



Māori Perspectives on Water Allocation

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Durette M, Nesus C, Nesus G & Barcham M

Kei te ora te wai, kei te ora te whenua, kei te ora te tāngata

The water is healthy, the land and the people are nourished

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Executive summary

Although the long-held connection that Māori have with freshwater resources and their role as kaitiaki in managing them has been formally recognised in New Zealand legislation and policy, there remains a gap between these initiatives and the realisation of Māori values in water-planning processes. As pressure on our water resources increases, the Government is preparing to revise the current system for water allocation to make it more efficient and effective for meeting the needs of all those with interests in water.

It is essential Māori values are understood and accounted for when decisions are made regarding water allocations within these systems. In this context, then, increasing Māori involvement in freshwater management, including water allocation processes, has become a key component of the Government's programme to improve water allocation decisions.

The objective of the Joint Work Programme agreed by Ministers and iwi leaders in July 2008 is to enhance decision-making in freshwater management by having greater and more consistent involvement of Māori and incorporation of Māori perspectives at the national and regional levels. In order to further that work, the Ministry for the Environment is seeking to gain an understanding of Māori perspectives on water allocation.

This engagement involved a series of interviews and focus groups with iwi and hapū and regional council staff involved in water allocation. Overall, this engagement revealed widespread dissatisfaction among iwi and hapū as to how the current water allocation system provides for their values and interests.

The following list provides a summary of key findings.

- One of the main sources of dissatisfaction with the current water allocation system was that the health and well-being of the water and water ways is not the first priority within these systems.
- Iwi must be treated as the Treaty partner (rather than just as stakeholders or an affected party) which means they must be partners in the decision-making process in relation to water allocation.
- The water allocation process does not account for the complexity of the relationship that iwi and hapū have with water and for this to be reflected in the policy and planning.
- Water must be set aside and allocated to Māori land and land returned as part of Treaty settlements.
- Iwi and hapū say they own the water. In this context they raise concerns about the impact of trading and the availability of water especially in terms of their Treaty settlements.
- The time and resources that iwi and hapū dedicate to responding to resource consents without financial support from the regional councils was another

major issue raised. For pre-settlement, iwi lack of resources may mean an inability to respond adequately.

- In challenging consents, iwi and hapū prefer negotiation and dialogue rather than going through the Environment Court process due to the time and resources needed.
- The relationships with regional councils are diverse. Most have good working relationships with staff at the operational level but are variable at the decision-making level.

The engagement with regional councils also raised a number of issues from their perspective in relation to Māori and the water allocation process.

- The Resource Management Act acts as a barrier to fully recognise Māori values and interests in water.
- Guidance and direction from central government is needed about Māori values and interests and how they should be provided for under the current legislative and policy framework.
- Iwi planning documents are seen as an important tool to reflect Māori values and interests in regional councils' policies and planning. The lack of any targeted or measurable outcome in these plans makes it difficult for planners to be able to work with the documents.

Both Māori and regional council interviewees offered many suggestions for how the current situation could be addressed to better reflect iwi and hapū interests. The potential approaches and actions identified by interviewees to address the issues raised in the engagement are set out in the final discussion section of this report.

These approaches and actions are grouped and discussed under six target action areas as follows:

- building the capacity of iwi and hapū to engage on water allocation
- building the capacity of regional councils to provide for iwi and hapū values and interests in water allocation
- supporting the development of effective iwi planning documents
- ensuring that market mechanisms reflect iwi and hapū interests in water
- implementing representation of iwi and hapū for freshwater interests at the national level
- recognising and treating iwi as a Treaty partner with decision-making powers.

This report suggests these action areas provide a mandate for a national entity that would progress iwi and hapū expectations around water allocation systems and fresh water more generally in New Zealand. However, many interviewees expressed skepticism as to the political will of central government to take the steps necessary to implement the recommendations they had made during this engagement.

Introduction

The New Zealand Government's Sustainable Water Programme of Action was developed in response to growing concern among New Zealanders about the future sustainability of fresh water and the need for greater consistency in decision-making on freshwater management. The programme arose in large part as a response to meetings and hui held in 2005 to discuss freshwater management and how the Government could better provide for people's aspirations for fresh water. There are three key outcomes sought for fresh water under the programme: strengthening partnerships with stakeholders to improve water quality and quantity, managing the undesirable effects of land use on water quality, and managing increasing demands for water and encouraging efficient water use.

To contribute towards the outcomes set out in the Sustainable Water Programme of Action, a Joint Work Programme was agreed by Ministers and iwi leaders on 23 July 2008. The objective of the Joint Work Programme is to enhance decision-making in freshwater management by having greater and more consistent involvement of Māori and incorporation of Māori perspectives at the national and regional levels. In order to further that work, the Ministry for the Environment sought through this engagement of Māori and regional councils New Zealand-wide to gain an understanding of Māori perspectives on water allocation.

This engagement involved a series of face-to-face interviews and focus groups with iwi and hapū in six (Canterbury, Otago, Nelson, Whanganui, Bay of Plenty and Waikato) different catchment areas of New Zealand, and telephone interviews in two additional areas from February to April 2009. The engagement was designed to assess Māori perspectives on water allocation based on the following questions:¹

1. What is the level of understanding Māori have around allocation of water?
2. Where do Māori gain understanding of water allocation?
3. How do Māori view the way regional councils allocate water?
4. What issues do Māori have with the current system of allocating water?
5. What is working well for Māori under the current system for allocating water?
6. How do Māori consider the current system for allocation could be improved?
7. What are Māori interests in the allocation of water?

The first two questions were set out as a self-assessment, while the remaining five questions were covered in the interviews.

Regional council staff involved in water allocation (such as scientists and policy officers) were also interviewed using a shorter questionnaire.

¹ Allocating water includes decisions made by regional councils to approve/decline applications to take water from rivers or groundwater. A list of interviewees is attached at Appendix A, and questionnaires are attached at Appendix B.

This report is divided into sections based on the above questions and in the same format as the questionnaire. The first two questions were combined into section one in the questionnaire, and this format is followed in this report. Each section sets out the main issues that were raised, with a discussion of possible ways forward that were identified during the interviews. After the sections on iwi and hapū perspectives, a section setting out the perspectives of regional councils is included. Similar to the other sections, this part of the report sets out the main issues from a regional council perspective, and draws these together in a discussion as to how to progress the matters raised.

The uncertainty of the position of iwi and hapū and their relationship to fresh water within current water allocation systems is a major issue of utmost concern to them. As this report will show, there is widespread dissatisfaction among iwi and hapū as to how the current water allocation system presently provides for their values and interests. As a way forward, this report sets out these issues and the possible approaches and actions that might be implemented to address some of the concerns that iwi and hapū have in relation to water allocation.

Section 1: Self-assessment

1. What is the level of understanding Māori have around allocation of water? Where do Māori gain understanding of water allocation?

This first self-assessment section of the questionnaire asked iwi and hapū representatives to assess their understanding of water allocation systems at both the regional and national levels. The section also gathered information about where Māori gain knowledge of water allocation. Participants were asked whether or not they had consulted their regional policy statements and plans, and whether these documents were clear and easily understandable. They were also asked to identify where they had learnt about water consent applications or proposals by regional councils to change plans or implement a new plan. They were also asked whether or not their group had ever responded to a public notice of a water consent application or to a proposal to change a current plan or implement a new plan.

This section also sought to identify the ways in which Māori keep informed of the central government's water policy and which proposals on water policy from central government they were aware of. Specifically, they were asked whether or not they were aware of the central government's call for submissions on the proposed National Environmental Standard on Ecological Flows and Water Levels in July 2008.

2. Level of understanding

Participants were first asked to rate their level of understanding of water allocation systems at both the regional and national levels on a scale that ranged from minimal to high understanding. Understanding of processes at the regional level was ranked more positively than understanding at the national level, with most participants rating themselves as having moderate to high understanding. Only three participants felt their understanding of regional systems were basic. There were no reports of anyone having minimal understanding. In contrast, the majority of participants ranked their understanding of processes nationally as basic or moderate, with two participants giving themselves the lowest rank of minimal understanding.

3. Regional policy statements and plans

Most participants had looked at regional policy statements and plans, with only one representative reporting not having looked at these documents. However, about two-thirds of participants reported that despite having looked at these documents, they did not find them clear and easily understandable.

4. Access to information at the regional level

Common ways of obtaining information about new water consent applications or proposals by regional councils for changes to current plans or to have a new water plan included public notices in newspapers, word of mouth, and personal notification. Less common was the regional council's website. A variety of other sources of information were listed by participants including:

- applicants

- iwi authorities
- iwi consultation
- iwi forum in Bay of Plenty region meeting monthly
- local government connections
- people mandated to work this area
- Māori Reference Group
- Māori committee
- other iwi
- protocol system with regional council for notification
- regional council engagement processes
- personal networks
- networks with regional councils
- statutory acknowledgement provisions/ regulations
- summary of consents.

5. Access to information at the national level

Participants were also asked to identify how they kept informed of central government's water policy. Common ways of keeping informed of central government policy included newspapers, television and word of mouth. The most common way was via the Ministry for Environment and other government agency websites. Other ways that participants identified for keeping themselves informed of central government policies included the following:

- attending hearings at the Environment Court
- extended iwi
- informal gmail group
- involved directly
- involvement in related committees
- iwi authorities
- iwi consultation
- contacts in the Ministry for the Environment and other government agencies
- personal networks
- resource management consultants.

There was a wide awareness of central government specific policies and proposals reported. The majority of participants reported being aware of the call for submissions on the proposed National Environmental Standard on Ecological Flows and Water Levels in July 2008. However, eight of the participants had not been aware of this call for submissions.

6. Discussion

In general, participants rated themselves as having basic to high understanding of water allocation systems. Participants' understanding of processes at the regional level was considerably higher than at the national level. This may be due to the fact that most of the participants in this engagement would work with water allocations processes at the regional level. However, this may also indicate that central government needs to take steps to ensure Māori are informed of, and understand how, regional processes relate to central government policies and the overarching frameworks. As will be raised in other sections of the report, this highlights a need for increased information-sharing across the country with a particular focus on reaching those groups that may be smaller, have few resources, and be more isolated in order to address any inequalities that may exist between iwi and hapū in terms of their ability to participate in water allocation systems.

Additionally, when asked about the actual content of regional policies and plans, participants indicated these were not always clear and easy to understand. This indicates that some work on the part of regional councils is required to ensure that Māori can engage on these policies and plans. Since most of the participants in this project were individuals who worked with water allocation processes in their regions, it is likely that the more general Māori population would report an even greater difficulty in understanding regional policies and plans.

Finally, since one of the most common ways of keeping informed of central government's water policy was the Ministry for Environment and other government agency websites, these website may provide a good starting point for the dissemination of information. However, as will be raised later in this report, many groups reported that increased networking with other iwi and hapū would be beneficial. Thus, a combination of initiatives to address any information gaps is warranted.

Section 2: Perspectives on regional councils

1. How do Māori view the way regional councils allocate water?

This section looks at how Māori believe current water allocation planning and processes impact their values and interests, both customary and commercial, in water. In this section of the interviews, interviewees were asked to identify specific values that could be affected by water allocation processes and to describe the current and future impacts of these processes. In particular, concerns were raised in regards to the impact on Māori as land and business owners and the impact on future generations. Interviewees were also asked to offer suggestions for changes they would like to see to the current way that regional councils set priorities in water plans to provide better recognition and protection of Māori values and interests.

The relationship that iwi and hapū have with water sets the context for the cultural values they expect to see taken into consideration as part of the water allocation processes. They identify their awa in their whaikorero, in their mihi as an intrinsic part of who they are.

From a purely values perspective, water is probably the most, one of the most important that we have. Always has been, you know, and we talk about the association of water to Māori and we go back to things like birth and things like that. It's about tapu and noa and keeping the balance.

Kei te ora te wai, kei te ora te whenua, kei te ora te tāngata. The Te Arawa Lakes Trust has the view that all life derives from water and that there must be enough water to nourish the earth and the people. Other iwi and hapū interviewees expressed similar views in relation to their water.

Iwi and hapū have an expectation that regional councils have an understanding and appreciation of these relationships as part of their allocation processes.

2. Impact on Māori customary values

Within this overarching context, there was widespread agreement amongst interviewees that current water allocation processes do not adequately support iwi and hapū customary values related to water. Specific customary values were identified as being impacted by water allocation processes including: mauri, health and well-being of the waterways

- kaitiakitanga at all levels including responsibilities to maintain resources for generations to come
- rangatiratanga and creating a meaningful role for Māori in the regulation of taonga such as the environment.

Other concerns around customary values included:

- tikanga around connection with waterways, including the mixing of waters between takiwa
- the degradation of tributaries affecting main water courses
- declining fish stocks and habitat
- loss of vegetation in riparian margins
- recreational uses of waterways, such as use of waka ama
- impact on ceremonial practices
- health and availability of mahinga kai.

Many interviewees expressed frustration that the mauri of the river – the health and well-being of the river – always seemed to be the last consideration. There was widespread agreement that, first and foremost, the focus should be shifted from water allocation based on the needs of the various water users to what the water needs, such as water levels that are capable of sustaining the particular water body. Until this shift in focus took place, customary values would not be provided for within current water allocation processes.

Similarly, almost all interviewees believed that water in their rohe was over-allocated and that water allocations were not sustainable. Those groups who did not believe water was over-allocated were a reflection of a difference based on the abundance of water within the system. For example, one interviewee from Whanganui expressed belief there was enough water in the system to support all the current uses. Despite this perception of current abundance, however, there was an overwhelming sense it was just a matter of time before their water resources would also reach capacity limits.

Widespread frustration was also expressed that iwi and hapū have known that water is drying up for years and been warning government accordingly, yet they are now witnessing their areas become designated “red zones” due to poor management of resources by the Government. One participant stated this is again a reflection of an ineffectiveness of the Resource Management Act in that it does not provide a way for iwi and hapū to be able to influence councils to take a more conservative approach.

Some reasons for the mismanagement of water thus far by regional councils identified in the consultation process included lack of forward, long-term planning by councils, and planning based on historical and inaccurate data that does not factor in climate change. The situation currently faced by Australia in the Murray Darling Basin weighed heavily on the minds of many of those consulted as a prime example of a situation where over-allocation internationally has led to dry river beds, and concern that planning processes do not take into account climate change and what is happening overseas. Even though, in general, New Zealand enjoys a greater abundance of water than Australia, it was recognised that, especially due to climate change, competition for water will increase in the future and if current water allocation practices continue we will face the same situations more frequently in New Zealand.

3. Impact on Māori as land and business owners

Most iwi and hapū consistently said they view water and land as one and that the allocation of water must have a broader approach which recognises this connection. They talked about their role as kaitiaki where they have responsibilities to look after the lands and water for generations to come.

[Water] is a limited resource it needs to be applied in the first instance to the productive capabilities to the land and, in the instance of Māori, it has not been done fairly compared to the pakeha establishment. It needs to be addressed in terms of making sure there is a full allocation to supplying all the needs for the land's productive capability before any distribution is done to any potential new development.

From a customary perspective, one interviewee explained the relationship of water with land is fundamentally important to support the life of that land and its ability to sustain Māori. The response of Māori when the Tasman District Council was proposing to transfer water out of the Motueka area demonstrates how they feel about water and its relationship to the land. Mixing water from one takiwā with another resulted in the Tasman District Council being inundated with submissions from tāngata whenua objecting to this proposal. Te Ātiawa have submitted a claim to the Waitangi Tribunal on water. Ngāti Rarua Ātiawa Iwi Trust and Wakatū Incorporation are a part of it. The iwi representative indicated that:

We are deeply offended about how water is being taken from one takiwā to another takiwā. We are already depleted in water. The water belongs to us in that area. It shouldn't be taken by council.

One of the biggest issues for landowners in Te Tau Ihu, at the top of the South Island, is the Tasman District Council's policy that gives water use rights to land users/lessees rather than landowners. One iwi representative from that area explained:

Securing an allocation of water for all land owned by Māori is the key issue. That's what iwi are trying to pursue in the Environment Court, trying to secure these rights.

There is also uncertainty as to potential inequities amongst different types of land in this area. A concern is to ensure that all land owned by Māori, as opposed to only Māori perpetual leased land, should get current Tasman District Council water allocation. Land that does not fit within the definition of Māori perpetual leased land does not get water allocations. This gives rise to areas of land in that area which are not part of the water allocation process and creates inequities among landowners.

