E nga rangatira, puta noa i te motu, tena koutou katoa. **Toitu te marae a Tane, Toitu te marae a Tangaroa, Toitu te Iwi.**

• This information:
  – Is the property of the Iwi Chairs Forum and is for the Iwi who are members of the Iwi Chairs Forum; and
  – Can only be used outside a Regional Iwi Hui with the written permission of the Iwi Chairs Forum or the relevant Iwi Leaders Group Chair.

• Any queries relating to this presentation and supporting information can be directed in the first instance to willie.teaho@icsolutions.co.nz or 021768462.
Availability of Iwi Leadership Group Information

• The presentation and the information circulated for Regional Hui in 2014 and 2015 can be found at www.iwichairs.maori.nz

• For queries/more information please contact:
  - Donna Flavell – Freshwater Iwi Advisers Group (IAG) Chair Donna.Flavell@ngaitahu.iwi.nz 021 432 175
  - Julian Phillips – Conservation Iwi Leadership Group Julian.Phillips@ngaitahu.iwi.nz 0212557053
  - Willie Te Aho – Ture Whenua Maori ILG Adviser willie.teaho@icsolutions.co.nz 021768462
Freshwater Iwi Leadership Group

July 2016

**NB:** The information contained in this presentation is confidential and is intended only for the Iwi to which it has been sent to. The contents of this presentation should not be used or reproduced without the express consent of the Freshwater Iwi Leaders Group and the contact people noted in this presentation.
Iwi Leaders Group - Freshwater

1 Established in late 2007
2 Tuwharetoa, Ngāi Tahu, Whanganui, Te Arawa, Waikato -Tainui, Ngāti Porou/Horouta Iwi Collective, Raukawa, Ngāti Kahungunu and Ngāti Kuri.
3 Mandated by the Iwi Chairs Forum (ICF) to engage directly with senior government Ministers on freshwater reforms
4 Focused on ensuring the Government recognises and gives effect to full range of iwi rights and interests in freshwater.
5 Chair: Sir Tumu Te Heuheu, Deputy Chair: Sir Mark Solomon
Role of the Freshwater ILG

1. Engaged directly with Senior Government Ministers

2. Protocol signed by ILG and Senior Ministers (including Prime Minister)

3. Ensure ILG views represented in Cabinet and policy development process

4. **ILG will not usurp the mana of individual iwi to engage directly regarding their own water bodies**

5. Participation in Land and Water Forum (LaWF)

6. Any decisions will require consultation by the Crown with all iwi
Ngā Mātāpono – Principles

ILG Engagement with the Crown is guided by 5 Key principles (agreed in February 2012):

1. Ko te Tiriti o Waitangi te tāhuhu o te kaupapa o te wai
2. Te Mana o Te Wai
3. Te mana motuhake o ia wai o ia iwi ki te iwi
4. Te kaitiakitanga o ngā hapū me ngā iwi i te wai
5. Te mana whakahaere o ngā iwi me nga hapū ki te wai
Prime Minister – 14 September 2012

“The government has a very clear position, it believes no one owns water, it does believe that on a case by case basis certain Maori may have rights and interests...but we don’t believe water is a nationalised issue; I don’t see the need for a national hui, national conversation.” Mr Key said.
Te Hokioi, May 1863 (Kingitanga Newspaper)

“E hara a Waikato awa i a te kuini, engari no nga Maori anake”

The Waikato River does not belong to the Queen of England, it belongs only to Māori

• Included in the preamble to the Waikato – Tainui Raupatu Claims (Waikato River) Settlement Act 2010.
The Tribunal did however grant urgency to the claim that the sale of shares in the State enterprises would be in breach of the principles of the Treaty. As has been indicated, in its interim report on that urgent inquiry the Tribunal found that Maori interests in waters used by the State enterprises were in the nature of ownership.  

