountability measures in place so that CIA and engagement with iwi/hapū/Māori is common practice. •The Plans that allow development in the current system have had little participation from Māori so the new system aims to enhance Māori voices in the plan making space to make those decisions such as what is "an unreasonable cost" Plans will be made with Māori and councils. How do you research the "with Māori", many Māori practitioners, iwi hapū planners work for free, everyone here today from Papa Pounamu is here voluntarily. For many the relationship with local govt is not we need to work together on this, it is who have you got. Quite interested in how the NBA will interact with the EPA Fast Track. In this process the iwi/hapū have 258 conditions with that build, they were not acknowledged as the tangata whenua, the councils find certain people that have whakapapa and say yes to them; however, they do not have mandates to speak for mana whenua, how will this be regulated?	Recommendation Recommendation Recommendation	See PP submission section on Consenting, Compliance and Monitoring. See PP submission section 6A Transition pathway, Model projects. Recommendation: PP have the appropriate networks to connect directly with mana whenua groups on the ground doing the work and can provide MfE with appropriate contacts. See PP submission section Consenting example: Matawaii Investigate lessons learnt from this example. See PP submission section 6A Transition pathways, Model projects. See PP submission section Introduction
Funding Māori participation in the new system		Currently the RMA is quite silent on funding; a lot of RMA provisions have not been taken up. Do we need to be more explicit in legislation around funding or do we need to put more hooks into Council Long Term Plans (LTPs)? Keen to hear your thoughts and examples of when you may have received funding to support your participation in planning processes.		See PP submission section Funding examples. Also further comment above re: Funding.

Our Future Resource Management System: Materials for Discussion - Te Pūnaha whakahaere rauemi o anamata				
	Papa Pounamu Feedback Wananga Session Notes	**MfE Response**		**Additional feedback from Papa Pounamu**
	A lot of the time, there are hidden costs within Māori engagement. Money received from developers in minuscule compared to the actual cost behind the scenes. The relationship and resourcing imbalance needs to be addressed. Council workers and other specialists get paid to do their work; however, Māori do not get paid a fair and reasonable rate. There needs to be a stronger and more explicit conversation around valuing what Māori practitioners do. Feel that until that recognition comes from central and local govt., that this is a partnership conversation it is always going unbalanced. Māori practitioners need to read all the other reports, scientist reports (geo-tech, engineering) and write their own report along with replying to the other Setting a 'Māori' cost at the front end of a budget for Māori practitioners time and work and iwi/hapū engagement so there are no surprises for either party. Need to also have a contingency budget. Tautoko the NBA being explicit on resourcing iwi and Councils having identifiable costs codes so iwi resourcing can be transparent, reported on and monitored	If Māori and working more closely with local government in plan development would that solve some of those imbalance issues? How can we resolve this and make it more of a partnership?		
Requirement to consult with Tangata whenua in the new system	Currently there are no requirements to consult with tangata whenua. Will there be triggers that require consultation engagement? Or is it all going to be wrapped up in the strategic planning stage?	The development of the new NBA plans would include iwi/Māori representatives on the committee, iwi/Māori in the secretariat, and engagement with iwi/Māori during plan development. The plans themselves are supposed to be more directive on what activities require further consultation and potentially with whom. Also, there's ability to have more specific information requirements. There are a lot of pressure on these plans in the new system to be clearer about what is required for a consent.		
Role of Iwi/hapū/Māori in the new system	There needs to be a mentality shift from councils, developers, and applicants when engaging with Māori. On the ground, it feels like applicants see Cultural Impact Assessments (CIAs) and Māori engagement as "red tape". There needs to be a shift for Māori to be at the forefront of what development happens in the rohe rather than being seen as "red tape" and hinders of development. Because of the broad framing of this legislation/reform there is an opportunity to flip that narrative - Māori leading development in the rohe.		Support	Partnerships and relationships with hapu/iwi/Maori and Council can be an impetus for positive change, including hapu/iwi/Maori leading development in the rohe, in an appropriate manner to uphold Te Oranga o Te Taiao.