Most iwi and hapū interviewees also raised concerns in relation to land that may be returned to iwi as part of their Treaty settlements. It is unlikely they will get water allocations and that opportunities for future development and potential will be lost. In Te Tau Ihu, it was further explained that if a Treaty settlement happens in that takiwā and land is returned to the iwi it will not necessarily be Māori perpetual leased lands. This will also mean that land outside this category will not have water.

For some interviewees who were landowners or business owners, additional concerns to the above were raised. One of the main issues for land and business owners was the uncertainty around the availability of water to support their interests in the future. Because landowners cannot rely on appreciating land values and crystallising that value, they must operate in such a way as to ensure they have viable economic return from their lands. Yet even where iwi have a large interest in land along the river, for example in the Waikato River catchment, there is no water available to iwi for customary or commercial use. Business owners also raised significant concerns about the treatment of Māori in the water allocation process and the sustainability of their businesses in light of these processes. One of the main concerns was the ability of these smaller businesses to compete against larger industry for water rights.

There was also concern that current allocation processes do not take into account the fact that land use may change over time and this particularly impacts on iwi and hapū who are here for the long term. As markets change, there may be incentives for landowners and business to diversify in previously unanticipated ways that will require different resources and water. The dominant view among both Māori landowners and business owners was that the current model for water allocation in New Zealand does not create any opportunity for them to have access to water for their own economic prosperity but that it does allow other industries to hold monopolies.

It was suggested that one of the reasons Māori economic interests are not reflected in water allocation processes is an inability for councils to accept the notion of commercial use of customary rights. The view within government of Māori custom tends to be locked in time. It was suggested this was a failure on the part of government to recognise that change has been an important part of Māori heritage and culture, and the way Māori do things today is also a continuation of custom, control of our collective assets and things like that. This rigid characterisation of Māori values and rights mean there is no room for innovation or change.

4. Impact on future generations

When asked about how current water allocation processes, if they continued, would impact on future generations, the main concern raised was the cultural impact of the loss of water and connection to it. This perceived loss was seen as being immeasurable and goes to the heart of the identity of iwi and hapū as one participant stated: *Water is fundamental to our identity as a people – we define ourselves by what our mountain or river is.* Water has a connective role linking whānau along the river, and without it. One interviewee stated that *we will not be able to look after one another.* Without water, another interviewee expressed concern there would be nothing left for iwi and hapū in the future. Moreover, it was cautioned by another there was a need for mindfulness as to what would be passed on to future generations both in terms of the resource and management practices: *We must have water for future generations. What's more, we need for future generations to know how to manage water.*

Specific concerns were also raised around the future ability to gather from mahinga kai. This concern was both in relation to the drying up of gathering sites and the possibility of having to find other places to collect food, as well as the

quality of water and its effects on mahinga kai. The possibility that the condition of traditional supplies of food would render it unsuitable for sustaining iwi and hapū communities was a major concern. As one interviewee explained: *when we lose the ability to produce food – we lose our reason for being.*

Concern was also voiced that current water allocation processes, and a tendency for over-allocating, sets iwi and hapū up to fail in their role as kaitiaki. This was viewed as an enormous cultural imposition where the exclusion from resource governance and management processes was creating a situation where iwi and hapū feel they are failing as kaitiaki. Iwi and hapū have a duty to hand the resources of today to the next generation in a better condition, one interviewee explained, and the impact on the cultural well-being of iwi and hapū in not being able to provide that first duty of care to water is huge:

We're part of the wider community that upholds a very strong philosophy that our manaaki and our kaitiaki is not just there for our people but for all the people living within our rohe. And so if we have not shown due care and had systems in place that protect our water ... then we have failed in our roles as manawhenua and providing manaaki and kaitiaki for the people that come into our rohe.

5. Priorities for water

The health of the water and systems it supports was the most widely voiced concern during the interviews. One of the most reiterated ideas to come through this engagement process was that current water allocation processes do not give priority to the health of water and waterways. In this way, customary values will not be protected within these systems and stand to be severely impaired and/or destroyed. This, then, would be the base from which all planning and allocations are done:

We should be looking at what is a standard that should be set that actually enhances the health and well-being of the river. And then from there what amount can be taken out.

There was also recognition of the uncertain science behind the setting of priorities and a call for more time and resources to be invested to fully understand and manage the competing uses of the water. The current system that focuses on users was described as inefficient by one interviewee:

Everyone takes the maximum amount ... the maximum that they could take when they don't actually need it for their operation. It's just to have it as a right for them, as it's their god given right to be able to do that. So you know everyone's got to be a bit better at how they use it and how they practice.

Similarly another interviewee raised the concern that the current process encourages *grabbing as much as you can when first going for a resource consent which causes serious inefficiencies and an inability to cooperate on water management.* For example, one interviewee expressed concern that the allocation of the lower Waikato River is currently based on whatever the hydro dams do not

use. Other users are dependent on whatever the hydro dams leave in the system. This current practice does not necessarily reflect the needs of that area.

6. Discussion

The main issue to arise out of this section of the interviews was that current water allocation processes do not provide for customary values adequately because the health of the water and waterways is not given priority within these systems.

Iwi and hapū were frustrated that the current system continues to treat water as a commodity and provides no incentive for efficient uses and management. Rather than a usage-based approach, the ideal management approach would instead be built around the health of the waterway as was articulated by one interviewee:

I think fundamentally the council ... should be focused around the river as a priority. And then all those other users are then considered after the fact. Take as much as you need rather than just maximum amounts. Because you know there's more for those other people who want to use it without actually over-allocating as well and then it's healthier for the river as well.

Only after the health of the river was adequately addressed should the priority of other users enter the equation. One interviewee, who had consulted with kaumatua at length on this issue, set forth the suggestions of his iwi for a priority system that saw water itself as the highest priority, then human needs including drinking water and daily living. Water for social and cultural purposes was included at this second level of priority. Then basic usage for animals and key municipal water needs, such as firefighting, would be met. Finally, the very lowest priority would be industry groups and intensive farming operations.

Those users who mistreat water, such as industry who takes water from the system and returns it polluted, would have the lowest priority in these systems. Water set aside for Māori land was also raised as an absolute priority and those allocations need to take into account the fact that land use may change over time because Māori interests in land are long term and intergenerational. For many interviewees it was of fundamental importance that within such a system, iwi would be treated as a Treaty partner rather than a stakeholder. This idea was reiterated many times throughout other sections of the interviews.

One of the main challenges as identified in this section of the interviews was an inability for mainstream processes to grasp the complexity of the relationship that iwi and hapū have with water and reflect this in policy and planning. Furthermore, there was a widespread view that councils currently operated not only with an insufficient understanding of the relationship that iwi and hapū have to water, but also with uncertain science and minimal understanding of the entire water resource system and the users dependent on it.

Part of the challenge, as will be expanded on in later sections of this report, is for iwi and hapū to articulate this relationship in a way that can be incorporated into mainstream planning and processes. One of the main tools that could be used by iwi and hapū and regional councils to facilitate this is through iwi planning documents. However, as this report will show further on, these documents more

often than not fall short of achieving their purpose owing to many factors such as lack of resources on the part of groups preparing them or a failure by regional councils to take them up in a meaningful way.

Section 3: Issues with Current Water Allocation System

1. What issues do Māori have with the current system of allocating water?

This section of the interviews was designed to identify what issues Māori have with the current system of allocating water. In particular, they were asked about their views of the resource consent process in relation to their involvement in it. Where iwi or hapū had challenged resource consent decisions, they were also asked to comment on their experience with the Environmental Court, if any, and to discuss what would be their preferred means for resolving resource consent issues. Finally, interviewees were also asked to comment on the potential impacts and opportunities from both trading and storage of water to find out what issues Māori have with the employment of these mechanisms as part of water allocation processes.

2. Clarity and accessibility of the resource consent process

A range of responses was given when interviewees were asked whether or not they found the resource consent process clear and accessible. Responses ranged from being not clear at all to being clear and easy to understand and find information. Where the process was identified as not being clear to respondents, this was linked to a lack of resources to be able to fully engage in the process. While all interviewees had engaged in the process, there were differing degrees of involvement due to a disparity in resources amongst different groups. This meant that the better resourced groups were able to set up systems that allowed them to engage on a regular basis, while the less well-resourced groups were only able to respond to larger, more urgent consents. It was suggested though, that the general Māori population, not being part of an organisation that deals with resource consents, would not for the most part understand the process nor the options which it offers.

One iwi representative reported that the process had increased in clarity for his team when they put into place a system whereby council would send all the resource consent information to them on a weekly basis. A staff member would then go through and check that information. In this way, they had dealt with the uncertainty behind council's criteria that identifies iwi as an affected party by taking away the discretion of council in this regard. It may be then that receiving all consent information on a regular basis is a good practice option where the resources are available to set up systems to sort through it.

3. Preferred means for challenging resource consents

Most interviewees agreed that going through the Environmental Court can be useful in appropriate cases, eg, where there was a clear point of law to be settled or where it was a very serious issue that hapū or iwi were prepared to commit significant resources to given the expense and time involved in court cases. It was identified as a less helpful process where the outcome of a case depended on the interpretation of Māori values because commissioners in many instances did not understand Māori values. The inflexibility of the Resource Management Act was also seen as contributing to this process, being less helpful for Māori as it currently does not provide any means for them to challenge resource consents

based on values. As a result, in court cases, interviewees believed that the courts tend to use the Resource Management Act as a reason for not acting because the Act does not provide any specific basis for courts to alter or deny consents based on iwi or hapū values.

Finally, the process was identified as being a less preferable option owing to the inequities between iwi and hapū respondents and business proponents. It was widely agreed that corporate proponents tend to have better resources, such as access to technical information and highly skilled lawyers. This disparity in resources and the high cost of legal expenses has caused some iwi and hapū to pull out of Environmental Court cases. Furthermore, the fairness of the court was challenged by some interviewees who believed that the court gives preferential treatment to corporate proponents.

Four of the iwi and hapū interviewees reported never having been through the Environmental Court as a deliberate decision. The main reason for this decision was related to the considerable investment that was required, in terms of time and resources, to challenge resource consents in the Environment Court.

The interviews showed that while the majority of interviewees regarded the Environmental Court as a useful means of challenging resource consents, it was not the preferred means for doing so:

It's not a place or a process that we would prefer to engage in. We would hope that we can resolve issues and reconcile tensions well in advance of that.

There was instead a wide preference for negotiation and dialogue as a first resort for resolving issues relating to water allocation. Some interviewees reported the negotiation process has always been a positive one. Others were more hesitant, recognising that while negotiation also has a role, depending on the situation, it would not be appropriate where the proponent has a lack of understanding of iwi issues, for example a foreign company, or where there has been a buy-off attempt. Another reason that negotiation was raised as a preferred means of resolving issues, was the risk of setting bad precedents in the case law that would affect those who later came to the court with the same issue. Good dialogue also plays a key role in that it allows the community to own the problem together and work towards solutions that everyone can live with.

Most participants made the point that the fundamental issue is iwi and hapū remain just another stakeholder in the process, and should not be cast in the role of having to challenge decisions. Rather, the expectation of most interviewees was for a transfer of powers that would lead to iwi and hapū being on a decision-making panel right from the outset rather than being viewed as a stakeholder and having to challenge decisions. This would be the most appropriate way of dealing with issues in the long term. As one participant stated: *The one way to mitigate risk around challenging applications is to be part of the body that receives them.*

4. Trading of water

All interviewees reported significant concern in regards to the trading of water, raising issues relating to ownership, inequalities amongst iwi and hapū, and between iwi and hapū and industry, and the impact of tradability on iwi and hapū values and interests and the environment.

Ownership issues

When asked about the use of market mechanisms in the management of water in New Zealand, many interviewees first raised the question of water ownership. The prevailing view amongst iwi and hapū is that the ownership of water lies with them and that the underlying issue of ownership needs to be resolved before the trading of water should be allowed. Interviewees wanted to know how we can talk about water being a tradable commodity when it is not clear who owns that commodity to trade. For example, one interviewee raised this issue and described the uncertainties that result for iwi and hapū:

We are concerned that given the way our society and industry is heading, there will be no choice but to privatise the water, and not just the pipes to get it from place to place. The issue for us is who owns it, how has the Crown or council become [the one] to own it and regulate, sell and trade it? Where does it leave us?

Moreover, another interviewee stated the whole dialogue around water trading accepts that water can be owned, when iwi and hapū would contest whether or not anyone should own the water in the first place:

At 1840, all fresh water in this country was Māori owned and controlled as a resource, as a taonga. How did that property right transfer into either local or central government control? No one is clear with us, no one is being honest about it, no one will talk about it. Our concern is that legislation will remove it and we won't have the opportunity to have that discussion. We will be marginalised again. We should be involved.

Inequities

One of the major issues for interviewees was the inequities associated with water trading – both in relation to inequities between iwi and hapū, and between iwi and hapū and industry. In relation to inequities among iwi and hapū, interviewees raised concerns about the disparity between pre- and post-settlement iwi in these systems as post-settlement iwi will have access to the resources that will allow them to take advantages of opportunities offered by water trading. Those who are not as well positioned will be disadvantaged forthright by the implementation of water trading. It was suggested it would be up to the central government to implement measures to pre-empt the development of this situation.

There was also concern about the potential inequities between iwi and hapū and industry in relation to water trading. For example, one interviewee explained overseas experience has shown Māori that where one industry can hold a monopoly over water rights, other industries can be at risk with flow-on effects to small and vulnerable communities. The result in these cases has been that one industry is able to capture and hold onto all the tradable water rights while other industries get affected. Even though cultural and spiritual values might be recognised with the implementation of these systems, interviewees expressed concern that these markets, and the governments implementing them, in general don't have a good history of delivering outcomes that will protect the indigenous voice within these systems.

Moreover, the implementation of a market-based approach generally tends to benefit those who have existing water rights at the start of the regime, and very often they are the same users who have had the rights at no or low cost for a long period of time. One of the suggested ways to lessen these impacts would be to create rules around externalities that put the opportunity cost back on the water user instead of the community or the environment. As well, there must be sufficient rules in new policies and legislation that address these imbalances and inequities in these systems.

It was noted there are already regional councils in New Zealand who have set up small trading schemes, such as the one set up in Environment Waikato. The view was expressed that regional councils were *fiddling with rights and interests* when they set up these small trading schemes and that they were pre-empting a wider discussion about property rights without necessarily understanding the implications of that at the time.

Iwi and hapū values and interests and the environment

There was also widespread concern expressed that the introduction of the trading of water would not lead to the best use of water locally. In particular, these market systems do not have a good record of taking into account or protecting indigenous values and interests:

One of the rationales behind market instruments is that the water flows to the highest value use. Increasingly it shows that really leads to the highest economic value use and that is indeed very difficult to measure and therefore for the market to allocate to spiritual, cultural and intrinsic values. So we're very concerned that it becomes an economic gain and other values are pushed to the side.

When water is allowed to be traded out of a system, iwi and hapū lose rights to management of that water and that problematically impacts on their role as kaitiaki:

If trading of water is allowed beyond the catchment, effectively water is transferred between tribal rohe and therefore our ability to uphold our rights and responsibilities as kaitiaki within the tribal rohe is severely compromised.

The example of the fisheries settlement was given by a few interviewees to elaborate on what might happen to iwi and hapū if water allocations are made. The 20 per cent allocation of fisheries assets that was made to Māori was compared to water allocations that could be made and the possible flow-on effects from such an allocation:

That, in itself, marginalises you. It starts to become the bread and butter of looking after the whānau back home. They have to fish it often using methods which may be contrary to their own traditional ways of sustainable fishing.

Therefore, an allocation of a certain volume could have similar effects on the ability of iwi and hapū to fulfill their role as kaitiaki and exercise traditional holistic management practices:

It's so glaringly obvious that it'd be just another, oh well, we'll just carve off a slice of water then Māori can take that and do what they like with that. But are we prepared to take that at the cost of not actually being able to have a meaningful say in the protection and the care and the looking after it as a whole resource?

As iwi or hapū, the concern was voiced that the ability to trace and monitor water moving between rohe would also be lost. However, it was also noted the fundamental idea of exchanging water from one system to another is contrary to Māori ways of interacting with water. From a community perspective, it was also a concern that water requirements to meet the needs of the community should be a priority in water planning. When water is allowed to be traded between systems, the risk is that water will not be available for the community's needs. This was especially a concern in Motueka where communities were already dealing with the issue of water shortages and the movement of water to other areas. The uncertainties from not fully understanding the implications of allowing water to be traded between systems was a major concern for some respondents.