Our generic finding is that Maori had rights and interests in their water bodies for which the closest English equivalent in 1840 was ownership rights, and that such rights were confirmed, guaranteed, and protected by the Treaty of Waitangi, save to the extent that there was an expectation in the Treaty that the waters would be shared with the incoming settlers. In agreement with the *Te Ika Whenua Rivers Report, The Whanganui River Report, and He Maunga Rongo*, we say that the nature and extent of the proprietary right was the exclusive right to control access to and use of the water while it was in their rohe.
[101] In submissions to the Waitangi Tribunal and in the course of the hearings in the High Court and this Court, the Crown accepts that some hapu will have interests in particular waters and that their interests are protected by art 2 of the Treaty.
34. In the meantime, the Crown should continue to develop reform options with the ILG on allocation policy and Māori ‘economic development’, for consultation with Māori and the wider public in 2017. We do not see why hearings on the currently-completed options would cut across that process, since the reform programme is being developed incrementally and has been for some years now.
Whanau, Hapu and Iwi Rights and Interests in Freshwater

1. The ILG is committed to achieving agreed outcomes, based on Nga Matapono, with the Crown where possible.

2. If agreements with the Crown are not reached then whanau, hapu and Iwi can return to the Waitangi Tribunal or seek other remedies for a determination of their legal rights and interests in freshwater.

3. Iwi Rights and Interests are being addressed mainly through the Resource Legislation Amendment Bill, Freshwater Discussion Document (and resulting legislation and improvements to the National Policy Statement for Freshwater Management) and Allocation (of taking and discharging to freshwater).
Raukokore
Figure 2-2: Study area
**Recommendations**

While the pre-feasibility findings within the limits of the preliminary nature of the study indicate that there are likely to be economic constraints to the development of a community irrigation scheme for dairying in Raukokore, development of gold kiwifruit is highly attractive. As capital cost for developing kiwifruit is high, it is unlikely that all the landowners would be interested in cultivating kiwifruit. However, the RCWSG with assistance from a professional organisation such as Zespri can consult with the community and present the benefits of developing high value crops. Participation of a higher proportion of landowners who are interested in developing the lands for high return crops would enhance the feasibility of scheme development.
"One estimate found the settlement of iwi rights to fishery quota increased the value of quota (for all commercial users) by 45% through removing residual uncertainty…. A similar gain in the value of water assets to the primary sector would translate into a gain of $3.5b…"

Sapere (December 2014)
Crown Allocation Timeline

- Cabinet made decisions in late May 2016 on allocation.
- The full Cabinet report can be seen at: http://www.mfe.govt.nz/sites/default/files/media/Freshwater%20Allocation%20Work%20Programme%20Terms%20of%20Reference%20and%20Appointments.pdf
- The timeline is now:
  - December 2016: Options Identified
  - December 2017: Cabinet policy finalised for consultation
  - December 2018: Public consultation carried out; final policies agreed.
Freshwater Allocation – Iwi Involvement in the Crown Process

• Technical Advisory Group (TAG - Think Tank):
  
  This TAG is a team of up to 10 experts (see Cabinet paper).
  
  The ILG has had no input to the make up of this TAG other than the appointment of Dr Adele Whyte (IAG & CEO, Ngati Kahungunu).
  
• The Allocation Team (part of MFE team developing policy): Cheri van Schravendijk (Te Atihaunui a Pāpārangi, Ngāti Apa, Ngāti Rangi) and Dayle Hunia (Ngāti Awa, Whakatohea).
  
• The Joint Advisory Group (that works with Ministerial Advisers): Sandra Cook, Donna Flavell & Tina Porou.
  
• ILG and Lead Ministers: Freshwater ILG led by Sir Tumu Te Heuheu and Ministers English, Smith and Guy.
Independent Iwi Process: Allocation Research and Tools

1. The ILG will be working with the Waimaori Trust on Iwi allocation issues.
   1. This will cover research (principles and modelling) and the development of practical tools to help our whanau now.
   2. The tools will include the availability of best practice expertise to work directly with our whanau.

2. An update will be provided on this area and the available tools at the next Regional Iwi Hui in November 2016.
Independent Iwi Process: 
ILG Representation in the Tribunal 

1. The ILG has taken a passive approach to the Waitangi Tribunal process to date: 
   1. Our legal representative works with Crown law to ensure that views of the ILG are properly reflected. 
   2. The downside to this approach is that the ILG is assumed to be supporting the Crown view. This is not the case on most but not all issues, eg we support the approach to Te Mana o Te Wai. 
   3. To address this concern, the ILG is seeking support from the Waimaori Trust to take a more active approach in the Waitangi Tribunal process to assist the Tribunal understand the ILG view of our relationship with the Crown, and any relevant work being undertaken by the ILG which the Tribunal has supported continuing. 
   4. The Waimaori Trust will consider a formal proposal from the ILG later this month and we will provide an update at the Regional Iwi Hui in November 2016.
Resource Legislation Amendment Bill ("RLAB")

1. The ILG in partnership with the Maori Party is advocating for the changes in the RMA area to be consistent with the aspirations of Iwi Maori.