Council Funding for Māori Participation in the System	Councils will be asking where the funding will come from to do this, they will have to sell that to their communities. The easiest way for them to do it is a mandatory requirement under the law - in other words blame central government. The regional committees regional plan secretariates are not going to address the funding issues discussed here.	This is one of the things we are looking at in our advice to ministers, what such a requirement in legislation would look like and how to ensure that regional/local costs for Māori participation are met with adequate budget. One of the other ideas MfE are investigating is whether there could be cost recovery mechanism where that advice was not sought at the planning/application stage and must be supplied through submissions. Any ideas or suggestions on these areas are welcome.		Council projects, policies, strategies should appropriately budget for matauranga Maori expertise (not unlike consultants that council engage). Budgets are forecasted and presented through the LTP process, and Annual review process. hapu/iwi/Maori expertise to be included in budget forecasting. Engaging with hapu/iwi/Maori is not only about engagement, it is about advocating funding for Maori communities in order to support and increase Maori outcomes to uphold Te Oranga o Te Taiao.
Joint Management Arrangements (s36B RMA)	JMA's have been used a lot in recent years but need to look at why those provisions have been in the RMA for the last 30 years, but uptake has been low. Do not want to be in a similar situation in 30 years with the new reformed legislation.	The Randerson report identified that the RMA presents a lot of barriers for this arrangement, Iwi are using Treaty Settlements to get these, why can they not be delivered throughout the new legislation.	Recommendation	Treaty settlements demonstrate good outcomes can be achieved in partnership with hapu/iwi/Maori for the benefit of the hapu/iwi/Maori, the wider community and the environment, for example Tupuna Maunga Authority a cogovernance entity to administer and manage 14 Tupuna maunga in Tamaki Makaurau. Historically, Council were the administrators for the volcanic cones, so budget was already in place for the mangaement of the tupuna maunga. The new cogovernance entity became a new decision making body that Council provided administrative support, including the use of existing parks staff. Council should consider similar types of arrangements in particular with natural resources when building relationships with hapu/iwi/Maori. The Crown shows this can be done if there is a commitment from both parties. Usually, such arrangements are for the betterment of the wider community as well. Some Council roles and responsibilities are already funded as per compliance requirements to do so, therefore funding is initially available, and work programmes will forecast budgets during the annual plan process.
Role of Iwi Management Plans to inform decision-making	From having sat as a commissioner on over 30 hearings, the issue is you can see when an applicant has "taken into account" an Iwi Management Plan or they "taken into account" the relationships with tangata whenua, but the reality is iwi do not really understand the process. What happens is the commission would accept the applicant's submission subject to conditions, when it came to putting those conditions together, unless tangata whenua was explicit about what they wanted, the commissioners could not incorporate those views in the conditions. Need to give Māori commissioners on hearing panels discretion to be able to take into account a view, even though it is not explicitly expressed. There also needs to be resourcing for iwi practitioners and the like to be able to get these IMP and the implementation mechanisms right for iwi/hapū/Māori. Developers who can hire a professional Māori planner will sometimes be able to put their case in a way that is easier for the commissioner/Judge to understand, over the less well-written views of the mana whenua. Two ways to get around this - the Commissioners appoint a friend of the iwi to assist them to argue the case and the costs for that fall on either council or applicant, or the government funds a specialist national unit that can be called on - something like the legal defence fund that environmental groups use, this would provide technical assistance and support for hapū who are under-resourced. How will the focus on a smaller number of plans recognise the Treaty rights of each specific iwi as there are multiple iwi in most regional council boundaries. The risk is all iwi plans are mushed together and represent no specific iwi.		Support	Suggestions provided should be considered. Hapu/iwi/Maori to be included in development of any funding options because discussions with the end users and affected persons may identify practical solutions for all participants.
Upholding Treaty Settlements in the new system	Most Treaty Settlements have a blanket statutory acknowledgement on the conservation estate – s4 Conservation Act is a stronger acknowledgement of exercising their role as kaitiaki of the estate. "Tangata Whenua must be seen to be playing their role as kaitiaki of the estate." Conversation needs to be made with iwi/hapū/Māori and DOC (Department of Conservation) as where they see tangata whenua in managing the estate. Support putting further recognition on these relationships and responsibilities into legislation for example: The Biosecurity Act has no recognition of Treaty Settlements in it.			The transfer of Treaty Settlements to the new system must ensure rights holders hapu/iwi/Maori are based on tikanga and Te Tiriti o Waitangi and are not usurped through this process. Post Settlement Governance Entities (PSGEs) should not determine how rights held by hapū (e.g., takutai moana rights) are incorporated into governance arrangements.
Role of Cultural Impact Assessments as higher order documents	Nothing in the engagement material/structure framework – where Māori can put in their own plan for how resources should be managed. Māori are always submitting reports/CIA etc. Māori are not being resourced to be proactive and shape the resource management, the work is mostly reactionary. There's need to be a place for Māori to put all of the essential information together. CIAs need to be a high-level document.		Support Recommendation	See Papa Pounamu submission Consenting and Funding examples.