A few interviewees also raised the point that any tradable right would have to be intrinsically linked to the land. Otherwise, we may face an awkward commercial situation where vast tracts of land no longer have the water right because someone has traded the right. If trading is going to happen it has to be linked to the land somehow as otherwise the view was expressed that tradability will only make situations worse in the long run.

The view on economic instruments, and their tradability in particular, expressed by one interviewee was that they do not largely take account of the true environmental cost of an activity. Overseas experiences were offered as an example of how these instruments do not adequately account for the environment and, in particular, the uncertainties around climate change. The most poignant and immediate example offered was a discussion of Australia's Murray Darling Basin:

We need to look at the current situation with the Murray Darling and remember that we can never accurately predict the future; we need to operate with this in mind.

The uncertainties around climate change and how it would affect water in the future was another issue for many interviewees.

5. Water storage

When asked about views on water storage and the potential opportunities that may arise from it, opinions were divided. Many expressed doubt as to whether water storage is an efficient means of managing water. First and foremost, according to these interviewees, the focus should be on how to reduce the inefficiencies that exist in current systems towards the most optimal and efficient use of water. Rather than making huge investments in new and uncertain technology, interviewees felt the focus should firstly be placed on understanding the issues that allowed the current situation to evolve and exist. This view was expressed by one interviewee who acknowledged that while opportunities do exist for water

storage, the first step should be looking to other models for how to create a more efficient system:

I think that we're inefficient users of water at the moment ... I think that what we have to do is rather than looking for bandaid type solutions, look at the much bigger picture and look at how we can better optimise and better utilise water.

Some interviewees acknowledged water storage could play a role in reducing current and future water shortages, especially in areas such as Nelson that already regularly faces water shortages or Hamilton where there are growing urban populations that will stress future water sources. However, where the role for water storage was acknowledged, it was accompanied by a warning that such measures should only be implemented with a precautionary approach. Because water storage effectively takes water out of a system, for example by putting it in storage lakes or through the sale of water, water storage should be regulated in such a way that any unused water is not moved on to another system or sold but rather returned to the system from which it came.

A precautionary approach would also take into account the uncertainties in relation to the impact on the environment. The possibility that the damming or diversion of water could have negative impacts on the environment was a major issue from an iwi/hapū perspective. The potential impact on customary values, such as the ability to gather food from mahinga kai, was raised as a major concern in relation to the water storage. However, it was recognised there are parallel opportunities for iwi and hapū. For example, water storage from the Omanawa River into a man-made lake has significantly destroyed flora in the area thereby impacting on Māori customary values and traditional in-stream uses. At the same time, though, there are now koura in the lake that creates new opportunities in relation to mahinga kai. Thus, the potential benefits for iwi and hapū and the wider community were also recognised.

6. Discussion

One of the main issues that was raised in relation to the water allocation process was the considerable time and resources involved in participating in it. For instance, the main issue that was raised in relation to the resource consents was the considerable time and resources involved in responding to them. Best practice was associated with having the ability to put into place a team and system that allowed iwi and hapū organisations to regularly go through all resource consents received by council to identify those that would be relevant to them. In this way, the uncertainty around the criteria used by council staff to identify consents that would be sent out for consultation with iwi was removed. However, such an approach for responding to resource consents may not be achievable for all iwi and hapū owing to the considerable investments associated with such a system.

In relation to options for challenging resource consents, all interviewees agreed that negotiation and dialogue were preferable to the Environmental Court, largely due to the time and resources that were required for challenging cases in court. This was also because the disparity of resources between iwi and hapū and industry brings into question the fairness of the whole process for iwi and hapū.

Interviewees were also asked to comment on the potential impacts and opportunities from both trading and storage of water to find out what issues iwi and hapū have with the employment of these mechanisms as part of water allocation processes. The overriding theme that came out in the interviews in relation to both trading and storage of water is that the first priority should always be the health of the water and waterways. The concern is these two mechanisms are not necessarily the most efficient means for managing water nor do they have a history internationally of being able to account for indigenous values and interests. This concern, that these systems will be imposed on iwi and hapū, was voiced by one iwi representative:

Māori will again have to operate in a system that doesn't necessarily reflect all of Māori interests. What will be lost in these markets cannot be quantified or turned around. I would see more challenges than opportunities.

These concerns were echoed by most interviewees who, though they acknowledged that opportunities might exist, thought the focus should be on the health of water and waterways.

In order to facilitate the values and interests of iwi and hapū in water allocation processes, targeted and directed resourcing of the roles that Māori play in relation to water allocation is required. Because the capacity of iwi and hapū organisations was directly related to their ability to respond to resource consents in a systematic and effective manner, the resourcing of this role warrants further consideration. Interviewees also highlighted the need for central government to implement or change both policy and legislation, especially the Resource Management Act, to ensure that the whole spectrum of Māori values and interests are accounted for in water allocation systems. As will be raised in the section of this report looking at perspectives of regional councils, this policy and legislation should be accompanied by clearer direction from the national level about how to account for these values and the expectations on councils in this regard. And, as will be elaborated on further in the discussion section of this report, satisfactory accountability for iwi and hapū will only be realised when they hold a seat at the decision-making table.

In relation to trading and storage of water, there was a unanimous call for greater focus on improving current policies and legislation before investing in new and uncertain technologies. There was widespread support for more education around efficient use and conservation. In relation to the implementation of new mechanisms for water management, it was not so much that interviewees opposed development, but rather it was they thought development should proceed so long as a precautionary approach would be taken whereby the health of the water and the system it comes from would be the primary concern. It was the opinion of the majority of interviewees that the health of the water and waterways had, at most, been a low priority for governments in water policy and planning.

Finally, given the level of concern relating to the potential impacts of trading and storage of water and the uncertainty for iwi and hapū values and interests that comes with the implementation of these mechanisms for water management, a greater flow of information and dialogue in this regard would be valuable. This increased dialogue between iwi and hapū and the Government would allow for not

only greater mutual understanding of, and solutions to, these issues but also help to ensure the interests of iwi and hapū are protected in these systems. This flow of information and dialogue would especially benefit those iwi and hapū who are less well positioned and resourced and who could potentially suffer greater inequities within these systems. In particular, there was concern that foreign companies who are able to access these market mechanisms would operate unaware or with minimal understanding of Māori values and interests. In this way, then, there was a call for dialogue between central government and iwi and hapū to ensure that the Treaty relationship is protected as against foreign interests.

Section 4: Governance structures and processes

1. What is working well for Māori under the current system for allocating water?

This section of the interviews was designed to find out what was working for Māori under the current system for allocation water with a particular focus on best case governance structures and processes. Interviewees were first asked to describe the governance structures and processes they use to engage with regional councils on water allocation consents and plans. They were also asked about the structures and processes they use in their engagements, if any, with internal groups such as hapū and whānau and with external groups such as other iwi, farmers, and other groups with an interest in water. Interviewees were also asked to explain how they have used, if at all, water monitoring tools to quantify their interests or concerns in water to enable them to engage with regional councils on water allocation. Water monitoring tools included the Cultural Health Index and customary fisheries monitoring where it was used to engage on water allocations. Finally, interviewees were asked to explain how their regional council has been involved in supporting the use of water monitoring tools.

2. Internal relationships and relationships with other iwi and council

Interviewees were asked to identify the governance structures and processes that they use to engage on water allocation consents and plans. Responses revealed a wide range of informal and formal structures and processes at an array of different levels, from that of taking the role of submitter to iwi environmental agencies.

For many, engagement started with their representative iwi organisation. For example, Te Runanga o Ngāti Awa or the Whanganui River Māori Trust Board were two of the organisations which dealt with water allocations on behalf of their hapū. Within Te Tau Ihu, Tiakina te Taiao is an example of a collective iwi group in the form of an iwi environmental agency that represents four of the six iwi in the area with support from Ngāti Rārua, Ātiawa Iwi Trust and the Wakatū Incorporation.² Similarly, another iwi organisation reported having a resource management unit that was responsible for developing relationships with hapū, regional and local councils and other government agencies. Less formally there were examples of boards working together on water issues. For example, Whanganui River Māori Trust Board and Tūwharetoa Māori Trust Board have been able to set aside differences to cooperate on water issues in their overlapping regions. There were also reports of iwi coming together to respond to large resource consents that spanned across more than one iwi.

Iwi organisations provide a vehicle through which hapū and whānau who may not be as well resourced as larger organizations, are able to participate in water allocation processes. In many cases, this participation was facilitated and driven by the iwi organisation. For instance, Waikato-Tainui incorporate hapū

² Wakatu Incorporation is not an iwi organisation but is an incorporated business representing four tribes in the Nelson region (Ngāti Koata, Ngāti Rārua, Ngāti Tama and Te Atiawa).

participation as much as possible in relation to environmental issues, including water allocation. Hapū are involved in environmental meetings and the development of policies and plans. As well, hapū indirectly have an influence on how the organisation conducts business. Many iwi organisations reported that hapū were sent resource consents where relevant to them and that regular meetings of hapū would address water issues as they arose. Similarly, Tiakina te Taiao, reported they keep hapū informed by sending them out information and minutes of monthly meetings as well as through regular interaction with them. Hapū and whānau are also brought on board where Tiakina te Taiao decides to go to the Environmental Court. Another trust board reported the whole management team tries to make yearly visits to all 19 marae in their region as a way of maintaining relationships and keeping hapū informed of issues.

Another common way of engaging on water allocation was through committees either made up of iwi and hapū or made up of the wider community and stakeholders. The Waimea Water Augmentation Committee was offered as a positive example of a well-functioning committee that originally came together to address allocation and supply issues for the Waimea Plains. The group includes representatives elected by the Waimea Basin Water Users Group, Tasman District Council, Nelson City Council, Fish and Game New Zealand, and the Department of Conservation as well as local iwi. It was reported the Committee is currently looking at the feasibility of water storage to hold the winter rainfall and then use it during the summer. Another committee, the Panakae Hapū Management Committee, is an example of hapū forming a committee to protect their resources and insert themselves into their district plan. This committee was elected by three hapū of this area, collectively representing three local marae, and was developed from concerns in the rohe relating to the ngahere, the moana, and the awa. This committee has worked on site identification and categorisation for the protection of sites of significance as well as developed a hapū management plan in liaison with council. They are also recognised as a hapū to deal with resource consents in the district.

One of the most recent governance structures to emerge in Northland is the community group Waiora Hokianga, made up of approximately 50 people including representatives from iwi, 32 hapū, and existing land and water care groups. Agencies having a support role include the Department of Conservation, New Zealand Landcare Trust, Northland Regional Council and Far North District Council. The group is also engaging with local farming groups including Federated Farmers, Farmers of New Zealand and Rural Women. The group is focusing on finding solutions to run-off, discharges and other contamination to land and water. The group is also planting vegetation on their rivers and cleaning up a contaminated harbour.

Similar to committees are the environmental forums that provide a space for iwi and hapū to come together themselves or with council and stakeholders to discuss issues around either water specifically or environmental issues in general. Different variations of these forums are used in many regions. In Northland, there is a newly created regional forum of iwi resource managers that meets to discuss region-wide issues and policy development. In Te Tau Ihu, the iwi use opportunities when they get together on a range of issues including water

allocation, to voice their opinions, discuss policy issues and hear from others in the region. This forum meets on a monthly basis. Similar interests are the basis behind these forums:

We are closely related, so we see a lot of the same faces on lots of different sides...Sometimes we come together as collectives and we might be wearing all our hats together, such as a marae hat, hapū hat etc. Generally, we come together because we have an interest in a particular geographical area.

This engagement revealed relationships between iwi and hapū and council are often structured such that iwi and hapū act in an advisory capacity on an informal basis to council on resource consents and other issues such as incorporating their values into planning. As well, it is quite common for iwi representatives to sit at council hearings, and, in some instances, this is accompanied by voting rights. The fact this role is not resourced and that it requires considerable investment by iwi organisations was raised as a matter of significant concern.

Many iwi organisations also take on an educational role in the community and facilitate forums or events to raise awareness and dialogue around Māori water issues. For example, Te Rūnanga o Ngāi Tahu has organised and participated in community information events and a variety of conferences. At these events, both Ngāi Tahu and attendees will have a chance to speak. Some of the conferences run by Te Rūnanga o Ngāi Tahu in the past have been science-focused conferences that seek to bring all stakeholders together. One trust board representative reported they have groups that come to their facility for environmental education including freshwater education. For example, they might come to learn about the growing of native plants and what they do for the whenua and for the waterway.

Some iwi representatives indicated that their iwi do not have the resources and capacity to be able to participate and engage in the water allocation processes with councils. For them, water allocation is one of many other priorities, such as health and education, that they have to deal with on a daily basis. This often means that their organisations can only be reactive and look at the most urgent applications at any given time.

It was also indicated that when iwi and hapū are talking with government about water rights and interests, regional councils do not necessarily want to be involved in these discussions. However, concern was raised by interviewees that some regional councils have conversations ‘through the back door’ indicating to government that *they don’t want much change because of other issues and priorities in their regions.*

3. Iwi planning documents and other documents

One of the most common ways of communicating Māori values and interests to council was through the use of iwi planning documents. These documents help to formalise the plans that iwi and hapū have for their environment and may specifically deal with water or more generally set out wider Māori policy on a range of issues. The range of iwi planning documents reported was varied both in terms of the level at which they were prepared (iwi and hapū) and in terms of

scope and purpose. Some iwi advised they have not prepared or submitted iwi planning documents to the regional councils.

The most common issue raised in relation to these documents where they have been submitted was that despite their lodgment with councils in accordance with the Resource Management Act, for the most part council policy remains unchanged and the plans remain ineffective in achieving their purpose. Thus, it was clear to many that the lodgment of these documents with councils must be accompanied by considerable effort on the part of iwi to see them through. The general response was the inability of the plans to move iwi any further along and often a need to start from the beginning due to high turnover of council staff and commissioners in resource consent hearings. Thus, iwi find they must continually re-educate council staff about their values and interests, and how to take them into account. Additionally, one interviewee described these documents as “shelf fillers” in recognition of the lack of awareness and recognition of iwi planning documents. The role of these documents and the challenges of realising the plans they represent, will be expanded on in the following section looking at regional council perspectives.

In one instance, the relationship between iwi and hapū and council was formalised through a Memorandum of Understanding. Tāngata whenua have a 2005 Memorandum of Understanding with Nelson City Council which was entered into with the goal of helping iwi and council to work towards shared goals as well as providing opportunities for iwi to participate in decision-making. As part of that work, Nelson City Council has trained two people from the iwi to become commissioners to sit on hearings. However, as one interviewee explained, despite the well-intended spirit of the memorandum, for the most part, the city council is uncertain about what to do with the document. The iwi have also designed templates to assist the council’s planners in this regard. Additional efforts will be made in 2009 by iwi who hope to form a working party between themselves and planners that will work on a step-by-step plan for how the council can take into account the iwi’s policy.

Other documents less widely used but that could be useful to iwi and hapū in their engagement on water allocations were audits and cultural impact assessments. One group reported having completed an audit of a regional council that assessed how well the staff had taken into account the policies of that iwi. Another group reported having completed a cultural impact assessment from which a number of recommendations arose. These two options will both require funding resources and, in many cases, an external consultant to facilitate the process and write the ensuing report.

4. External relationships

In relation to engaging with external groups, most interviewees responded they maintained an open door policy towards other groups. Common interests such as farming and land issues provided the main basis for these external relationships. For example, in some areas, such as Waikato, where iwi shared farming interests with the local farmers there were reported associations with Federated Farmers. Tiakina te Taiao reported that Transit New Zealand quite regularly attends Tiakina meetings to provide updates on its projects and planning. At these meetings,

Tiakina te Taiao is able to discuss the impact that state highways will have on the waterways with Transit representatives. In relation to Transit New Zealand, the following comment was made: *That agency is very well in touch with iwi concerns. It's a shame this agency's approach can't be transferred to the council.* Some interviewees also reported having regular consultations with Mighty River Power and Fonterra.