2. Key areas of focus for the ILG have been;
   1. focusing on the nuance of development over protection for the environment: ensuring balance - one does not dominate the other.
   2. notification and appeals: ensuring rights aren’t lost in streamlining
   3. national planning template and section 360D regulations; ensuring transparency - that law isn’t determined centrally through templates and regulation and
   4. revised legislative drafting for Mana Whakahono a Rohe arrangements; ensuring that a higher benchmark is established for Iwi engagement with councils.
Submissions on the RLAB

1. Submissions are now closed.
2. Many submissions made were consistent with our own on several matters i.e. appeals, national planning template and Ministerial powers.
3. There were a significant number of submitters who did not want any inclusion of Iwi Participation agreements or Mana Whakahono-a-rohe agreements.

1. This was not unexpected so we will continue our work with the Ministers to advocate further for Mana Whakahono.
Mana Whakahono-a-Rohe Agreements

Background

1. For some Iwi co-governance and co-management arrangements have been negotiated through Treaty Settlements or through direct negotiation with regional and district councils.

2. However for many Iwi, these co-governance and co-management arrangements do not exist and there is a clear lack of engagement from local council on matters of decision making on resource management.

3. The ILG is working with the Maori Party to jointly advocate for our proposed amendments with direct discussions with Minister Smith jointly held in July. We will continue to update you on the progress of these meetings.

4. A summary of a recent example is Te Awa Tupua (Whanganui river). In essence the river/resource has its own legal personality; the river bed, water column and airspace are “owned” or a part of the legal personality. The Crown and Iwi have equal representation. Iwi have greater rights than anyone else with respect to this resource.
Mana Whakahono-a-Rohe Agreements Purpose

1. The intention is to ensure that relationships must be built with local iwi on matters of resource management. This must involve decision making.

2. These do not replace current agreements between iwi and councils unless the iwi wants to improve on their current relationships.

3. The ILG will continue to advocate for these matters over the next few months with the Crown.
1. The ILG has established a team of technicians to work on the National Objectives Framework.

2. **NOF is essentially a method to measure water quality for water users through a range of indicators through local councils.**

3. **This team is working on how matauranga Maori could be utilised to measure water quality and ensure that the process enables flexibility for each Iwi to determine their own process.**

4. The team is also working on ensuring that the ways in which water quality are measured through western science are consistent with Te Mana o te Wai.

5. For the ILG this work is being led by Tina Porou. This work will be a component of the overall work being led by the Land and Water Forum.
Review of the NPS for Freshwater Management

1. The NPS will be reviewed in the 2\textsuperscript{nd} part of this year.

2. A priority issue for the ILG is on ensuring that Te Mana o Te Wai is better understood; better explained and given teeth.

3. This review will in turn assist with better limit setting affecting water quality (allocation and discharges) and link with the National Objectives Framework that may be adopted by individual councils to measure water quality.

4. The draft timetable is set out below.
**FRESHWATER REFORM: TIMELINE FOR DELIVERING STOCK EXCLUSION AND NPS-FM**

<table>
<thead>
<tr>
<th>Quarter</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1st Quarter</strong></td>
<td>JAN</td>
<td>1st Quarter</td>
</tr>
<tr>
<td><strong>2nd Quarter</strong></td>
<td>FEB</td>
<td>MAY</td>
</tr>
<tr>
<td><strong>3rd Quarter</strong></td>
<td>MAR</td>
<td>JUN</td>
</tr>
<tr>
<td><strong>4th Quarter</strong></td>
<td>JUL</td>
<td>AUG</td>
</tr>
</tbody>
</table>

**KEY DATES:**

1. **Stock exclusion**
   - 26 May: Overview of submissions and key priorities
   - September: Refining regulation content, sector groups and councils contribute
   - Nov-Dec: Cabinet decision, Consultation stock exclusion (draft regs)
   - Submissions analysis

2. **Freshwater NPS Amendments**
   - Maintain or improve coastal lagoons
   - Exceptions
   - MCI
   - Te Mana o te Wai
   - DIN
   - Swimming
   - Economics

For August, see: *August is the earliest LAWF can provide advice on the topics Ministers have asked for.*

---

1. **Stock exclusion**
2. **NPS-FM** - Agreed timeline to allow for input from IAG, LAWF and Regional councils on various topics

Critical dates: Mid-August LAWF report back; Late August, briefing on final policy recommendations; Mid October Cabinet agreement to consult (Discussion document, S32, draft NPS-FM)
1. 60 Iwi organisations are members of the Iwi Chairs Forum and support the work of the Iwi Leadership Groups.