Freshwater Rights and Interests – Water Takes	When a property with a water take is purchased, they owners can turn it into a bottling plant. Water is a taonga, there is no protection for Māori. These sorts of Treaty discrepancies need to be addressed.		Support	See Papa Pounamu submission section Maori rights and responsibilities.
Role of Māori in the new system	Need to move away from Māori just being the cultural values part of the system. In terms of Māori participation there should be an expectation that in the profession that Te Oranga o te Taiao is the framework for the participation, not just cultural, but also roles for Māori throughout the system. In terms of the implementation of consents and CME there is a lack of baseline information for Māori, needs to be obligations for local authorities to provide baseline information of te taiao for monitoring.			See PP submission sections.

Our Future Resource Management System: Materials for Discussion - Te Pūnaha whakahaere rauemi o anamata

	Papa Pounamu Feedback Wananga Session Notes	MfE Response		Additional feedback from Papa Pounamu
	It is fundamentally about overall custodial responsibility for managing te Taiao. Focusing on 'resources' as the centre of discussion takes the eye of the ball - BAU 'anthropocentrism - the Crown The responsible management of resource use / exploitation of natural attributes is a subset of our moral commitment to the whakapapa of living organisms and the importance of 'all things' that comprise te Taiao. And yes, we must acquire HISTORIC / original base-line knowledge, compare it against today's 'state' and learn from that comparative finding how best we need to proceed to elevate te mauri o te Taiao. sea-change is necessary.			
Capacity, Capability and Workload of Māori Practitioners	All the work that iwi practitioners currently do, is not the work they should be doing. They should be out in the moana, ngahere and up the maunga that should be the starting point for this policy reform. The fundamental world views are hugely misaligned, and that misalignment is going to continue to perpetuate. The fear is that Te Oranga o Te Taiao is going to be written into legislation and the next 25 years will be spent debated what it means and looks like. Iwi/Māori do not have the time to debate that, people are dying just like the moana and whenua is dying. MfE need to take the list of the practitioners in this hui that can provide work back to councils at a consultancy rate (It is not questioned when a Pākehā scientist quotes their consultancy rate, but it is frequently questioned when Māori practitioners send a quote). MfE need to show how they are going to increase the capacity and capability of whanau/iwi/hapū on the ground. Not just in a monetary sense, but education as well. Iwi planners, are the ones on the marae, writing the Board of Trustees reports, doing the baseline monitoring and surveying, trying to get research grants in, writing Treaty claims, needs to be proper resourcing for Māori at the ground because currently it is unsustainable. How can MfE work with Papa Pounamu in an efficient way so work is not being doubled/quadrupled, how do we get a more collaborative effort going with Papa Pounamu to support whanau in the regions and they can become preferred providers for councils. There are not enough Māori practitioners to keep going individually. Māori want the reaction work to be the core work, want to be out there doing the productive, aspirational work to restore the whenua. Māori practitioners, iwi/hapū/whānau are crying out for resourcing to have an intergenerational plan.			See comments above re: tangata whenua have expertise in tikanga, kawa and matauranga maori to manage their roles and responsiblities as kaitiaki.
NBA Permitted Activities – Third party certification by Māori	If it requires a third-party certification, it is not permitted and if you are going to give effect to te Tiriti, any cultural values assessment provided by any iwi would need to have the ability to mandated. Majority of the consent applications that come across the table are non-compliant that is because of the intensity of development. Is any data or maps that can be provided that show the forecast development and proposed potential impacts on te taiao/taonga? Māori professionals have arguments with Pākehā scientists for example when discussing water extraction. Pākehā focus is around the volume of water however, whereas a mātauranga Māori focus is around the rate of extraction. The system needs to understand and give weight to mātauranga Māori. With the Bill proposing 4 classes of permitted activities, how will iwi and customary activities be considered? Is there a component where the policy may flag integrated Māori development i.e. Māori Land wanting to develop papakāinga?	Do you think changes to the system that clarify and explicitly enable permitted activities to require a third-party certification will create greater certainty and efficiency for plan users and those requiring consents?	 Support	See Papa Pounamu submission Consenting. Tikanga is embedded in Matauranga maori which is an expert discipline.