Iwi also engaged with external groups through processes initiated by regional councils. This includes iwi liaison officers and positions created within council with responsibilities for engaging with iwi and hapū. For example, Environment Bay of Plenty has a Māori councillor who is available for daily consultations with local iwi. This has reportedly improved communications with council. One example given was Waikato's Catchment Liaison Subcommittee that provides a formalised way for the Waikato Regional Council to engage in the community. These committees are made up of representatives from the community, iwi, foresters, farmers, industry groups and stakeholders such as Mighty River Power and both district and regional councils. There were also regular meetings with council representatives as well as hui around specific issues.

One of the best case examples of external groups cooperating on water management that was raised by one of the interviewees was the Motueka Integrated Catchment Management Programme led by Landcare Research New Zealand. This programme brings together the community, scientists, councils and iwi and hapū on a variety of committees and projects. The overall approach to management is collaborative and integrated dealing with the catchment as a whole, as explained by one interviewee:

It's not just about the technical approach to the river that the council has had in the past but also about how that river is essential to the community and how we feel about ourselves. This kind of approach should be used more. The council should be leading this work not a research and science group.

5. Use of water monitoring tools

Many interviewees reported their organisation had undertaken some type of water monitoring relating to water flows. Some groups such as Ngāi Tahu have been fortunate to have water monitoring built into their deeds of settlement, and have benefited from a requirement that the Ministry for Environment provide funding towards the development of monitoring tools. As part of the Ngāi Tahu 2025 tribal vision, Te Rūnanga o Ngāi Tahu has developed an environmental monitoring approach called State of the Takiwa. This approach is aimed at facilitating tāngata whenua to gather information, assess and report on the cultural health of significant sites and resources within their takiwā to help them manage their environment into the future (Pauling, 2007). In 2007, the health of over 100 freshwater sites from almost 20 catchments in the South Island were assessed using the takiwa tool from a Ngai Tahu perspective (Pauling, 2007).

The Cultural Health Index and the use of cultural water indicators and monitoring were methods employed by some groups. Tiakina te Taiao has a project that does cultural water monitoring as well as another that has created a new position whereby that person visits local schools and monitors nearby rivers with the

students. Another group reported they were currently going through the process of developing a tool relevant to them that included a baseline system in cultural indicators.

Given the relationship between healthy fish and water flows, many groups reported monitoring of customary fisheries as a way of engaging on water issues in their rohe. Ways of monitoring included electric fishing methods and recording catch. One group reported liaising regularly with customary fishers in and around the river, and on lakes. The fishers are able to provide the iwi with an update based on years of experience. The comparison of years is useful feedback to inform the iwi in water planning. The assessment of macroinvertebrates has allowed one group to monitor the health of the ecosystems in their river.

One group was working with the National Institute of Water & Atmospheric Research and using the Stream Health Monitoring and Assessment Kit to monitor the health of their streams. The use of chemical monitoring as well as biological monitoring was also reported. Only one group mentioned they have started to monitor groundwater with the assistance of council. Two groups reported using more traditional measures such as visual impacts and monitoring in terms of ability to use the water for traditional purposes. One of these groups monitored water flow in relation to their waka:

We also monitor the flow in terms of our waka. We have people who go out every day in the river [and] they report back. You know ... it is low there, we couldn't go round this area which we usually paddle, we had to go round that area, so as an actual real life measuring tools ... like whether a waka can get up one stream one day and whether it can't go through this stream another day.

The value of this traditional knowledge of the water was expressed by one interviewee:

Our people have witnessed the changes over generations to the eco system, to the water quality and clarity, to the water volume. And so while we haven't applied any scientific methodologies or technologies to monitoring clarity, quality, quantity – our people ... have witnessed the changes through their own eyes.

Where groups had not undertaken water monitoring it was mostly related to a lack of resources and planning. Two interviewees mentioned holding off on water monitoring for the moment owing to lack of a plan and a clear idea of what it would actually be used for. One group reported they did not use water monitoring tools because, in their view, the regional council was capable of doing the monitoring and taking care of scientific aspects although there had been discussions around what the regional council monitors.

6. Regional council involvement

In most cases, regional councils offered technical assistance to iwi and hapū in support of water monitoring. The following are types of support that interviewees reported receiving from their council:

- training in monitoring of quality and flows
- training in monitoring customary fish
- access to information, including training in council's website and databases
- access to other agencies
- use of laboratories and facilities
- funding towards planning
- assistance with finding funding
- opportunities to work alongside council staff including with planners, consents and monitoring.

Four groups reported they were receiving no support at all from their regional council. In two of these cases, the work was supported by the Ministry of Fisheries and by Fish and Game New Zealand rather than the regional council. One interviewee expressed frustration that his council had not picked up and supported the use of the Cultural Health Index.

7. Discussion

This section of the interviews provided a snapshot of the work currently being done by iwi and hapū to engage on water allocation and the structures and processes they use to do so. The governing bodies that work on water allocation range from all sizes and shapes, and could be boards, committees, and forums to name a few. It is clear the more resources an organisation has, including people and funding, the more effectively it will be able to operate and achieve its purpose. Te Rūnanga o Ngāi Tahu is a prime example of how a better resourced post-settlement iwi is able to position itself to engage on water allocation as against a smaller iwi, including having the ability to write strategic policies and plans as well as implement sophisticated monitoring approaches. This also highlights the type of support that might be given to smaller iwi and hapū seeking to be involved in water allocation processes and identifies a potential way forward for the work of these groups. Similarly, they might approach their regional council for the types of support identified in this section. As a starting point, it was reported that ground staff in councils seemed to be particularly amenable to building relationships with local iwi and hapū, and for the most part, would offer support in forms such as access to information and training.

One of the issues raised in this section was the considerable work being done by iwi and hapū to fill an advisory role to council on Māori values and interests in relation to consents and other water allocation matters and the fact that this role is not resourced. By comparison, council and industry staff are paid for this same type of work that is undertaken by iwi and hapū representatives voluntarily on top

of the many other roles that they fill. This issue will be raised for further discussion later in this report as a recommended issue to be addressed in the near future. It is an important issue that came up in many different ways in this engagement and requires addressing if iwi and hapū are to participate effectively in water allocation processes.

It should also be noted that good relationships with councils are not necessarily a flow-on effect of having appropriate structures and resources to engage on water allocation. Considerable effort on the part of both iwi and hapū and regional councils is required to build these relationships. Some of the interviewees made the point that the most important thing that iwi and hapū could do to facilitate their own engagement on water was to build relationships with their council at all levels. As one interviewee pointed out this goes a considerable distance in advancing the values and interests of iwi and hapū in water rather than getting lost in the policies, plans and other aspects of the water allocation process.

Thus, this section highlights the value in networking and relationship building for iwi and hapū organisations, both with regional councils and external groups. Best case examples were given of collaborative governance models such as committees and forums, and lessons learned from these committees could help other groups in organising themselves around water allocations. These models, such as the Waimea Water Augmentation Committee, provide examples from which other groups can learn and build upon when information is shared.

Increasing dialogue amongst groups will be useful but challenging. Indeed, in this section of the interview some groups reported they neither talked to other iwi or hapū nor external groups such as farmers and industry. Also, interestingly, a divide was reported whereby those groups in the south felt quite removed from those in the north and central government in Wellington. As a practical strategy, then, increasing face-to-face contact among groups across the country and with central government with a particular focus on engaging with those smaller more isolated groups would be valuable.

Section 5: Suggestions for improvement

1. How do Māori consider the current system for allocation could be improved?

This section of the interviews asked interviewees for their thoughts on how the current system for water allocation could be improved. Interviewees were first asked to suggest ways that regional councils could better fulfill their obligations under the Resource Management Act and improve the current system for allocation. They were then asked to discuss, from their perspective, the constraints they had identified on councils in fulfilling these obligations. The role of the central government in the process was then explored. Finally, interviewees were asked for their thoughts on potential structures for a national representative body for Māori interests in water allocation.

2. Obligations of regional councils under the Resource Management Act

Interviewees mainly believed that regional councils did not yet fulfill their obligations under the Resource Management Act, especially those provisions relating to Māori values. More than one interviewee felt that regional councils do the minimal required of them under the Act (ie, sending information and submission forms). Another interviewee stated that its council fulfils its obligations only in terms of meeting the requirements for its annual report. Some interviewees expressed frustration that in engagements with regional councils and other stakeholders the perspective of iwi and hapū and their relationship to water tends to get lost in the process and not be acknowledged beyond lip service. There was widespread agreement the whole process does not reflect iwi and hapū and their relationship to water nor the role that they currently play in caring for it.

In order to identify ways forward, interviewees were asked to suggest concrete ideas for how councils could better fulfill their obligations under the Resource Management Act. Responses included engaging iwi as a Treaty partner rather than another stakeholder; the provision of funding resources for iwi and hapū to participate in water allocation processes; addressing the statutory constraints of the Resource Management Act; and relationship building between iwi and hapū and councils.

The most common response to how the current system for water allocation can be improved was to ensure that within these systems iwi are playing a role as a Treaty partner, and not just another stakeholder. This would mean that right from the start, even prior to plans being drafted, iwi and hapū would sit at the table as joint decision-makers. This would also involve facilitating joint management with tāngata whenua. Central government would play a role in facilitating this relationship as one interviewee stated:

First and foremost I think central government has a role to play as the Treaty partner in engaging with Māori and I must say not just a few selected leaders, but engaging with Māori comprehensively on water issues, water allocation, water quality, water management.

Many interviewees called for funding from regional councils that would be set aside to encourage and support iwi to engage on water allocation. This would include remuneration for their presence at meetings and hearings. For these interviewees it was problematic the role played by iwi and hapū in the resource consent process and the provision of information for assessments was not remunerated, yet often the applicant and council benefited from the provision of these types of services. While this funding would support involvement at the resource consent level, there should also be resources to support iwi and hapū to develop their own water management plans as well as engage at the policy level. Some interviewees also suggested there should be more consideration given to how to resource the role of kaitiaki. The provision of resources is especially needed for those iwi that are pre-settlement and without capacity to engage on water allocation.

Another issue raised was the need for changes to the Resource Management Act. In earlier sections of the interview, this issue was raised as a concern that the Act does not necessarily promote the most efficient use of water. It was also suggested the inflexibility of the Act meant that Māori values were not reflected in current water allocation processes. For example, Māori values, while they could be raised in a court case, could not be influential in the outcomes of resource consents challenges in the Environmental Court because there was no provision for this within the Resource Management Act. These issues were again raised in this section of the interview, accompanied by a call for the Act to provide more direction to councils as to how to take into account Māori values and interests. Finally, the Act itself was identified as one of the constraints on the work of council. Thus, an overhaul of the current legislation is one of the ways that the water allocation system could be improved from the perspective of iwi and hapū.

Relationship building between iwi and hapū and regional councils, as well as the wider community, was also seen as key to improving the current system for water allocation from the perspective of iwi and hapū. One of the focuses would be on providing education or training in relation to the beliefs and values of Māori for councillors, hearing commissioners and community leaders. One interviewee raised the value of site visits and increased kanohi ki te kanohi contact. This interviewee witnessed the value of kanohi ki te kanohi firsthand when a councillor attended an event held by Māori on the river: *If he didn't turn up that day, he would have been none the wiser. He wouldn't be able to comprehend but he saw it in the flesh.* Reciprocal secondment was also suggested as a relationship building strategy, whereby staff from the iwi or hapū organisation would be seconded within different council departments, and the staff of regional councils would be seconded with teams from the iwi or hapū organisation. It was suggested this relationship building approach could also be extended to territorial authorities and the Ministry for the Environment.

3. Constraints on regional councils

As a way of identifying ways forward, interviewees were asked to comment on the constraints on councils that they observed in their interactions around water allocations. Some interviewees clarified their response by pointing out that they believed council's inability to account for Māori values and interests was not

necessarily from a lack of willingness but arose for a variety of other reasons including:

- lack of understanding of Māori values and relationships to water
- lack of education about how to deal with iwi and hapū
- obligations to move resource consents through the system
- lack of capability to engage
- decisions at the political level mean that well-intentioned staff are not able to act
- internal discord within councils
- lack of continuity with staff and councillors
- lack of direction and discretion to make decisions about how Māori values will be accounted for
- having a wide region to cover (ie, Horizons Regional Council).

Thus, in many cases, interviewees believed that regional council staff wanted to make good decisions but were constrained in doing so.

4. Role of central government

One of the main roles of central government in this process is to delegate authority *with clear direction*. While the current practice in New Zealand is for central government to delegate considerable responsibilities for water allocation to regional and district council, according to many interviewees, this delegation must be accompanied by clear direction as to how these authorities are meant to take into account Māori values and interests. This would include more direction and advice to both councils and iwi and hapū as to what the processes and policies are in relation to water allocation and Māori values and interests. An additional area where central government could provide more direction was around the ability of regional councils to delegate their functions, powers and duties to other public authorities that includes iwi authorities. Despite those provisions and a willingness to delegate to other groups, such as catchment groups, one interviewee made the point there had never been a delegation to an iwi authority. As one interviewee stated, iwi and hapū have a right to be decision-makers, and one of the ways that this could be realized is by delegating authority to iwi and hapū where there is an appropriate body ready to take responsibility for such tasks.

Many interviewees made the point that central government must implement considerable changes in its policies and legislation, including especially changes that would reflect this right to be decision-makers and sit at the table with government. In regards to the current policy it was acknowledged there was now a cultural component to environmental flows. However, skepticism remained as to whether the policy as a whole and that cultural component would reflect Māori values and interests: *It is a matter of debate as to whether the national environmental standards and the national policy statement actually reflect our values anyway*. Changes to current policy were called for that would allow for increased dialogue around allocations to iwi and the implementation of other tools

and systems that allowed for the realisation of Māori values and interests in water including, in particular, the use of cultural indicators and the Cultural Health Index.

There was widespread support for fundamental changes to the Resource Management Act that would lead to a legal reset of the allocation of water throughout the country. This view was supported by a belief the current water allocation approach taken by regional councils was to maintain the status quo from pre-1991 as they would not want to take the difficult approach of clawing back existing water permits. Therefore, the water left in the system after these allocations is what provides for the cultural well-being of iwi and hapū and the health of the ecosystem. One interviewee commented on this process:

We find that councils have come to this default de facto allocation purely based on what was taken out and what wasn't being taken out. A lot didn't want to rock the boat at the time. If you look at water take users around the country you can count on your hand how many have reduced over the past 15 years. How many councils have received notice from take users saying we don't need this water now? It's not in their interests to give it up.

Moreover, the onus falls on central government to change this system because regional councils are not going to take on the task: *Unless there is an ability by government to reset allocations then councils themselves aren't going to review.*

Another role identified for central government was that of facilitating access to other groups and information. Some interviewees commented they would benefit from being able to learn from other groups and would appreciate having some means of networking with these other groups other than finding out what other groups are doing via the internet. There was also a north-south divide reported by a few interviewees whereby groups on one island tended to feel isolated from groups on the other island. Groups in the south felt especially isolated from northern groups as well as the Ministry for the Environment. Those groups reporting feeling isolated were often, but not always, the smaller groups that reported being too busy at the local level to be able to consider what is going on nationally. Therefore, part of the facilitation of access to other groups and information would likely include a greater presence of the Ministry for the Environment with these smaller and more isolated groups as was suggested by one interviewee.

5. Representation at the national level

Some interviewees raised the issue that the current national representation is not representative of all iwi. This, according to some interviewees, was a reason that the current representation is inadequate: *It's missing a number of players which is why the current conversations that are going on are getting nowhere.* It was suggested by many interviewees that the ideal situation was that all iwi would be represented through this national body but this suggestion was usually accompanied by recognition this would be an unmanageable situation. In some cases, suggestions for representation were made including the suggestion that it should be based on traditional waka or regions. Another interviewee suggested the national body would at least include those iwi with a major interest in water and

with settlements. Its genesis would be open and transparent which would be necessary for its legitimacy according to one interviewee: *It's not a secret thing that's developed in a government agency; it's a distinct independent body with people who have standing and expertise.* For the most part, interviewees were uncertain as to how representation would be worked out but there was consensus that changes needed to be made to include the widest range of perspectives and voices at the national level.

