

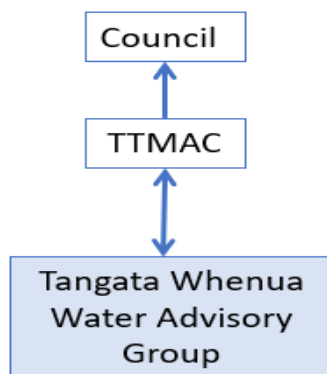
# Tāngata Whenua Water Advisory Group – Terms of Reference

## 1. Kupu whakataki | Background

The National Policy Statement on Freshwater Management 2020 (NPS-FM) came into force on 3 September 2020. It sets out new obligations that the Northland Regional Council (council) must give effect to in regard to freshwater management, including “... actively involving tangata whenua (to the extent they wish to be involved) ...”.

Council with the support and recommendations from the Tai Tokerau Māori and Council Working Party (TTMAC) has set up the Tāngata Whenua Water Advisory Group (TW-WAG) to provide tāngata whenua analysis, feedback and advice on the development of the plan change to give effect to the water quality planning requirements of the NPS-FM. Council acknowledges that:

- the TW-WAG will not be the only way council engages with tangata whenua about freshwater as the TW-WAG does not have a mandate to speak for all tangata whenua, iwi, Hapū or whanau on their rights and interests in freshwater policy and regulation.
- TW-WAG will not be the only way in which council engages with Māori about freshwater generally, or the freshwater quality plan change specifically, as other public consultation and community engagement processes are planned including engagement with whānau, marae, Hapū, iwi authorities, as well as public feedback on the draft proposed plan change, and publicly notified calls for submissions and further submissions on the proposed plan change as prescribed by the Resource Management Act.
- The TW-WAG will include tangata whenua from various iwi, Hapū, marae and whanau from throughout te Tai Tokerau, and recognises that the tangata whenua perspective varies and differs between different whanau, marae, Hapū, and iwi.



TW-WAG does not hold decision-making powers on council policy and decisions will remain with council as appropriate<sup>1</sup>.

Recommendations from TW-WAG will be provided to TTMAC for their information and endorsement (where appropriate) and to facilitate open and transparent communication. TTMAC will then provide the TW-WAG recommendations to Council once endorsed.

## 2. Te Kaupapa | Scope

TW-WAG has the following functions:

- provides key analysis for the proposed freshwater quality plan change to implement aspects of the National Policy Statement Freshwater Management 2020 from the perspective of tangata whenua o Te Tai Tokerau;
- provides recommendations to TTMAC for endorsement to council from tangata whenua perspectives on the freshwater quality plan change development for Te Tai Tokerau;

<sup>1</sup> Council has invited the TTMAC representatives appointed to TW-WAG to participate in their decision-making workshops in regards the freshwater plan change.

- commissions research with a particular focus on, but not limited to Kaupapa Māori research as required<sup>2</sup>; and
- develops recommendations to council on engagement with the wider Māori community on the proposed freshwater quality plan change

to support catalysing change in NRC's perspective and understanding of the mauri and mana o te wai, as foundational to all the mahi NRC does, to inform/change policy, implementation and delivery of that mahi, and provide reporting back to the Advisory Group on the resulting outcomes from its advice or recommendations.

Nothing in this Terms of Reference shall diminish the rights, interests and responsibilities of iwi, hapū, whanau to exercise their rangatiratanga over those matters of importance to them, as set out in He Whakaputanga and Te Tiriti o Waitangi and/or is confirmed in Iwi Settlement legislation.

### 3. Ngā Ture | Values

TW-WAG will be guided by the following principles including:

- Kia whakatōmuri te haere whakamua – learn from the lessons of the past and the wisdom of those who have gone before us
- Titiro ki ngā taumata o te moana takiri ko te ata - Always remain strategic in our approach/intent/view;
- Mahi Tahi Tutuki noa – increased collaboration and completion of work;
- Me whakatau mā roto i te kōrero – a willingness to work in collaboration;
- Kaitiakitanga – dedicated stewardship of tāngata whenua of Te Tai Tokerau;
- Ngākau pono – being true to the purpose of the partnership;
- Kōrero awhi - Enabling all tangata whenua voices to be heard including whanau, hapū or Iwi if they wish to contribute to any discussions; and
- Ko au te wai ko te wai ko au – Our greatest obligation is to that which gives us life. To uphold Te Mana o te Wai and to acknowledge, protect and enhance the mauri of wai.

### 4. Ngā whainga | Objectives

TW-WAG will focus on the recognition of and provision for tangata whenua rights, interests and responsibilities in relation to the freshwater quality plan change guided by the Treaty of Waitangi and tikanga Māori<sup>3</sup>, including but not limited to:

- a) Te Mana o te Wai<sup>4</sup> is the foundation for the mahi we do. Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

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<sup>2</sup> Council funding is available for TW-WAG to allocate for undertaking or commissioning work associated with Māori values or other research relevant to the freshwater quality plan change of \$30,000 (2020-21 financial year) and \$45,000 (2021-22 financial year). This budget is also to cover secretarial support independent of council (refer clause 7b).