Strengthening the role of Māori in consenting and compliance, monitoring and enforcement (CME)	Process around consenting and CME is similar to third-party certification. It is an opportunity to provide across the range of iwi/Māori the abilities and knowledge about how to give effect to their iwi management plans. There is a lot said about Iwi Management Plans, but they need to be explicit in what iwi/Māori want in their rohe and have a big enough stick to enforce IMPs.	What opportunities do you see to strengthen the role of Māori in consenting and CME services in the system?		
Funding / Resourcing revisited	Has the korero around funding been articulated well enough that MfE has the necessary understanding about what is needed - Specifically resourcing Māori on the ground? From affected party to experts providing advice - and then more than that - CIA as impact assessment from the Indigenous side of the Te Tiriti partnership - not just covering what others define as cultural. But even then - the issue is still the competency of others to implement CIA.	Yes, this conversation is tidied closely to the mahi the workstream is currently doing, providing advice to the Minister on how to provide/ensure the costs that iwi/hapū/Māori incur when they participate in the system are covered. What do we need in legislation that is enforceable? What hooks do we need to make sure those costs are recovered. In the consenting space- how do you shift from Māori as an affected party to an expert providing advice like any other technical consultant. That is one of the expectations on plans in the new system, they will be more prescriptive and provide for stronger hooks in the rule around who is providing information. Acknowledging that the role goes well beyond that and I hope that the requirements in plans are determined in a partnership environment, and that there are other outputs besides how rules in plans are implemented. When thinking about funding in the consenting environment - a "user pays" environment, this is one keyway to ensure costs are covered and help contribute to improved capacity. We are also advising on costs that may need to be covered via rates and taxes too.	 Recommendation Support	MfE: a hook to ensure costs are recovered is: - Effects on tangata whenua values. only hapu/iwi/Maori can determine effects on their values. this requires engagement with hapu/iwi/Maori to determine the need for a CIA /CVA. applicants or council to fund these situations. See Papa Pounamu submission Consenting and Funding examples.
Plans for Future Development and Iwi Management Plans	In the Bay of Plenty, there is SmartGrowth which plans for future development. When the underwent the 10-year review, every check box that involved tangata whenua involvement was marked not achieved. What is in discussion now is spatial planning for Māori by Māori, which adds the Māori voice to plans that a currently all high-level policy from high paid consultants. Spatial planning can be an effective addition to IMP. It is a process that needs to be funded by the Crown through different mechanisms to strengthen IMP. IMPs are just placeholders for engagement with tangata whenua. If the IMP is too detailed, it is a huge cost and then the iwi can get trapped as IMP only need to be taken into account.			
Enhanced Mana Whakahono ā Rohe / Consenting / Compliance, Monitoring and Enforcement	On the ground BOP Regional Council (for example) may have 3 or 4 enforcement staff that deal with 3000 consents each and yet most of those sites have an iwi monitor on their fulltime while that site is being developed. Where they have earthworks monitoring protocols with local council, they took it one step further, the council has adopted and written into their earthworks protocol that iwi monitors are holistically environmental monitors, not just earthworks but the compliance issues. It has been resourced accordingly from council. Goes back to capacity building, the enable Māori to be qualified to enable Transfers of Powers like they did with Jobs for Nature. A program like Jobs for Nature should be carried on, but under the guise of capacity building for Māori. Getting Māori environmental officers accredited as compliance officers. MWaR are initiated by iwi. However, there should be a requirement that Local Government (LG) has capacity agreements for funding iwi/hapū participation – regulatory services processes, LG provide training for iwi/hapū and vice versa.	How could an enhanced MWaR process be enabled to support hapū/iwi/Māori involvement in NBA consenting, compliance, monitoring and enforcement?	Support Recommendation Support	See PP submission Funding examples and Consenting, Compliance and Monitoring. hapu/iwi/whanau/Marae Compliance or monitoring should be incorporated as outlined.
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Development of the first iteration of the National Planning Framework		The National Planning Framework is the tool in the NBA that the Government would use to provide integrated strategies direction on the management of the environment, and consistent regulation. It is proposed as a single, comprehensive framework that would consolidate the existing national direction.		