Regarding the role of this entity, there were again varying suggestions. There was, however, widespread agreement among interviewees that the current representation of iwi and hapū within the water allocation system did not reflect the Treaty relationship and should be changed to more of a partnership role. When iwi and hapū are held to the role of stakeholder and acting in an advisory capacity this does not reflect the Treaty relationship. Rather, interviewees expect a partnership role where iwi and hapū and the Crown work together as Treaty partners with the priorities identified from the outset and with Māori having decision-making powers. Another interviewee suggested this could be a quasi-government entity with the mandate to operate as a Treaty partner for Māori to engage on water policy. The roles of this entity would include the engagement of iwi as well as informing and establishing policy applicable at regional council level. This entity would also have some authority for implementing policy and monitoring the performance of those regional authorities in carrying out those policies. Thus, part of its role would be to ensure regional authorities were accountable for following through with policies rather than leaving this up to the discretion and interpretation of regional councils. It was recognised that because this entity would have a close relationship with the Crown to fulfill these roles, it would be difficult for it to also build the requisite relationships and establish confidence within the wider Māori community to see its work through.

Various established entities were offered as examples that might be looked to in the formation of this new national entity. Entities identified include the Federation of Māori Authorities and its representation of 11 regions based loosely on traditional waka or iwi groupings; the New Zealand Māori Council; the Māori Women's Welfare League; and the Crown Forestry Rental Trust. One interviewee suggested this new national entity might be situated in Te Puni Kōkiri with one of its functions being to audit the performance of local government and to encourage a closer alignment with the best management practice espoused by the Ministry for the Environment. It was debatable as to whether the Te Ohu Kaimoana model was appropriate to dealing with water allocation issues.

This section of the interviews highlighted an issue relating to the isolation of certain groups who are more remote in terms of location. Four interviewees reported not knowing how iwi and hapū were represented at the national level on water allocation. The legitimacy of the current representation was called into question in that these interviewees did not know of the representation nor how it came into being. This lack of awareness was associated with being a smaller group and being further from Wellington, for instance Northland and Otago groups. The lack of awareness was also associated with capacity issues in that smaller and less resourced groups were not able to engage at this level:

We only have a broad picture of what's going on at a national level. We should have a bigger idea but...we've got limited resources to be able to do that ... I know that we're working [with] the ambulance at the bottom of the cliff sort of thing when we're working at this level. But it's hard to climb to the top of the cliff.

6. Discussion

This section offers a range of solutions that would be appropriate from the perspective of iwi and hapū in improving the current water allocation system. There was widespread consensus among interviewees that the critical change that is required above all is to treat iwi as a Treaty partner rather than another stakeholder:

Only when the Crown steps up as the Treaty partner and we get clear and definitive statements around water allocation, iwi first rights, tāngata whenua flows and tāngata whenua values will local government then ... seriously pay attention to these issues about where the Treaty partnership lies and who really holds responsibility.

Following from this change there would be a range of practical options that could be implemented. However, there was doubt expressed as to the political will of central government to follow through with first and fundamental change in approach.

The value of having a representative national entity to advance and protect Māori values and interests in water allocation was recognised by interviewees. There is a clear role for central government in facilitating this process and assisting this entity to achieve legitimacy in the wider Māori community through ensuring principles such as openness and representation are taken into account. Many suggestions were made as to what this entity might look like and what role it would play. However, the issue that raised considerable uncertainty was the need for such an entity to be representative of all iwi and how this would be achieved. It was suggested other entities could provide models that should be considered when creating this new entity but no specific entity was singled out. For this reason, the discussion section again raises this issue and makes some recommendations as to how this representation might be achieved.

Many of the issues raised in this section around regional councils not fulfilling their obligations and the limitations of the Resource Management Act are similar to those raised in the 2006 Wai Ora consultative hui. This engagement explored these issues further by asking what constraints on councils iwi and hapū had identified in their interactions with them as a way of identifying areas for change. A major challenge for iwi and hapū engaging on water allocation within their region was highlighted from this, namely the difficulty of building long-term relationships with councils given the high turnover of staff and especially councillors. Frustration was expressed by many interviewees about the process they go through to build relationships only to have a turnover in the council. One interviewee suggested that councils might address this through a change in process that implemented a standard handover procedure which would include a warm introduction in order to ensure that relationships continue and staff of iwi

and hapū organisations are not left to start over. This would also serve to build confidence among iwi and hapū in relationships as they are made, as well as build confidence for new staff and councillors that iwi and hapū will work cooperatively with them.

Even with these relationships in place however, many interviewees expressed skepticism as to the willingness of politicians who are elected every three years to make hard decisions. There was also doubt as to whether having Māori councillors would be effective given that they must work in the same regulatory framework as all other councillors. Therefore, there was also a call in this section of the interviews for legislative and policy reform that would compel and give directions to regional councils to act on Māori values and interests. This reform was one of the main roles identified for central government in this process and would include the creation of monitoring processes whereby regional councils would be held accountable for their actions or failure to act.

Finally, the issue of isolation of certain smaller and more remote groups was another matter that came through this section of the interview. This issue was raised when interviewees considered the current national representation and several interviewees reported being unaware of the current representation and what was going on in Wellington beyond a very general and higher level. This highlighted a need for central government to make an effort to reach these groups as well as facilitate their access to information and other groups.

Section 6: Interests in water allocation

1. What are Māori interests in the allocation of water?

This section looked at what Māori interests in the allocation of water are with a particular focus on the ability to exercise tino rangatiratanga over water resources and the role of kaitiaki. In particular, this section sought to gain the perspective of the interviewees as to what changes could be made to the current water allocation system that would better reflect these interests. Interviewees were also asked to explain what their economic interests in water allocation were and what changes were necessary to better take these interests into account.

2. Tino rangatiratanga and role as kaitiaki

One of the first issues raised in this section as a major area of concern for iwi and hapū was that current water allocation system does not reflect the Treaty relationship and therefore does not adequately recognise their tino rangatiratanga or their role of kaitiaki over water resources.

In particular, the current approach to water allocation treats water in such a way that is inconsistent with the relationship that Māori have to the resource and their role of caring for and protecting it. Current management practices treat water as a commodity that can be divided, mixed, and transferred which means that traditional associations with, and ways of managing, water are lost. One interviewee pointed out that the current approach which separates issues such as water allocation and water quality issues does not reflect the way iwi and hapū view and manage water. This interviewee voiced considerable frustration that these issues continue to be dealt with separate from one another. Thus, according to interviewees, it is essential the current mismanagement of water is addressed in such a way that provides greater recognition of tino rangatiratanga and the role of iwi and hapū as kaitiaki.

One of the reasons given for the current mismanagement of water was the lack of good scientific data at the local level for regional councils to use in allocation decision-making. One interviewee noted decisions are often based on models not specific to the local area. Therefore, the decision to allow a certain take or discharge might be made remotely when tāngata whenua who actually use the waterway as a fundamental part of daily life do not have a say in the decision. Moreover, the current setting of flows does not take into consideration the needs of the entire system. The current approach in its focus on specific areas or even a specific waterway does not reflect the way iwi and hapū think of water from the top to the bottom of a system. Iwi and hapū bear the costs of these decisions at the local level and this was a major concern for many interviewees. Accordingly, there was a call for a stronger decision-making role for iwi and hapū that reflects the Treaty relationship and the knowledge of water and these systems that iwi and hapū have held for generations.

The Waikato-Tainui Agreement in Principle was offered as an example of how both some degree of ownership and co-management may be achieved. One interviewee felt this model demonstrated an appropriate approach by putting first

kaitiaki responsibilities and coming up with a clear vision and goals for how to protect the resource now and into the future. Indeed, many interviewees felt strongly that first and foremost iwi and hapū must carry out their role as kaitiaki:

Our kaumatua have given us a very strong direction ... that we're here as kaitiaki first and foremost, that we must leave our resources in a good condition for future generations and that comes before anything. ...[S]o how do we manage that tension of now trying to get onto the level playing field in terms of economic sustainability for our people whilst we're trying to manage this [role of] kaitiaki?

There was also wider discussion around how current approaches to supply and demand are an issue for iwi and hapū. Some interviewees thought there was not enough emphasis on sensible and efficient approaches to reducing demand and conserving water. Responsible decision-making around water allocation was called for by other interviewees including accountability mechanisms for councils and those holding water permits.

3. Economic interests

In addition to cultural interests, iwi and hapū have economic interests in water that must be accounted for in water allocation processes and planning. Māori commercial organisations within Te Tau Ihu identified specific steps that would increase their economic interests. These include clarity of definition of Māori perpetual leased land and irrigable land, preventing the transfer of water to another takiwā and placing water rights with landowners rather than users/lessees.

One interviewee suggested the role of kaitiaki did not necessarily contradict these economic interests but meant that economic interests must be in line with Māori environmental values. This was similarly suggested by another interviewee:

We have to play by the rules too. We have to ensure that whatever we do with the water is...consistent with improving the health and well-being of the river.

Another interviewee made a similar comment but additionally stated that iwi and hapū must show leadership in light of their role as kaitiaki:

More importantly as kaitiaki, we must show leadership and look for both co-management and partnership opportunities in looking for durable, sustainable solutions to these challenges. ... We have to look carefully at the core tenets of sustainability: environmental, cultural, social and economic considerations and make durable and robust decisions.

Along these same lines, many interviewees suggested that it's not about stopping development but that there needs to be a balance achieved between Māori cultural and economic interests in water. There was though resistance on the part of pre-settlement groups to the idea of allocations being made until ownership issues are sorted out:

Being a pre-settlement tribe, you know, we haven't yet settled those things with the Crown. That's why entering into an allocated system we're very

nervous because unless they have dealt with that grievance and reassured our interests, we're totally against them establishing a tradable allocation or system.

There was also concern expressed about whether or not there would be water left to develop by the time that groups were post-settlement with the requisite economic capacity.

The only suggested means for resolving the issues around economic interests was through allocations to iwi and hapū that took both cultural and economic interests into account. Some also suggested economic interests would be achieved through changes to the Resource Management Act. No suggestions were made as to how the balance between cultural and economic interests would be achieved.

4. Discussion

Within this section of the interviews there was a call amongst interviewees for a more holistic approach to water management in New Zealand. This approach would reflect tino rangatiratanga and the role of iwi and hapū as kaitiaki. The majority of interviewees stated the health of the water and waterways was the first and foremost issue for them. However, it is important to note that not all iwi and hapū hold the same type of interest in water, and will have different priorities around management and development.

The ultimate challenge is for policies and processes to reflect and provide for the range of these interests. While no specific solution was identified, as a starting point there was a widespread call among all interviewees to treat iwi as a Treaty partner with decision-making powers. From the perspective of iwi and hapū this would be the first essential step towards realising the realm of values and interests they hold in water. There is a clear role for central government to provide national direction to regional councils in the form of both policies and legislation on how to promote and provide for this relationship at the local level.

In order to provide for economic interests in particular, the only option suggested by interviewees was for allocations that reflect these interests. However, it was not clear how this allocation would be quantified, nor were suggestions made as to how to resolve different issues faced by pre- and post-settlement groups. This issue, and potential options for ways forward, will be further considered in the discussion section.

Many suggested that economic interests would flow from the combination of suggestions that they had made throughout their interviews, such as the status of iwi as the Treaty partner, resetting the water allocation, strengthening the RMA to reflect and recognise Māori customary values and priority water allocation to iwi and hapū. It was suggested economic interests were part of a longer conversation between iwi:

We all need to have a conversation about what are the requirements of all the iwi within the catchment to ensure that they are able to develop their economic well-being and, where necessary as other iwi develop their own

capacity, we can ensure strengths where the water is required for them to develop their economic portfolios.

Section 7: Regional council perspectives

This section focused on gaining the perspectives of regional council on Māori involvement in water allocation. Regional council staff, including planners, consent managers, project managers and policy managers, were asked to comment on their interaction with Māori in relation to water allocation and how Māori were involved in water allocation systems within their region.³ These interviews sought to identify how water allocation processes and planning at the regional level incorporate and support Māori values in water. In particular, interviewees were asked how they gathered information on Māori values and interests in water. Iwi planning documents were a major focus of these interviews as one of the primary tools that enables communication between regional councils and iwi and hapū. Interviewees were next asked to identify the main challenges to engaging with Māori on water allocation and accounting for their values in regional water planning. The interviews then shifted to a focus on what could be improved within water allocation systems. Council staff were asked for their thoughts on how Māori could better position themselves within the current system of prioritisation of competing interests in water. Finally, the role of both regional councils and central government in facilitating Māori engagement and involvement in water allocation systems from the perspective of regional councils was explored.

1. Interaction between Māori and regional councils on water allocation

The level of engagement and involvement on water allocation varied across the country and most commonly was in relation to resource consents and preparation of regional plans and policy statements. In some instances, iwi and hapū were also involved in scientific aspects of water allocation such as monitoring of customary fisheries and joint scientific teamwork with councils.

One of the most common ways that iwi and hapū are involved in the water allocation processes in their region is as an ‘affected party’ to resource consents via approvals, submissions, and hearings. In relation to notification, processes were varied. In some instances, regional councils had their own internal processes whereby they identified interested parties who would then be consulted as part of the decision-making process around that application. For example, one council gave the task of identifying interested parties to its iwi liaison officer. However, in some instances, iwi and hapū were on a group circulation list such that all applications were circulated past them so that they could choose to request further information about those applications that were of concern to them. One of the ways that iwi and hapū are involved in consultation is by providing assessments of cultural effects to support their applications. The highest involvement of iwi and hapū tended to be in relation to major consents, for example, those involving proponents such as Meridian Energy and Genesis Energy.

In relation to water allocation, iwi and hapū also commonly interacted with regional councils during the preparation of regional plans and policy statements.

³ It should be noted that Nelson City Council, Tasman District Council and Gisborne Council were also included in these interviews. They are classed as unitary authorities rather than regional councils.

One interviewee noted that iwi and hapū have a special status in relation to planning, and another noted that iwi and hapū were embedded in their planning process from the very start. In preparing for the drafting of a regional plan or policy statement, iwi and hapū were commonly engaged through discussions and hui. In some cases, a representative from the iwi or hapū worked with the council, while in a few cases, an expert panel or reference group was formed to oversee the development of a plan or policy statement. The work of these representatives or groups is generally focused on identifying values associated with water to be incorporated into these plans.

In some cases, the outcome from these interactions is the inclusion of Māori values in regional plans and policy statements. For example, the second chapter in Environment Canterbury's Natural Resource Regional Plan is entitled *Ngāi Tahu and the Management of Natural Resources* and incorporates Ngāi Tahu values into the management of natural resources in the Canterbury region. Environment Bay of Plenty also reported having a chapter within its Regional Water and Land Plan entitled *Kaitiakitanga* that sets out a number of methods the council uses to engage with iwi and hapū. The Horizons Regional Council's One Plan has a chapter that focuses specifically on setting out the resource management issues of iwi and hapū. Resource management issues from the perspective of iwi and hapū were incorporated into the chapter without much editing from the council. The chapter then identifies corresponding sections which address those particular issues. In that way, iwi and hapū are able to decide whether or not they are satisfied that the issue is being addressed, and make submissions where they are not.

In contrast, some regional plans do not specifically single out Māori values in water. For example, in one instance the regional council reported having a working group, with iwi participants, which was tasked with deciding whether or not to include Māori values as separate from other ecological values. In the end it was decided those two value streams were similar enough that a scientific approach would provide for Māori values as well. Similarly, another interviewee spoke of the decision made not to have a separate section for Māori values:

It was decided that rather than have a separate manawhenua section, there were Māori values running throughout the plan, and it was noted that those values are generally the same as everyone else's [values].

Interestingly, one regional council interviewee, whose council had a separate chapter for Māori values, expressed disappointment that Māori values were separated out from the rest of the plan:

It's a bit of a disappointment to me really that they try and solve it or make it discrete as though the iwi issues are somehow not the same as other people's issues. You know they have probably a few more layers but basically it's still the same stuff. They want good quality and enough water you know in the waterways which everybody else wants as well, so they're not necessarily just iwi issues.

In some instances, iwi and hapū were also involved in the scientific aspects of water allocation. For example, a few interviewees reported liaising with

community members or iwi groups who had developed ways to monitor their customary fisheries and this was useful information to guide the setting of flows in these regions. Councils often provided advice and information to guide this monitoring, and there was one instance where a council reportedly provided some funding to support the development of a customary fisheries monitoring programme through an iwi organisation. Other monitoring was reported around significant sites and consent monitoring that came about as a result of agreements reached from the original consent application. Another marae group was reported to have been very active in monitoring their groundwater with the regular assistance of one of that council's field officers. The Cultural Health Index was also raised by a few interviewees as one potential tool that could lead to cooperation between iwi and hapū and regional councils on water allocation issues. Nelson City Council reported being involved in a monitoring project that brought together iwi, local schools, the council and the Department of Conservation. This project is an education initiative through which iwi educate school children on how to monitor fresh water.