<sup>3</sup> Council acknowledges that TW-WAG members can provide advice, but this does not usurp the mana of iwi and hapū to make decisions and representations to council on issues of importance to them.

<sup>4</sup> Te Mana o Te Wai as defined in clause 1.3 of the National Policy Statement for Freshwater Management 2020: Ministry for the Environment, August 2020, Wellington available from <https://environment.govt.nz/assets/Publications/Files/national-policy-statement-for-freshwater-management-2020.pdf>

- b) Determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region.
- c) Identifying the complexity of tangata whenua values through attributes and narratives in freshwater, assessing the likely consequences (impacts) on tangata whenua values of potential water management options, including criteria and indicators to ensure the future impacts on these values can be monitored.
- d) Develop baseline data of Tangata Whenua values on the relative Freshwater Management Unit (FMU).
- e) Define the criteria and indicators to ensure the future impacts on these values can be monitored.
- f) Define how Te Mana o te Wai applies to water bodies and freshwater ecosystems in Te Taitokerau from tangata whenua perspectives including, but not limited to, regional objective(s) describing how freshwater management in Te Taitokerau will give effect to Te Mana o te Wai and defining a range of local approaches.
- g) TW-WAG identify case studies to apply and test the above.

### **Deliverables**

- h) Recommendations from a tāngata whenua perspective on the following to be included in the draft proposed plan change:
  - long-term vision(s)
  - values
  - environmental outcomes for each value (objectives)
  - attributes for each value and set baseline states for those attributes
  - target attribute states and criteria to support achieving the environmental outcomes
  - monitoring sites relating to Māori freshwater values
  - rules and action plans
  - other matters raised in the course of these proceedings as agreed by TW-WAG and Council.
- i) Propose means of engaging with tāngata whenua on the draft proposed plan change.

TW-WAG will provide a series of reports as the work progresses.

## **5. Ngā mema | Membership**

TW-WAG will comprise a minimum of twelve and up to fifteen members in total consisting of:

- Three tāngata whenua appointed members of Te Taitokerau Māori and Council (TTMAC) to represent TTMAC as a whole; and
- Up to twelve tāngata whenua individuals from Te Taitokerau selected by the appointed selection panel<sup>5</sup> based on the desired individual and collective criteria and expertise (see Appendix 1).

All TW-WAG members have the following roles and responsibilities:

- Make every effort to attend each meeting and report anticipated absences to the council secretariat;

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<sup>5</sup> The Selection Panel appointed by council constituted two councillors and two tangata whenua representatives from TTMAC.

- Prepare adequately prior to each meeting and participate actively in meetings, contributing to actions when agreed;
- Bring matters of significance to the attention of TW-WAG and use Kaupapa Māori and sustainable environmental perspectives to undertake analysis or prepare advice as required;
- Maintain a broad knowledge of the issues and interests that relate to TW-WAG, not regarding themselves as representatives or advocates for particular sectors or interests.

## **6. Ngā mema tangohia | Removal and replacement of members**

Membership of TW-WAG shall cease if a member:

- Resigns in writing; or
- Council receives a request from TW-WAG passed by 75% of members under exceptional circumstances where the behaviour of the member is considered detrimental to the effective operation of the group.
- Where a member fails to attend three consecutive meetings without giving their apologies prior to the meeting they will be requested to confirm whether they remain committed to being a member of TW-WAG and if not will be requested to step down in order for a replacement to be found as necessary. If that member is also a TTMAC representative, a replacement from within TTMAC will be sought in the first instance.

If any member resigns or is removed from TW-WAG, reducing the membership of the group to below twelve, all efforts will be made by council to fill the vacancy as soon as possible.

## **7. Tūranga | Roles**

### **a. Ngā Heamana | Co-Chairs**

Provision has been made for TW-WAG to have co-Chairs. The following process will be undertaken to fill the positions of co-Chair.

The members of TW-WAG will appoint the co-Chairs from the members. One of the co-Chairs must be present at the meetings of the group.

The co-Chairs will be responsible for:

- alternating meeting Chair responsibilities;
- setting and previewing meeting agendas and reviewing TW-WAG actions prior to circulation;
- agreeing a work plan overseeing the progression of work in conjunction with council staff;
- reporting regularly, through council staff, to TTMAC; and
- representing TW-WAG in any meetings with council or other stakeholders as required.

The appointment of co-Chairs will be for a one-year period initially.

### **b. Secretariat**

Council will provide secretarial support to TW-WAG to:

- Assist the Co-Chairs to prepare formal meeting agendas;
- Record minutes and action points;
- Circulate meeting information packs (agenda, minutes, presentations and reports as required);

- Procure research, reports and guest speakers on behalf of TW-WAG as required;
- Book catering and venues as required; and
- Administer expenditure requests, member remuneration and reimbursement as required.