Our Future Resource Management System: Materials for Discussion - Te Pūnaha whakahaere rauemi o anamata

	Papa Pounamu Feedback Wananga Session Notes	MfE Response		Additional feedback from Papa Pounamu
		Outcomes looking to seek through the reform: • Natural Environment o Protection, or if degraded, restoration of health, mana and mauri of air, freshwater, coastal waters, estuaries, soils, and indigenous biodiversity • Cultural Values o Protection and restoration of the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga o Conservation of cultural heritage • Climate Change and Natural Hazards o Reduced greenhouse gas emissions, including low-emission urban form and increased utilisation of renewable energy o Increased removal of greenhouse gases from the atmosphere o Reduced risks arising from and better resilience of the environment to, natural hazards and the effects of climate change • Well-functioning Urban and Rural Areas o Enabling enough development for housing, business use and primary production to meet the diverse and changing needs of people and communities o Ongoing and timely provision of infrastructure services. o Urban form that promotes economic, social, cultural and environmental benefits o Preservation of highly productive land for food production o Enhanced public access to and along the coastal marine area, lakes, and rivers • Under the current system there is a lot of national direction, trying to achieve in the reformed system is one comprehensive instrument through the NPF providing consistency. Work to date: • Looked at existing national direction, o To achieve integrated management, need to repurpose some of that national direction. Some of		
		• Providing guidance for the Joint Committees that will be aligned to Existing Regional Council boundaries (with the exception of the Top of the South). It was decided that RSS and NBA plans will follow the same boundary lines. Noting that there is a Local Government review about to start, it was not the appropriate time to change the boundaries.		
	• Should not be "outcomes" based but benefits based - benefits of te taiao • Talking about "our regions" who are MfE talking about. (In relation to providing guidance for regions to prepare RSS through the NPF). • What is MfE doing to ensure that whānau/hapū/iwi participation is involved in all of the above? • Concerned about who is created the outcomes above. • Cultural Values are not just wāhi tapu they are also mahinga kai, pātaka, waterways etc, they should be explicit. • Is the proposed wording 'give effect to te tiriti" or "te tiriti principles"? • How is the kōrero over the last three sessions, and other engagement with Māori being relayed across MfE, not just the Māori Policy team and how will this engagement and views be shared with work in the Local Government Review, grassroots kaitiaki do not have the time to share these views repeatedly.	• MfE are aware of the challenges for whānau/hapū/iwi, the Randerson Report covered them in detail through significant engagement, notwithstanding the team hear are hearing the kōrero and trying to compile advice what does the strategic role for Māori look like on the ground. • From the Engagement to date, we are hearing that there are three key issues around Māori representation in the system: o At a Governance level o Pen holding in plan-making and participation in plan-making o Capacity and Capability • For the last 30 years we have been operating on Treaty principles being "taken into account" that is what all of us within the system have been operating to. There has been a decision to shift to "give effect to te Tiriti" this transition phase is significant. How to transition from the current system to the new system under "give effect to' and bring others with us.		
				See Rongowhakaata Iwi Trust submission, section 2.3 Joint Committees & Mana Whakahono a Rohe.
				See Te Korowai o Ngaruahine Trust reference to Joint Committees & Mana Whakahono a Rohe.
	• Hard to have influence in those joint committees and in the implementation and transition period if those committees are not 50:50.	• There may be a minimum requirement for the JC's not limited if regionally it was determined to increase that number. Would be great if Papa Pounamu could provide feedback on the role of the secretariat and how to build that capacity and capability to interpret and write the policy and plans.	Support	See Papa Pounamu submission on Joint Committees, Mana Whakahono a Rohe
	• The composition of these committees needs to be driven by a partnership model where its 50:50 with co-chairs. Examples from SmartGrowth in terms of spatial planning there needs to be realistic funding and resources for iwi/hapū input. The budget for 20 iwi and 40 hapū to partner up for the spatial planning was only 200k at a regional level. That was not enough for the level of spatial planning iwi/Māori need, several iwi have already pulled out. Iwi/hapū should not have to compete for funding, there needs to be equitable funding for very iwi/hapū to be empowered and enabled to engage effectively and ensure the outcomes they want and not just provide their high level values and areas of interests	• Hearing from councils the importance of spatial planning, but in the absence of legislation and the Treaty principles, the spatial planning is currently under the LGA not the RMA. The point of the SPA is to give that framework. There is no legal framework for Māori aspirations to hold councils accountable for spatial planning.		