Only one interviewee thought there was no role for iwi and hapū in relation to monitoring and reported that all monitoring in that region was undertaken through mechanical means. According to this interviewee, iwi and hapū should not be involved because it is a purely technical measurement:

It's not really something that we can get engagement on and probably shouldn't because it's something that is a technical measurement rather than a qualitative exercise and it's quite different from water quality in that regard.

2. Sources of information on Māori values and interests

Interviewees were asked how their regional council gathers information on Māori values and interests. One of the most common means of doing so was through iwi planning documents, and a more in-depth discussion of these documents follows in the next section. In addition to iwi planning documents, other sources of information included the following:

- informal conversations
- consultation with Māori bodies
- information from submissions on resource consents
- internships and secondments
- iwi liaison officers
- iwi representatives on hearing committees and expert panels
- wānanga or hui about council functions or activities and to disseminate information relating to national standards, legislative changes or other national discussion documents (funded by council)
- tāngata whenua values reports and
- cultural impact reports.

3. Role and effectiveness of iwi planning documents

Iwi planning documents were a major focus of these interviews as one of the primary tools enabling communication between regional councils and iwi and hapū. Generally, the approach taken in these documents is that fresh water is covered as one of many issues within a larger management plan. Even though there are no iwi planning documents specifically on water allocation issues, the role of these documents in facilitating iwi and hapū engagement within these systems at the regional level was widely acknowledged by interviewees. Tūwharetoa's environmental management plan was one of the best case examples offered from the perspective of one interviewee in regard to the depth of information that it provides and its take up within regional council. The role of iwi planning documents is going to become increasingly important, according to some interviewees, in light of the fact that water resources are more often starting to reach full allocation.

The main limitation of these iwi planning documents identified by interviewees is that they did not provide detail at the specific level necessary to be taken up by scientists and planners. Instead, these documents often work at the more general level and higher concepts such as mauri and iwi and hapū relationships to water. The lack of any targeted or measurable outcome in these plans made it difficult for planners to be able to work with them. Thus, while the importance of these documents is widely acknowledged, they will continue to not achieve any specific outcome in relation to water allocation until they articulate precise targets and outcomes.

It was also acknowledged that regional councils needed to commit to implementing processes that ensured the take up of these documents amongst their staff. For example, one interviewee reported that within their regional council they had put into place an internal process to guide planners in taking up of iwi planning documents. Another reported a high level of commitment among staff to better understand and use these documents. This commitment was reflected by the attendance of approximately 30 staff at an implementation workshop that involved central government and the iwi authority. Within that same regional council, every consent and planning staff member has a copy of all Settlement Acts that are within the regional council's boundaries and should also take these into account along with the planning documents. Environment Bay of Plenty provided a best case example where staff members were in the process of developing a template for hapū and iwi management plans that would be followed up by workshops. The council is involved in the development of these plans within their region through to completion, providing information and feedback to the drafters. As well, the council is funding the development of these plans where possible.

Despite these best case examples, how these documents are used remains an outstanding issue for regional councils and the groups preparing them:

How they're used, this is probably an area where a lot of councils could make some improvements. We are trying to develop some processes and kind of internal best practice ways of working with these plans and we've started

workshopping these plans and providing information to staff, making them available electronically. We're also developing a GIS layer so our staff will be able to click on an area and pull up any relevant plans, so yes, we are using them. We could be using them a lot more.

Furthermore, even if councils are able to commit to implementing these plans and developing supporting processes, guidance is also needed from central government as to how to take these plans and the values they represent into account. Another comment from the planner once again is that the iwi management plans conflict directly with the policies and regional plans. Since this conflict is often very difficult to reconcile, some advice around this issue was also required.

Finally, another significant challenge in relation to these documents was the lack of resources both from the perspective of iwi and hapū to support their development, and also from the perspective of councils to support their implementation at the regional level. Therefore, council interviewees tended to view them as very important but the issue was raised around who pays for them. Some regional councils reported having small funding to contribute towards iwi planning documents but acknowledged this would only provide a small contribution towards the preparation costs. The fact that smaller and pre-settlement groups often had fewer resources was also raised. This was a matter of concern because these groups were less likely to be able to prepare effective planning documents and were difficult to engage with from the perspective of regional councils.

In the end, the ultimate effectiveness of these iwi planning documents depends on the resources that iwi and hapū are able to commit to preparing them and seeing them through, according to one interviewee. Not only are considerable energy, passion and resources required to write them, but also to see them through at the consent and planning levels. Unfortunately, it was acknowledged, this would not change until council staff members and commissioners received training in Māori values. The fact that iwi and hapū were left to start from the beginning with the turnover of regional council staff and in most hearing cases, was acknowledged by regional council interviewees as a major challenge for iwi and hapū.

There was also a call for capacity building for iwi and hapū on how to write planning documents. However, in the meantime some practical suggestions for iwi and hapū in the drafting stages to improve the effectiveness of iwi planning documents were made by regional council interviewees:

- run workshops between the group and regional council staff at the drafting stage so there are clear expectations and a greater understanding of mutual limitations
- clearly define the issues
- clearly set out expectations, for example in relation to quantity and processes
- quantify expectations wherever possible
- use more planning language that would help planners to interpret and give effect to them

- build relationships with regional council, community and other stakeholders wherever possible
- explore the possibility of arranging a secondment of staff from regional council to assist with processes
- seek out funding sources, advice and expertise to assist with writing.

4. Challenges to engaging with iwi and hapū

When asked about the challenges faced by regional councils when engaging with iwi and hapū on water allocations, discussions focused on the capacity related limitations for both regional councils and iwi and hapū organisations. However, a host of other challenges were identified and can be summarised as follows:

- multiple iwi at different levels of competency
- dealing with such a wide range of tribal structures
- differing stages of Treaty settlement
- competing values between hapū and the iwi
- fractious internal relationships within iwi
- multiple and often conflicting demands on Māori by councils
- uncertainty at which level to base a relationship – grassroots, hapū or iwi
- not all hapū affiliate to an iwi organisation
- low priority of resource management issues in comparison with others such as Treaty claims, health education, employment
- limited knowledge of the role of the council, both regional and district
- reliance on iwi liaison officers.

The greatest challenge for regional councils according to most interviewees was the lack of capability amongst iwi and hapū to engage on these matters. In particular, there were capability issues around the way that iwi and hapū were organised and resourced. One interviewee pointed out that post-settlement iwi are well structured, knowledgeable about the Resource Management Act, and able to respond quickly with useful feedback. The benefits to those iwi and hapū who were able to respond in this manner were they were able to get their input into decision-making and realise the long-term benefits of decisions in their favour. These groups were also better able to engage with consent applicant in comparison with smaller less-resourced groups:

[O]ur consent applicants find it difficult to deal with the less well-resourced and set-up iwi and hapū groups that ... can't get responses quickly. That hinders the consenting process in terms of timeframes. Often the responses we get back aren't useful or they are not in line with the concerns that can be considered in terms of a consent application, so they are difficult for us to consider or to take into account when making a decision on an application.

Pre-settlement iwi were more likely to devote resources to negotiating and finalising settlements as well as setting up structures rather than engaging with councils on water allocation. In comparison to regional councils and proponents such as Mighty River Power and Genesis Energy who have a wealth of skilled and salaried staff, one interviewee stated that these smaller organisations are often *totally out of their depth*.

Interviewees acknowledged that regional councils make considerable demands on iwi and hapū especially in relation to consent processes:

We are constantly wanting their response and their feedback ... We could do that a lot better because a lot of the information we get from them is quite valuable and does inform our work at the end of the day and sometimes they've just got hui fatigue. And they're also sick of doing it for nothing.

Moreover, because the issues that regional councils take to Māori are often technical they have to engage with someone knowledgeable in this regard. The end effect is that they often take issues to the same person who already is overburdened in their role within their organisation:

[Y]ou are dealing with groups that have one representative who deals with everything. You sit them down and say now we have done the planning stuff now we need to implement it, they just throw their hands up in horror and say 'I can't do all of this'.

The other significant challenge in addition to the capacity of iwi and hapū, was the capacity of regional councils themselves to engage with Māori on water allocation. Many interviewees were aware of the need for good dialogue with iwi and hapū in their regions, however, they were limited in the depth of communication that could be achieved by staffing numbers:

There's only so many people internally here to go round interviewing and communicating and giving the depth of communication that is often necessary.

Another factor was the tight timeframes that councils tend to work under which means councils are forced to send matters out for comment rather than engaging face to face, and response time given to iwi and hapū groups is often inadequate. Finally, some interviewees reported they struggled with managing the expectations of iwi and hapū in relation to their mandate. For example, while there may be expectations around economic issues, one council reported they viewed their mandate as covering environmental protection only and they were unable to engage on economic development. One interviewee stated they did not know how to accommodate requests from iwi to have greater involvement in the decision-making processes in the absence of direction from central government. Some interviewees also acknowledged that regional councils need to streamline their own systems and processes, as well as deal with the disjointed approach that results from a disconnection between the political and staff levels. Finally, councils were also limited in their ability to prioritise Māori values because they were bound by the first in, first served approach set out in the Resource Management Act.

5. Role of regional councils in facilitation of iwi and hapū involvement at regional level

Relationship building was the one key area identified by many interviews as to how regional councils themselves could facilitate iwi and hapū involvement at the regional level. The value of face-to-face contact was widely acknowledged:

I think just going out to the maraes and giving that face-to-face outline, they might not of liked what they heard, but in saying that I think that it really improved relationships.

One interviewee spoke of the positive change in councillors once they had attended a marae and saw the issues for themselves firsthand. This was more effective and powerful, according to this interviewee, than any policy document. Another interviewee told of how an internship that seconded a representative from a local iwi at the regional councils was an extremely positive and useful relationship building exercise. Similarly, one interviewee thought regional councils should build on what already works for that particular region:

I think the best thing would be just to continue and build on that trust that we already have with them in making sure that we are implementing the iwi management plan appropriately and consulting as best we can with them on any new issues that may arise. And I think that is the best way that we can do it rather than trying to think of new ways to do things.

As part of relationship building, there would be ongoing governance discussions that would address the role that iwi and hapū play in water allocation at the regional level. This dialogue that comes about from relationship building will at least help both sides understand each other's mutual priorities and restrictions which will facilitate councils and iwi and hapū working together effectively over the long term. However, interviewees also raised the issue of lack of resources within their council to be able to devote the time and effort to building and sustaining these relationships.

There was also an acknowledgement amongst some interviewees that councils needed to make the effort to improve their knowledge around the cumulative effects of water takes. Many reported not knowing what these cumulative effects of takes are which impacts on their ability to understand the position of iwi and hapū and the possible effects on their values. This was particularly related to permitted activity that allows water takes as a matter of right and that does not have to be registered. In some cases, interviewees reported not knowing how the flow was affected by these takes, but one interviewee suspected that permitted takes may use up the entire allocated flow of some water courses within the region.

We don't know how much they are, we suspect that they are the entire allocatable flow of some water courses ... because there is no requirement for people to register permitted activity takes as specified by our plan with us, we actually don't know what permitted takes are or what the quantity of those are and that is starting to cause us some problems. So that is on our list of things to do.

One regional council that set its own policy as to how to prioritise competing applications for water offers some insight into how councils may begin to resolve the issue of where Māori values and interests fit in the system. This council interviewee explained this policy is meant to lead to enhanced decision-making which achieves the best balance of environmental, social, and cultural as well as national, regional and local benefit. The policy offers guidance on how to compare competing applications for water and identifies factors that must be considered when assessing a resource consent application. Amongst those factors to be considered are some that are identified in the Resource Management Act, but additionally values such as Māori cultural and social values are included. Even though work remains to define these values with more precision, this policy creates an opening for iwi and hapū especially where they can be linked to greater environmental and social benefits.

6. Role of central government in facilitation of iwi and hapū involvement at regional level

Capacity building for both regional councils and iwi and hapū was one of the roles reserved for central council in the facilitation of iwi and hapū involvement in water allocation at the regional level. One of the primary means of capacity building for regional councils would be through education initiatives aimed at regional council staff and commissioners. One interviewee explained the need for education within councils:

It's very easy to look at Environment Waikato and go they have 300 staff so they have the capacity, but actually, in terms of people [who] have in depth understanding of tikanga or any of that, we have about ten – tops.

In relation to capacity building of iwi and hapū, the main suggestions were around providing technical support that would enable them to engage meaningfully on water allocation. One option suggested in this regard was to have centralised intellectual support for issues common to all Māori around the country. This may be in the form of technical advisors on water allocation and resources for outlying iwi to travel to get support. One of the most widely made suggestions was for some national assistance to iwi and hapū to develop their planning documents in such a way they can be assimilated by planners. That help would involve a combination of training, education and financial assistance.

Finally, most interviewees agreed there was a critical need for central government to articulate clear rules for how councils should deal with Māori values and interests in relation to water allocation. There was considerable uncertainty voiced around the extent to which councils have to engage with iwi and hapū in the decision-making process and the level of input required. Thus, in its delegation of water management to regional councils, central government must ensure this delegation is accompanied by clear direction as to how to provide for iwi and hapū within water allocation systems and what its expectations for councils are in this regard. Central government needs to extend this direction to territorial and district levels as well. One interviewee pointed out the discretion that is left with councils to decide whether or not they will provide for Māori values must be taken away. This direction includes a framework and methods for quantifying Māori values:

The problem we have is how do you quantify flows for values that can't be quantified? There are components of that which ... you can't just pluck a number out of the air for so it's more of a qualitative assessment rather than quantitative. So when it comes to implementing that particular method to help the consent teams – we're at a loss.

Current guidelines did not provide sufficient detail in this regard according to one interviewee:

MFE have produced a guideline to help in setting industry values for cultural, vocational and landscape values but it doesn't go further in terms of telling us how do you actually assign a value. So ecological values are easy because you look at what fish require but when it comes to the other components, it's very difficult. Guidance should be given by government at a national level on that.

Similarly, one interviewee stated that it would be very useful if the Ministry for the Environment got involved with promoting the development of cultural indicators as well as a framework for how to incorporate them into current processes in relation to the Resource Management Act. Some education and guidance around the role of iwi planning documents was also required:

I mean if you're expecting planners to take these documents, understand them and then take them into account in the work that they are doing, I think sometimes it's a bit of an ask.

7. Discussion

Two of the most pertinent issues identified by regional council interviewees was the role of iwi planning documents and the need for capacity building around them, and the current lack of direction from central government as to how councils should deal with Māori values and interests in relation to water allocation. Regional council interviewees were very open about, and aware of, their organisation's limitations in providing to Māori values and interests in water allocation processes and planning. When asked how regional councils could facilitate iwi and hapū involvement in water allocation at the regional level, most of the discussion focused around the value of relationship building. In relation to central government, there was a call for them to address capacity issues and, in particular, the two issues identified above.

Iwi planning documents were identified as one potential tool for advancing iwi and hapū interests and values at the regional level, however, the limitations of these documents was also discussed. In particular, these documents tend to be written at a more general and qualitative level than is useful to planners who require quantitative information to incorporate into planning. Thus, there was a call for central government to build the capacity of iwi and hapū to write documents and address their limitations set out in the above discussion to assist iwi and hapū in bridging this gap. As well, in order to ensure the take up of these documents and the values and interests they represent, direction was needed from central government as to how to take iwi planning documents into account and the expectations of regional councils in this regard.

This relates to the second major issue that was raised in these interviews, namely the perceived lack of direction from central government as to how to account for Māori values and interests in water allocation processes and planning. There was considerable uncertainty voiced around the mandate of councils and whether it extended to the range of issues voiced by iwi and hapū, especially including economic interests. It was also unclear as to how Māori values should be prioritised under the current legislative and policy frameworks. Finally, there was a call for central government to invest in developing framework and methods that would allow for Māori values to be quantified with a particular interest in the role of cultural indicators.

Another issue worth noting that arose from these interviews was the lack of understanding among council staff and commissioners as to the value base and relationships behind the approaches that iwi and hapū promote in relation to water allocation. For example, a few interviewees expressed the belief that still persists among some regional council staff as to Māori values being the same as all other values. This creates considerable burden for iwi and hapū who are left in a sense to repeatedly defend their case from the beginning. Tools with potential to further Māori values and interests, especially iwi planning documents, remain ineffective without this awareness and understanding on the part of regional councils and commissioners. This highlights a need for initiatives that educate regional councils as to Māori values. These might include resources from central government that facilitate iwi and hapū working with regional councils to develop their iwi planning documents as well as supporting iwi and hapū to follow through with them including the education of regional council staff and commissioners as to the values and interests they represent.