2. A vote is taken to ensure that we account to those who want us to account to them.

3. Some people abstain. That is their right.

4. Some people oppose. That is their right. It just means that we don’t act for them and they will continue to do things their way.
**Freshwater Recommendations**

That the participants at this Regional Iwi Hui support:

1. The Freshwater ILG work on allocation, the Resource Legislation Amendment Bill, the NPS FM review and the National Objectives Framework; and
2. The Freshwater ILG reporting back at the next Regional Iwi Hui to be held in the 2\(^{nd}\) part of November 2016.
2. Marine Protected Areas

Background

1. The Marine Protected Areas is one of the work streams of the Conservation ILG which is led by Sir Mark Solomon.

2. This presentation covers the Treaty clause paper which is separately attached.
1. Lore is irrelevant.
2. Tikanga is everything.
3. Tikanga is the first law of this country. Ka mutu.
4. The 3 Iwi that I profile here, including Te Whanau a Apanui, collectively (through their whanau, hapu) own over more than 50% of their lands.
5. Ownership is not relevant to all Iwi.
6. Mana Motuhake is not dependent on ownership: it is dependent on attitude and practice.
Tuturu ake no te Roari Kaitiaki o Koputu tea tenei taha moana
• Manakitia ko ou
• Tapuwa e anake te kitea

This foreshore belongs to the Kopututu a Trust
• Treat it with respect
• Leave only your footprints
Nau Mai
Haere Mai
You are entering the tribal lands of
TE WHANAU-A-APARUI
For their People
“In Te Whanau a Apanui, we believe that you cannot put a rahui over something you don’t own”

Rikirangi Gage, February 2012
RAHUI
CLOSED
NGA TOKA KUKU O
WHARANAKI
POHAITAKATAKA
OMIANGA
TAKAPAU
OMARUHUTAU
TOKAPUIA
TOKATAKATAKA
TE WHANAU A RUTAIA
“Ko te tikanga te ture ki teenei takiwa. Kaare i koo atu, kaare i koo mai.”

(Tikanga is our law. Full stop.)

Kylie Poihipi, August 2013
PANUI

Kaore e whakaaetia tenei hapu te hi ika i nga Rahoroi me nga Tekau-ma-rua Kua whakarite tenei tikanga mai te 1900 no Te Parekura i te awa nei

NOTICE

In respect of the tragic drowning in 1900

No Fishing

On Saturdays & The 12th of Every Month

Na te hapu o te whanau-a-tawake

Please
No Fishing

Please
No Dumping Rubbish
“If you think you own it then you have to act like you do, which is just what they (Te Whanau a Iritekura) do!

Matanuku Mahuika, June 2016
“At Pure Hua (fishing rocks in the distance) koura is taken only for the 3 marae. The locals respect this and we police it ourselves for those who come from outside.” **Bill Blane, Te Whanau a Iritekura, Waipiro Bay (May 2016).**
Treaty Clause

1. With the above noted, the approach of the ILG is essentially that anything to do with the marine area must be done in partnership with Hapu/Iwi. Nothing less.

2. This is reflected in a clause based on either s.9 of the SOE Act or at least s.4 of the Conservation Act.

3. First preference: “Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi.” (s.9 SOE Act)

4. Bottom line: “This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.” (s.4 Conservation Act)
Recommendation

• That the participants at this Regional Iwi Hui support:

1. The work of the Conservation ILG;
2. The approach taken by the Conservation ILG with respect to Te Tiriti o Waitangi; and
3. The Conservation ILG reporting back at the next Regional Iwi Hui to be held in the 2nd part of November 2016.
1. The Ture Whenua Maori Bill has been introduced in to Parliament and has gone through its First Reading in Parliament. **Submissions are due 14 July 2016.**


3. The Iwi Chairs Forum supported the introduction of the Bill through to the First Reading. The ICF also supports the Select Committee taking the Bill out to the regions for land owners to make submissions on the Bill.