	• Concerns were raised around who was being represented on Joint Committees, there is a missing relationship at the hapū level. If the new system gives more emphasis to iwi authorities, it wipes hapū/whānau out at the base, and they will be marginalised again. No one should decide for hapū except hapū. Hapū are the grassroots doing the mahi not the iwi leaders. Want tangata whenua talking for their whenua. The funding should go directly to hapū on the ground and not get stuck in PSGES who have replicated the Crowns example. • Need to roll out joint committees correctly. There must be a strict term of reference with an obligation to have direct consultation and there needs to be Māori caucusing. There needs to be proof of communication back to the people on the ground. People will end up losing faith in the Māori partner on the committee if this is not done. The onus is on the Māori partner on that committee to come back to the people. Also needs, realistic timeframes for iwi/hapū engagement. • Joint Committees should be held across their rohe not just held at LG offices. Marae are venues for gathering, this would give opportunities for our people of the ground to have their voice and fronting kanohi-ki-te-kanohi. This should be included in the terms of reference.			
Role of the National Māori Entity in system Monitoring and Oversight		National Entity: • In principle agreement to the establishment of a national entity, independent of the government of the day, to enable Māori Participation at the national level. • There has been agreement in principle for the role in: o Inputting to the development of the NPF o Appointing any Māori members of the NPF Board of Inquiry o System oversight and monitoring (particularly monitoring of Te Tiriti performance in a proactive way) • National entity design principles (from engagement to date) – it must be established in a way that: o Does not usurp the mana of hapū/iwi/Māori at place o Is more than 'just another advisory body' • It is not replacing any engagement that MfE or DOC have with Māori in terms of Coastal Policy Statements		
	• Suggested that MfE work with Papa Pounamu to work out the 'integral roles' so that the Crown can get it right from the outset and views do not have to be submitted time and time again over the same points. • In favour of the RM reforms, focussed on ensuring that everything in here will free up Māori to be able to be kaitiaki. Have read that the Minister will have the final word if there is ever conflict and cannot be challenged. Like the continuity of spatial strategies and that they would not be affected by a change in government. Need to have an appeals process for the NPF in the transition stage.	• With the National Directions to date, there has not been the ability to repeal, judicial review etc. There is a process for the Board of Inquiry to review the NPF and produce recommendations that would go to the Minister.	Support	Papa Pounamu have the appropriate networks to connect directly with mana whenua groups on the ground doing the work and can provide MfE with appropriate contacts.
	• If mana whenua has an issue somewhere in this transitional period, where can they go to appeal to have it changed or raise their concern?	• Through the early engagement process on the National Direction to make sure the Board of Inquiry process addresses those concerns from the start. Once it is in the Board of Inquiry process, there are opportunities there. The NPF is not the only tool, there are the RSS and the NBA Plans which will all have appeal processes		
	• With the piloting/testing/implementation of the new system where is the quality assurance and insurance for mana whenua	• There is a model plan/project proposed, so the reforms can be tested in the region first, to know what works well and what does not. There is also further testing through the select committee.	Support Recommendation	See the PP submission, section 6A Implementation, Transition Pathways and Model Projects.
	• Where is the support and importance of hapū in the new system? • Where do whānau/hapū who have not settled through Treaty claims/JMAs i.e. Māori/hapū/whānau landowners	• That is the big shift we are looking at, the RMA focussed primarily on iwi authorities the reforms aim to have greater provision for hapū involvement. In a number of areas, a lot of the existing tools such as Mana Whakahono ā Rohe can only be initiated by iwi looking at including hapū ability to initiate those and have those direction relationships. Conscious of where hapū and iwi have not settled in the current system, those iwi have had to 'cash in settlement chips' to get what the RM system should have provided in the first place. Trying to make those aspects like JMAs happen in the resource management system without having to use Treaty Settlement.		
	• There was not a lot of support of an electoral college appointment process.	• In terms of the National Entity, would an electoral college type appointments process be supported by Papa Pounamu? (Noting that Crown appointed, or National Māori bodies appointed processes would not be supported by PP)		
	• Only those with whakapapa connections to the land and water are mana whenua, we are the ones with the mana to speak on our land. We are the feet on the ground doing the work, we hold the pen in our respective areas. • The major challenge ahead is the pace of the work around the reforms in front of us and the where the funding will come from.			
Next Steps	• Feedback closes on 28 February and can sent to rm.reform@mfe.govt.nz • Papa Pounamu are wanting to give feedback, keen to have examples of the system both positive and negative to inform the MfE policy. • There are a many other professions and Māori professionals that are missing from this kōrero.			
	• Why is the E missing from the NBA – the importance of the Environment is missing – needs to be put through?		Support	Highly appropriate, that an acronym is missing the key initial 'E' for the key word 'Environment'. A simple but key observation.