Discussion

1. Summary of key issues

As the report has shown, the key issues iwi and hapū have with the current water allocation system are as follows:

- participating in the water allocation processes and planning requires considerable time and resources
- high response burden in relation to resource consents
- iwi and hapū continually use scarce resources to engage in consultations and resource consents and there is no predictable funding for this role
- current water allocation system in New Zealand is not representative of the spectrum of Māori values and interests in water
- first in, first served system often means iwi and hapū are left out of the water allocation process
- lack of support from both regional and central government for the development of tools to quantify values and interests for planning purposes
- lack of technical assistance from some regional councils
- lack of uptake of tools and methods such as the Cultural Health Index and cultural indicators
- pre-settlement groups are not as well positioned to respond to resource consents or engage in water allocation processes and planning more generally in comparison to post-settlement groups
- isolation of smaller and more remote groups from central government and other groups
- landowners want to ensure the rights to water remain with the land and its owners rather than with lessees/users of that land
- all land owned by Māori regardless of the title has a right to water allocation
- there may not be water to allocate for land that has been returned to iwi through Treaty settlements
- securing water allocation for all land owned by Māori
- iwi and hapū are clear they own the water and it's for Government to show how they do not
- uncertainty of Māori rights with the implementation of market mechanism, especially for pre-settlement groups

- impact of market mechanisms on ability to fulfill kaitiaki responsibilities and other impacts on culture and the environment
- alternatives to market mechanisms such as improving efficiencies are not being considered adequately
- current systems do not adequately provide for customary values or economic interests
- regional councils do the minimum required of them by the Resource Management Act
- historical mismanagement of water in New Zealand
- high turnover of regional council staff leads to low institutional memory which increases burden on iwi and hapū
- hearing commissioners lack knowledge and understanding of Māori values and interests in water
- energy and resources required to develop and to follow through with iwi planning documents
- inability to quantify values and interests to feed into regional planning
- lack of uptake of iwi planning documents at regional level
- not knowing how iwi and hapū freshwater interests are represented at the national level
- need for a representative national entity to represent iwi and hapū in relation to fresh water

2. Target action areas

Overall, this engagement revealed widespread dissatisfaction among iwi and hapū as to how the current water allocation system provides for their values and interests. However, both iwi and hapū and regional council interviewees offered many suggestions for how the current situation could be addressed to better reflect these interests. The following discussion outlines the potential approaches and actions identified by interviewees to best progress Māori values and interests in water allocation at the national level. The international context is also considered where it can usefully inform the discussion. These approaches and actions are grouped under six target action areas as follows:

- building the capacity of iwi and hapū to engage on water allocation
- building the capacity of regional councils to provide for Māori values and interests in water allocation
- supporting the development of effective iwi planning documents
- ensuring market mechanisms reflect iwi and hapū interests in water

- implementing representation of iwi and hapū for freshwater interests at the national level
- recognising and treating iwi as a Treaty partner with decision-making powers.

3. Building the capacity of iwi and hapū to engage on water allocation

One of the main areas that must be addressed is the capacity of iwi and hapū to engage on water allocation issues at both the regional and national levels. These interviews highlighted the fact many iwi and hapū organisations fall short of having sufficient and appropriate resources to engage within their regions on water allocations and with central government on current policy. Institutions that were most effective were, more often than not, post-settlement entities that were more suitably resourced to engage in discussions and be involved at the national level. In contrast, smaller, often, pre-settlement iwi and hapū lacked the capacity in terms of resources and technical ability to engage on water allocation. Regional council interviewees further pointed out their own work is affected by these smaller less-resourced groups who require more energy to engage with and who often provide ineffective responses. From the perspective of iwi and hapū, there were many challenges to engaging with regional councils relating to their own capabilities.

One of the major issues for iwi and hapū was the fact they play an important role in consent and planning processes, but this role remains unrecognised and without remuneration. This lack of support and resources has affected the ability of iwi and hapū to leverage themselves to a competitive position within current water allocation system in New Zealand. Thus, many iwi and hapū groups reported feeling forced into reactive roles and are unable to find the resources to engage at a level beyond responding to consents.

The following approaches and actions, taken both from suggestions made by interviewees and international models, offer possible ways to build iwi and hapū capacity to be involved in water allocation systems in New Zealand:

- provide assistance to iwi and hapū organisations to develop processes to streamline their responses to resource consents
- central government must address the isolation of smaller and remote groups and facilitate their engagement at the national level as well as promoting networking and information sharing with other groups in New Zealand
- organise a national forum to bring iwi and hapū together to discuss information management systems they have for resource consents to promote information sharing around this issue⁴

⁴ This was not a suggestion made in this engagement, but rather comes from the international context. Such forums have been held in Canada to facilitate strategic planning and information sharing around managing land referrals.

- more transparency is required at the national level and includes the distribution of information on water related policies and national representation of Māori to all iwi and hapū
- protocols to guide regional councils in their consultation and engagement with iwi and hapū on water allocation might be useful and may be modeled on international examples⁵
- iwi and hapū should seek to build relationships with their regional councils and other community stakeholders as a means of increasing their potential resource pool (ie, the ability to call on regional councils for technical advice)
- the possibility of remuneration for services provided by iwi and hapū in relation to consents and consultation should be considered and may be modeled on fee-for-service approaches in other countries such as Canada.⁶

4. Building the capacity of regional councils to provide for Māori values and interests in water allocation

Both iwi and hapū interviewees and regional council interviewees identified similar constraints on regional councils that affected their ability to provide for Māori values and interests in water allocation at the regional level. Many iwi and hapū interviewees expressed frustration from their dealings with regional councils and in relation to current water allocation policies and plans within their regions. Some iwi and hapū interviewees thought regional councils did the minimal required of them under the Resource Management Act and there was widespread agreement that the councils were not fulfilling their obligations under the Act. As a result, many of the iwi and hapū interviewees felt water allocation process and planning within their region did not at all reflect Māori values and interests.

In contrast, most regional council interviewees reported they felt their organisation provided for Māori values and interests in water allocation as well as possible in light of the constraints under which they operate. These constraints included lack of resources, high turnover of staff, difficulties dealing with iwi and hapū, the current legislative framework and a lack of national direction as to how to account for Māori values and interests. The inability of iwi and hapū to articulate their values and interests in a way that could be useful to planners was also highlighted with a particular focus on the limitations of iwi planning documents in filling this gap. Finally, one of the most widely raised issues was a critical need for central government to articulate clear rules for how councils

⁵ Many Canadian provinces have First Nation consultation guidelines for resource management that provide useful models, see for example Alberta's *First Nations Consultation Guidelines on Land Management and Resource Development*, available at <<http://www.aboriginal.alberta.ca/571.cfm>>; or Ministry of Sustainable Resource Management. (2004). *First Nations Consultation Guidelines: Sustainable resource management planning*. British Columbia: Forest, Lands and Marine Branch, available at <<http://www.llbc.leg.bc.ca/Public/PubDocs/bcdocs/372854/FNConsultation.pdf>>.

⁶ For example, in Canada some proponents are charged a fee by First Nations for their response to development applications. Where proponents make regular applications, it may be that a retainer is worked out (ie, on a quarterly basis).

should deal with Māori values and interests in relation to water allocation, including the extent to which councils should engage with iwi and hapū in the decision-making process and the level of input required.

The following are suggestions from both sets of interviewees as to how to build the capacity of regional councils to facilitate the involvement and realisation of Māori values and interests at the regional level:

- legislative and policy reform that would compel and give directions to regional councils to act on Māori values and interests
- national direction as to how Māori values should be prioritised under the current legislative and policy frameworks
- central government should invest in developing framework and methods that would allow for Māori values to be quantified with a particular interest in the role of cultural indicators and tools such as the Cultural Health Index and the State of the Takiwa
- central government should support the development of tools that assist iwi and hapū to quantify their values for the purpose of informing regional planning
- support for education initiatives that address the lack of understanding among council staff and commissioners as to the value base and relationships behind the approaches that iwi and hapū promote in relation to water allocation (ie, funded workshops given by Māori to regional council staff)
- regional council should instigate more relationships between regional staff and politicians and iwi and hapū in their regions, including site visits
- central government should support collaborative governance models such as committees and forums as well as distributing lessons learned from these initiatives that could help other groups in organising themselves around water allocation in their own regions.
- central government should facilitate the development of accountability mechanisms in partnership with iwi and hapū that would hold regional councils accountable for their obligations to Māori under the Resource Management Act.

5. Supporting the development of effective iwi planning documents

The most common issue raised in relation to iwi planning documents was the lack of their uptake by regional councils. Despite the lodgment of these plans in accordance with the Resource Management Act, iwi and hapū find themselves continually having to re-educate council staff about their values and interests, and how to take the plans into account. On the part of regional councils, it was reported that it is difficult to account for these planning documents in regional plans owing to the lack of any targeted or measurable outcome within them. Because they do not provide quantifiable targets, it is challenging to integrate

these documents into regional policies and plans. The qualitative nature of Māori values and interests makes it difficult for iwi and hapū to quantify them for planning purposes. According to regional council interviewees, those iwi and hapū who will be most successful at influencing plans and policies will be those able to bridge this divide and provide some concrete suggestions for the outcomes that they want. It was also acknowledged that regional councils needed to commit to implementing processes that ensure the uptake of these documents amongst regional council staff.

Regional council interviewees made many valuable suggestions as to how these documents might better achieve positive outcomes for iwi and hapū in relation to water allocation:

- central government must provide direction as to the expectations of regional councils in relation to their role in iwi planning documents, including the role of councils in supporting the development and implementation of the documents
- central government must provide funding either to regional councils to support the development of iwi planning documents or to iwi and hapū groups directly for this purpose
- iwi and hapū must be as clear as possible as to outcomes sought in relation to water allocation, including quantifying these expectations wherever possible and addressing expectations for consultation
- case studies might be undertaken to examine whether these documents are more effective when they are developed as partnerships between iwi and hapū organisations and regional councils
- regional councils should provide technical support in the development of these planning documents and implement policies within their organisation that ensures the uptake of them among current and any new staff.

6. Ensuring that market mechanisms reflect Māori interests in water

From the perspective of the iwi and hapū interviewees, current approaches to water allocation will not resolve all the challenges in water resource management. Increasingly, water market mechanisms are being proposed to address these challenges. However, according to these interviewees, these mechanisms are not necessarily the answer to these challenges and there was considerable concern voiced about the implementation of these mechanisms in New Zealand. It has been argued that a water market will not be efficient unless it is able to account for the full spectrum of indigenous rights, from customary through to commercial rights (Altman & Cochrane, 2003). Yet, in New Zealand, Māori rights in fresh water have not been resolved, especially in relation to economic interests. For this reason, many interviewees stated that ownership issues must be resolved before these market mechanisms should be implemented in New Zealand. Market mechanisms also raised concerns about the ability of iwi and hapū to fill their role as kaitiaki and exercise their tino rangatiratanga.

When asked about their economic interests, interviewees were quick to state that the health of the water and waterway was a primary concern before economic interests. Once these concerns were addressed, economic interests could be provided for through allocations. However, it was not clear how this allocation would be quantified, nor were suggestions made as to how to resolve different issues faced by pre- and post-settlement groups and the possible inequities that may arise from allocations. The action points are:

- before the implementation of new mechanisms to manage water, governments should look at improving the efficiency of current systems
- ownership issues must be resolved. Iwi and hapū say they own the water and that Government, both central and regional, needs to demonstrate how they have acquired the ownership
- central government must engage iwi and hapū in discussions as to how their rights will be protected within these systems and take steps to protect them accordingly, especially for pre-settlement groups
- support that reflects the different requirements of pre- and post-settlement groups is required to ensure that proper structures are set up by iwi and hapū to enable them both protect their interests as well as take advantage of any opportunities that arise from the implementation of these mechanisms.

7. Implementing representation of iwi and hapū for freshwater interests at the national level

Many suggestions were made as to what a national entity representing Māori freshwater interests might look like and what role it would play. However, the issue that raised considerable uncertainty was the need for such an entity to be representative of all iwi and how this would be achieved. This was a primary concern for interviewees and should be addressed in the creation of any such entity in order to ensure its legitimacy from the start. No concrete suggestions emerged during the consultation process.

One way that this type of entity might be constituted is as a national representative council drawing its members from iwi groups across the country. The country could be split into regions, for example along the lines suggested below, with a representative from each of these regions sitting on the council. A national hui could be called where iwi leaders would be able to demarcate the boundaries of these regions which could be as follows:

- Te Taitokerau
- Nga Uri o ngā Waka o Te Arawa me Tainui
- Te Tai Hauāuru
- Te Tairāwhiti
- Te Upoko o te Ika a Maui
- Te Tau Ihu o te Waka o Maui

- Te Waka o Maui

Within these regions, iwi could meet to select the representative from amongst themselves to sit on the council. It may be that these representatives would need to be rotated on a regular basis to ensure representativeness across groups within these regions.

This representative body may provide the conduit where issues discussed above, such as a point of coherence for government assistance to iwi and hapū groups in planning processes, come together.

8. Recognising and treating iwi as a Treaty partner with decision-making powers

One of the greatest challenges for water allocation systems is to reflect and provide for the range of interests in water. The widespread view amongst Māori interviewees in this engagement was that the current approach to water allocation treats water in such a way that is inconsistent with the relationship that iwi and hapū have to the resource and their role of caring for and protecting it. There was widespread support for fundamental changes to the Resource Management Act that would include a legal reset of the allocation of water throughout the country. However, the first and essential step from the perspective of iwi and hapū is for the central government to treat iwi as a Treaty partner in the current system. This partnership role would see iwi and hapū sitting at the table and invested with decision-making powers, rather than being treated as a stakeholder and held to advisory roles as with the current system. This requires more than an acknowledgement of the Treaty partnership but would be implemented with iwi and hapū making decisions at the regional level alongside regional councils. Direction from central government as to how to provide for this relationship would be required. As well, national representation of iwi and hapū interests in water would also reflect this decision-making role.

From the perspective of interviewees, the central government must take the lead role in facilitating this relationship that would be characterised by the following:

- before the implementation of new mechanisms to manage water, governments should look at improving the efficiency of current systems
- central government must engage with iwi as a Treaty partner that would vest Māori with joint decision-making powers in relation to water
- joint priorities for this partnership must be identified from the start
- central government must facilitate joint management of water with tāngata whenua
- central government must provide national direction to regional councils in the form of both policies and legislation on how to promote and provide for this relationship at the local level
- central government must issue clear and definitive statements around water allocation that would see iwi and hapū having first rights in water.

9. Conclusion

The Government is preparing to revise the current system for water allocation to make it more efficient and effective for meeting the needs of all those with interests in water. This engagement has been timely in the sense the iwi and hapū representatives reported that the current system does not support or reflect iwi and hapū relationships to, and interests in, water, from the role of kaitiaki to economic interests. While many options were discussed as possible improvements to the current system, the most fundamental step required was for central government to treat iwi as Treaty partners in relation to water in New Zealand. The widely expressed view was until iwi are equal partners in the system, rather than being viewed as just another stakeholder, the system did not work for iwi and hapū.

In practice, we are legislatively cast in the role of the persistent objector. And that's one of the fundamental things that means the current allocation system doesn't work.

Effective water governance in New Zealand will depend on the resolution of these issues including addressing ownership of fresh water and clear statements as to priorities for Māori values and interests in fresh water. These same issues were raised in the Wai Ora Consultative Hui on fresh water in 2006 where the central government was similarly called on to deal with Treaty issues around ownership and partnership. The fact that, from the perspective of Māori, these issues have not progressed is a key finding in itself and highlights the need for significant changes in the way that government currently addresses Māori interests in fresh water. There was a sense of frustration and skepticism among interviewees in this engagement as to whether or not the Government will actually act on the recommendations that are again being made in this engagement.

One of the main reasons these issues have not progressed is the fact that the Treaty is not legally binding yet it remains the key document determining the position of iwi and hapū in relation to natural resources in New Zealand. An additional factor is the Resource Management Act that does not yet provide sufficient direction as to the priorities and protections that might be given to Māori customary values. Thus, as per the current legislative framework, there is no clear articulation of Māori rights nor are there means for Māori to hold governments accountable for their actions or lack thereof.