4. The position of the Iwi Chairs Forum on the Second Reading will be based on:
   1. Feedback from landowners through the Select Committee; and
   2. Progress of the issues outlined by the ICF (as noted in this presentation).
ICF Resolution from 04/05/16: Part 1

The ICF seeks:

1. Commitment from the Crown to ensure that the Ture Whenua Māori Bill is consistent with the Declaration of the Rights of Indigenous Peoples which was supported by the current government. (Article 3: Indigenous peoples have the right to self determination.)

2. Commitment from the Crown to a timeline for addressing what the Crown sees as Māori enablers (valuation, rating, landlocked land issues);

3. Commitment from the Crown to work through a process aimed at ensuring that no Māori land is taken for Public Works without the consent of the Māori land owners;
ICF Resolution from 04/05/16: 
Part 2

The ICF seeks:

1. A commitment from the Crown to address the issues relating specifically to Māori Land raised in the CNI and Tauranga Moana Waitangi Tribunal reports including the need for Crown investment in Māori land;

2. Support from the Crown to jointly establish a proactive Māori Development Service with all the resourcing and tools necessary to truly assist Māori land owners to develop their lands;

3. A commitment from the Crown to meet the obligations as identified by the Waitangi Tribunal (CNI and Tauranga Moana) to address investment in Māori land with the Māori Development Service receiving at least 50% (or $500m) of the investment identified by MPI in December 2014 as needed to increase production on certain underutilized Māori land; and

4. A commitment from the Crown for a Request for Proposal process to establish the Māori Development Service to carry out the agreed Māori Land services [so that it is not a government department or agency].
Landlocked Lands

1. Te Puni Kokiri has supported research in to landlocked lands in 3 areas:
   1. Maori land blocks within a 50 km radius of Kaikohe;
   2. Northern Takitimu (Wairarapa north to Mohaka);
   3. Aotea:

2. We will have the high level results of the research identifying the blocks; the options to achieving access and the investment that will be required.
1. Separately attached is a summary of key submissions for changes to the Bill from an Iwi and 3 major Maori land trusts.

2. An electronic word copy can be provided for those who wish to use some of the provisions in your own submission.
Summary of key recommendations and concerns with the Bill

• We urge the Crown to provide education and support for owners of Māori land and potential owners of Maōri land to understand fully the opportunities and risks posed by the reforms, including the impact on trusts established over General Land owned by Māori. This education and support should be provided in a number of ways (not just in brochures/booklets) and be free of charge.

• We do not share the view that decisions to convert to collective ownership should be subject to the same threshold as sale. This option ought to be easier to achieve as it aligns more closely to traditional views. We recommend that it have a threshold of 75 % of participating owners.
• The participation thresholds and quorum requirements need to be set out more clearly, in one place. We strongly support the inclusion in the Bill of a table or diagram that sets out the different thresholds and quorum requirements.

• We support the development of an alternative dispute resolution regime (ADR), and recommend that a flow chart diagram be included in the Bill to illustrate how and when the ADR will be triggered.
• We urge the Crown to consider carefully the care of the Māori Land Court record which we see as a taonga.
• For this regime to be a success, the Māori Land Service needs to be well-designed and well-resourced. We urge the Crown to work collaboratively with Iwi to co-design the operation of the MLS, by Māori for Māori.
A living people, with living marae

Pohara Pa Papakāenga: First row of houses are non rateable
A living people, with living marae

Poukai 2007. Non rateable houses
Address Maori Enablers Now

1. **Access to finance** for landowners be addressed a matter of urgent attention.

2. That *papakāinga* be *rate free* and that all rates arrears on Māori land be *waived*, that unutilised and unoccupied Māori land be exempt from rates. Precedent wording for rating exemption can be found in Te Awa Tupua (Whanganui River Claims Settlement) Bill 2016, Schedule 5 which states that land that is part of the Whanganui River and vested in or acquired by Te Awa Tupua is ‘fully non-rateable for the purposes of the Local Government (Rating) Act 2002.’

3. That no more Māori land (not just reservations) be taken for public works – enough has been given. As an absolute last resort (i.e. no other options are available), a leasing regime may be put in place, where the landowners retain ownership of the land and the Crown leases the land needed for public works, as suggested during the engagement round by Sir E.T. Durie.

4. That a **specific fund** be set aside for the purpose of enabling the ‘unlocking’ of landlocked land.
Recommendation

• That the participants at this Regional Iwi Hui support:

1. The proposals that the Iwi Chairs Forum are seeking from the Crown with respect to Maori land; and

2. The Ture Whenua Maori ILG reporting back at the next Regional Iwi Hui to be held in the 2nd part of November 2016.