It may be that amending the Resource Management Act is not sufficient, and a whole new legislative framework is required to address the issues that Māori have with the current water allocation system. The feasibility of this approach was not discussed by interviewees in this engagement. One of the more feasible approaches raised was a re-set of consents which would involve cancelling all existing consents and re-allocating around a new set of rules. These rules would be designed to deliver particular objectives around Māori in addition to other objectives around other users. However, in light of the expense associated with compensation for those who lose existing consents, the preferable option would likely be to let existing consents expire and apply those new rules to new allocations.

Another challenge, identified by some interviewees in this engagement, is that discourse in New Zealand around Māori and water is value based rather than

rights based. Interviewees felt the characterisation of iwi and hapū relationships to water as a “value set” was not an accurate reflection of this relationship and that in characterising it as such the inherent rights of iwi and hapū to manage and make decisions about their water are less likely to be recognised. It may be then that this focus on values forces iwi and hapū to negotiate from a less advantageous position than their counterparts overseas.

Comparatively, in other countries, such as Canada and the United States where the discourse is less about ‘values’ and more about ‘rights’, indigenous people have considerable recognised rights to natural resources under the law. In these countries, these rights are accompanied by strong common law rights around consultation and accommodation of indigenous interests that create significant obligations on both governments and industry in their engagement with indigenous people. Thus, it appears that indigenous people in North America are able to negotiate from a significantly stronger foundation than Māori in New Zealand. At present, in the absence of any recognition of legal rights in water, Māori values and interests in water go into the same pool as all other stakeholders. Therefore, part of treating Māori as a Treaty partner would involve taking their rights seriously and facilitating outcomes similar to those experienced by indigenous groups in North America.

A major challenge for Māori is to articulate the outcomes they would like to see in relation to fresh water. This report identifies iwi planning documents as one of the tools that could be used to articulate these outcomes and formally lodge them with regional governments for better recognition. However, the tendency in New Zealand is that these planning documents generally fall short of achieving the purpose for which they were written. As discussed in this report, considerable support is required to assist iwi and hapū to better understand the type of information regional councils require for their planning around water allocation. Practical research is also required to identify methods that iwi and hapū can use to quantify their values around fresh water and freshwater resources. While it is essential the dialogue around the higher level qualitative values is retained, it must be supplemented by discussion around the specific quantifiable outcomes that iwi and hapū are seeking in water allocation systems.

While it was not raised in this engagement, iwi and hapū may look to settlements and co-management agreements to address some of these issues and provide some of the rights that are enjoyed by their indigenous counterparts overseas. In the absence of legally binding treaties or having rights enshrined in a constitution, this would be one way that Māori could negotiate similar rights and outcomes. One of the areas that should additionally be addressed in such negotiations is the preferred process around resource consents. Iwi might develop guidelines around consultation and involvement in the resource consent process and have these included as part of their settlements and co-management agreements. This would help to address some of the uncertainties in the resource consent process that were raised in this engagement. Recent case law in Canada on the duty to consult and accommodate provides useful precedent on what might be included in such guidelines.

The establishment of a representative national entity would be a first step in resolving many of the issues that were raised in this engagement. In order for this

entity to effectively provide for Māori values and interests in fresh water, its role would need to reflect the Treaty partnership such that it would be vested with shared decision-making powers, as opposed to having only an advisory or stakeholder position. This entity would also require a clear mandate that could be created around the issues identified in this report. Finally, owing to the capacity issues for pre-settlement groups that are discussed in this report, a key part of the mandate of any entity created to represent iwi and hapū interests in water allocation at the national level would be to offer support for pre-settlement groups to negotiate rights for themselves that reflect their values and interests in water.

Overall, this engagement revealed that iwi and hapū expectations in relation to fresh water and water allocation specifically, are not being met. It was largely acknowledged by both sets of interviewees that regional councils are not likely to act to provide for Māori values and interests until they have compelling direction from central government as to how to reflect this Treaty relationship in regional policies and plans. However, many interviewees expressed skepticism as to the political will of central government to take the steps necessary to remedy this situation.

Similar perceptions were recently revealed in non-Māori related research findings from a survey of the general New Zealand public's perception of the environment and environmental management (Hughey, Kerr & Cullen, 2007). The trend reported in this research was increasing public concern about the pressures on fresh water and the deteriorating state of it. One of the key impediments identified in this research to the effective management of New Zealand's fresh water was a lack of willingness on the part of central and regional governments.

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Pauling C. (2007). *Nga Wai Pounamu: Cultural Health Assessment of South Island Waterways*. Toitu Te Whenua, Te Runanga o Ngāi Tahu.

Appendix 1 – List of interviewees

Māori Organisations	Councils
Kai Tahu ki Otago	Environment BOP
Maniapoto Māori Trust Board	Environment Canterbury
Ngāi Tahu ki Murihiku	Environment Southland
Ngātahi Horticulture	Environment Waikato
Ngāti Kuia Charitable Trust	Gisborne District Council
Ngāti Rārua	Horizons Regional Council
Ngāti Rarua Atiawa Iwi Trust	Nelson City Council
Ngāti Tahu Ngāti Whaoa	Northland Regional Council
Ngāti Tūwharetoa (Bay of Plenty)	Tasman District Council
Ngāti Wai and Ngāti Hine (Consultant)	
Pakanae Marae, Northland	
Raukawa Trust Board	
Te Arawa Lakes Trust	
Te Atiawa Manawhenua ki Te Tau Ihu Trust	
Te Kaahui o Rauru Ngaa Rauru Kiitahi Iwi	
Te Runanga o Ngāi Tahu	
Te Runanga o Ngaiterangi Iwi Trust	
Te Runanga o Ngāti Awa	
Te Runanga o Ngati Porou	
Waikato Raupatu Trustee Company Ltd	
(Waikato-Tainui)	
Waimarie o Whatituri, Northland	
Wakatu Incorporation	
Whanganui River Māori Trust Board	

Appendix 2 – Māori perspectives questionnaire

The purpose of this assessment

Although the long-held connection that Māori have with freshwater resources and their role as kaitiaki in managing them has been formally recognised in New Zealand legislation and policy, there remains a gap between these initiatives and the realisation of Māori values in water planning processes. As pressure on our water resources increases, the Government is preparing to revise the current system for water allocation to make it more efficient and effective for meeting the needs of all those with interests in water. It is essential that Māori values are understood and accounted for when decisions are made regarding water allocations within these systems. In this context, then, increasing Māori involvement in freshwater management, including water allocation processes, has become a key component of the Government's programme to improve water allocation decisions.

To contribute towards the outcomes set out in the Sustainable Water Programme of Action, a Joint Work Programme was agreed by Ministers and iwi leaders on 23 July 2008. The objective of the Joint Work Programme is to enhance decision-making in freshwater management by having greater and more consistent involvement of Māori and incorporation of Māori perspectives at the national and regional levels.

In order to further that work, the Ministry for the Environment needs to gain an understanding of Māori perspectives on water allocation. Allocating water includes decisions made by regional councils to approve/decline applications to take water from rivers or groundwater. As you respond to questions you may wish to consider the allocation of water from either the perspective of your role as kaitiaki over water bodies or as a person with interests in Māori land and/or business with current and/or future interests in water allocation. It may be that you comment on both perspectives.

This project will be informed through a series of face-to-face interviews and focus groups with Māori in four different catchment areas of New Zealand, and telephone interviews in two additional areas.

The questionnaire will assess Māori perspectives on seven main issues:

- What is the level of understanding Māori have around allocation of water?
- Where do Māori gain understanding of water allocation?
- What are Māori interests in the allocation of water?
- How do Māori view the way regional councils allocate water?
- What issues do Māori have with the current system of allocating water?
- What is working well for Māori under the current system for allocating water?
- How do Māori consider the current system for allocation could be improved?

Regional council staff involved in water allocation (such as scientists and policy officers) will also be interviewed using a shorter questionnaire.

QUESTIONNAIRE

Name of Interviewee(s):
 Name of organisation:
 Role within your organisation
 (in relation to water allocation):
 Date of interview:
 Conducted by:

SELF ASSESSMENT

Section 1

What is the level of understanding Māori have around allocation of water?

Where do Māori gain understanding of water allocation?

1. What is your understanding of water allocation processes at the regional level?

Level of understanding	Minimal	Basic	Moderate	High
Possible indicators	Does not understand at all; feels confused by processes and/or policies	Has some idea how water allocation works at the regional level, who the stakeholders are; never looked at regional or national policy on water allocation and/or flows	Knowledgeable as well as familiar with regional plans and/or policy on water allocation/flows; may have engaged once or twice with regional council on water flows but not regularly	Understands how regional councils sets flows for the environment; knows how to challenge resource consent decisions; engages regularly with council on flows

2. What is your understanding of water allocation processes at the national level?

Level of understanding	Minimal	Basic	Moderate	High
Possible indicators	Does not understand at all; feels confused by processes/policies; does not look at national policy at all	Follow national policy on fresh water through media; understands the role of national level government to set policies and standards	Has read recent policy documents from national level government on fresh water/water allocation or flows	Has responded to national calls for submissions; engaged with government at national level on water allocation/flow policy

3. Have you ever looked at the sections relating to water allocation in the regional policy statements and/or regional policy plans that apply in your rohe?

- Yes
- No

If so, did you find them clear and easily understandable?

- Yes
- No

4. Where have you learnt about new water consent applications or proposals by regional council to change a current plan or to have a new water plan? (Please check all that apply.)

- Council notified me personally
- Public notice in newspaper
- Regional council website
- Word of mouth
- Other (Please note) _____

5. Have you, or your group, ever responded to a public notice for a water resource consent or a proposal for a change to a current plan or to have a new plan?

- Yes
- No

6. How do you keep informed of the central government's water policy?

- Ministry for the Environment or other government agency website
- Newspaper
- Television
- Word of mouth
- Other (Please note) _____

What proposals by central government for water policy do you know about? (Please list them).

7. Were you aware of the Government's call for submissions on the proposed National Environmental Standard on Ecological Flows and Water Levels that was due in by 31 July 2008?

- Yes
- No

INTERVIEW

General

What are the key issues for your iwi with water allocation?

Section 2

How do Māori view the way regional councils allocate water?

8. Do you think that the water allocation process in your rohe support Māori customary values adequately?

- Yes
- No

Please explain by addressing specifically what values are impacted by water allocation.

9. What changes, if any, would you make to the way that your regional council currently prioritises water users?

10. Do you think that the water in your rohe is over-allocated?

- Yes
- No

11. Do you think that the water allocation process in your rohe is sustainable?

- Yes
- No

If not, please explain how you believe this will impact Māori in the future (ie, on their role as kaitiaki, for tamariki mokopuna, or on your interests in Māori land/business).

Section 3

What issues do Māori have with the current system of allocating water?

12. Is the resource consent process for water allocation used by your regional council clear? (ie, Do you know where to access information about resource consents? Do you know your options for challenging them?)

13. In relation to water allocation, what has been your experience with the Environmental Court, if any? If you have gone through the Environmental Court, have you found the process useful – why or why not?

14. What would be your preferred means of challenging resource consents relating to water allocations? (ie, through negotiation or through the Environmental Court)

15. Do you have concerns about suggestions that trading of water be allowed? Specifically, how do you think this will impact upon Māori interests in water and what might arise in terms of opportunities for Māori?

16. Do you have concerns with water storage? Specifically, how does it impact upon Māori interests in water and what opportunities does it create for Māori?

Section 4

What is working well for Māori under the current system for allocating water?

17. What governance structures and processes do you use to engage with regional councils on water allocation consents and plans (ie, committees, resource management boards, regular meetings, iwi planning documents lodged with council)? Please include at what level this is done – individual, whanau, hapū, iwi.

18. What structures and processes do you use to engage with internal groups, such as hapū and whanau? What structures and processes do you use to engage with external groups such as other iwi, farmers, and other groups with an interest in water?

19. Have you used water monitoring tools to quantify your interests or concerns in water (ie, Cultural Health Index, customary fisheries monitoring, flow monitoring)? If so, has the regional council been involved (ie, offering technical support or training)?

Section 5

How do Māori consider the current system for allocation could be improved?

20. Do you think that the regional council in your rohe fulfills its obligations to tāngata whenua under the RMA in regards to water allocation, especially in relation to both consents and plans?

If not, could you give some concrete ideas for how this could be improved?

21. How could regional councils assist Māori to engage on water allocation decision-making? (ie, Where is more support needed – more information, funding for time and expertise provided in reviewing resource consents, increased time for responding, technical assistance for water monitoring?)

22. In your interactions with your regional council, what constraints have you identified on the ability of the regional council to act to provide for Māori interests in water?

23. How can central government facilitate the realisation of Māori interests in water allocation at the regional level?

24. What structure could best represent Māori interests in water allocation at the national level? Please include your thoughts on the current representation.

Section 6

What are Māori interests in the allocation of water?

25. What changes to the current system for water allocation would you like to see? (ie, to recognise the role of kiatiaki, to enable Māori to exercise/regain tino rangatiratanga over water resources)

26. What changes should be made to the current system for water allocation to enable Māori to exercise their economic interests?

Appendix 3 – regional council perspectives questionnaire

The purpose of this assessment

Although the long-held connection that Māori have with freshwater resources and their role as kaitiaki in managing them has been formally recognised in New Zealand legislation and policy, there remains a gap between these initiatives and the realisation of Māori values in water planning processes. As pressure on our water resources increases, the Government is preparing to revise the current system for water allocation to make it more efficient and effective for meeting the needs of all those with interests in water. It is essential that Māori values are understood and accounted for when decisions are made regarding water allocations within these systems. In this context, then, increasing Māori involvement in freshwater management, including water allocation processes, has become a key component of the Government's programme to improve water allocation decisions.

To contribute towards the outcomes set out in the Sustainable Water Programme of Action, a Joint Work Programme was agreed by Ministers and Iwi Leaders on 23 July 2008. The objective of the Joint Work Programme is to enhance decision-making in freshwater management by having greater and more consistent involvement of Māori and incorporation of Māori perspectives at the national and regional levels.

In order to further that work, the Ministry for the Environment needs to gain an understanding of Māori perspectives on water allocation. Allocating water includes decisions made by regional councils to approve/decline applications to take water from rivers or groundwater. As you respond to questions you may wish to consider the allocation of water from either the perspective of your role as kaitiaki over water bodies or as a person with interests in Māori land and/or business with current and/or future interests in water allocation. It may be that you comment on both perspectives.

This project will be informed through a series of face-to-face interviews and focus groups with Māori in 4 different catchment areas of New Zealand, and telephone interviews in 2 additional areas.

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- Where do Māori gain understanding of water allocation?
- What are Māori interests in the allocation of water?
- How do Māori view the way regional councils allocate water?
- What issues do Māori have with the current system of allocating water?
- What is working well for Māori under the current system for allocating water?
- How do Māori consider the current system for allocation could be improved?

Regional council staff involved in water allocation (such as scientists and policy officers) will also be interviewed using a shorter questionnaire.

QUESTIONNAIRE

Name of interviewee(s):

Name of organisation:

**Role within your organisation
(in relation to water allocation):**

Date of interview:

Conducted by:

1. How are Māori involved in the allocation of water in your region?
2. Please explain how Māori values have been incorporated in the water allocation plan in your region.
3. Do you think the water allocation plan process in your region supports Māori customary and Māori economic values adequately?
4. How do you gather information on Māori cultural, economic values and expectations in relation to the allocation of fresh water in your region?
5. How effective have Iwi Planning Documents been in assisting regional councils manage the allocation of water within your region? (Please elaborate on how these planning documents have been used).
6. Do you have any suggestions for how Iwi Planning Documents could better convey information to council on Māori customary and economic interests in water in order to be in a more competitive position as against other interests in water?
7. Are Māori involved with ongoing aspects of water allocation, for example with the consenting process or monitoring? If so, please elaborate on the structures (ie, land-care groups, committees) and tools (ie, Cultural Health Index, customary fisheries monitoring) that are used to facilitate this process).

8. What are the main challenges to engaging with Māori in your region on water allocation and ensuring their customary and economic values are accounted for in regional water planning?
9. How does council prioritise competing interests in water and what are your thoughts on how Māori could better position themselves to get their interests reflected in water plans?
10. What can your regional council do better to facilitate Māori involvement in water allocation processes at the regional level?
11. How can central government facilitate Māori engagement in water allocation processes at the regional level?