TW-WAG will also appoint and resource an independent secretariat to undertake the following duties:

- Take “in caucus” and informal meeting minutes;
- Co-ordinate and streamline in caucus actions and communications;
- Work alongside the NRC Secretariat for streamlined documentation transfer and communication to the TW-WAG members; and
- Any other matters required by the TW-WAG.

#### **c. TMMAC members on TW-WAG (and council workshops)**

The role of the TMMAC members on TW-WAG is to:

- Champion TW-WAG’s recommendations to TMMAC;
- Champion TMMAC’s recommendations to council;
- Provide a wider strategic view to TW-WAG;
- Identify relationships/connections with other TMMAC workstreams; and
- Represent the views/values of TMMAC at TW-WAG.

Their role is not to:

- Represent the views of or speak on behalf of all hapū/iwi of Te Taitokerau; or
- Represent the views of the hapū/iwi that have mandated the member’s representation on TMMAC.

### **8. Te Wahanga | Term of appointment**

The term of appointment will be from December 2020 until such time as council publicly notifies its proposed freshwater quality plan change. The term of appointment can be less if a member:

- Resigns; or
- Misses three consecutive meetings or is requested to leave (see 6. above), or
- TW-WAG is disbanded.

The life-span TW-WAG may be extended at the discretion of council, and all members invited to continue with a revised Terms of Reference as appropriate.

### **9. Whakamahinga | Operation**

Council’s Pou Tiaki Taiao Group Manager Environmental Services is the senior manager responsible for TW-WAG and shall attend all formal meetings and hui in this capacity or such person as he/she may appoint to represent him/her.

The Group Manager, or such person, will jointly agree to appoint, and other council staff designated by him/her, will be responsible for the maintenance and servicing of TW-WAG formal meetings (such as provision of venue and ZOOM link, minute-taking, catering).

For informal meetings or caucus prior to formal TW-WAG meetings, council staff will not participate unless requested to do so by TW-WAG co-Chair(s), in which case they will participate as ‘ex-officio’ observers. Secretarial support for any ‘informal’ TW-WAG meetings and caucus prior to formal TW-WAG meetings will be provided independently of council staff and resourced from the TW-WAG allocated budget. Both secretarial support persons will liaise closely to ensure smooth operation of the TW-WAG.

### 10. Papā o te pānga | Declaration of interest

Members will be asked to declare any interest when they join TW-WAG and at any time during the term if new interest arises. A declaration of interest log will be maintained by the Secretariat support responsible for liaising with the group and members are asked to declare a potential interest at each meeting. This is particularly relevant in the procurement of research or other advice.

Members of the group will not use any internal knowledge resulting from their participation in TW-WAG as a means to gain commercial advantage.

### 11. Ngā hui | Meetings

TW-WAG will meet regularly as per the schedule below. Most meetings will be held at the council’s office in Whangārei and by ZOOM, and some meetings will be hosted elsewhere for field workshops. The frequency and number of meetings may be reviewed, and this Terms of Reference amended as appropriate.

#### Indicative Meeting Schedule

Meeting #/month	Draft Agenda	Comments/Notes
1 / January 2021	Powhiri. Appointment of Chair, Terms of Reference and overall work plan for TW-WAG. Identification of background research and analysis needs.	Welcome. Discussion and agreement on ToR, project planning and timetable of tasks. Agreement on commissioning of work needed (to be done by TW-WAG members/external consultants, etc). Agreement on work plan for TW-WAG to notification of proposed plan change.
2 / March 2021	Define Te Mana o Te Wai in Te Tai Tokerau Defining the Principles – Mana whakahaere, Kaitiakitanga, Manaakitanga, Governance, Stewardship, Care and respect. Defining Māori freshwater values and developing a “Te Mana o te Wai” Māori assessment framework.	What does Te Mana o te Wai mean to tāngata whenua in a Te Taitokerau context?  What do these principles mean to tāngata whenua in a Te Taitokerau context? Identification of freshwater values from tāngata whenua perspectives (mahinga kai and any others identified by TW-WAG) and tool(s) for assessing impacts on those values.
3 / April 2021	Long-term visions, values and environmental outcomes.	Define what these are from tāngata whenua perspective.
4 / May 2021	Long-term visions, values and environmental outcomes.	Define what these are from tāngata whenua perspective.

5 / June 2021	Target attribute states and criteria related to each outcome.	Define what these are from tāngata whenua perspective.
6 / August 2021	Action Plans, rules and methods to achieve target attribute states.	Define the appropriate and effective methods (including rules and non-regulatory means) for each FMU.
7 / October 2021	Action Plans, rules and methods to achieve target attribute states.	Define the appropriate and effective methods (including rules and non-regulatory means) for each FMU.
8 / December 2021	Draft text for proposed draft plan change on freshwater quality and section 32 report.	Development of text relating to tāngata whenua provisions for inclusion in draft proposed plan change.

The co-Chairs in consultation with the group may invite non-member individuals or groups to attend TW-WAG meetings.

In addition to the above meetings, eight monthly workshops are scheduled (February – September 2022).

## 12. Kotahitanga | Quorum

The quorum for a TW-WAG meeting will be half of the members, including at least 1 TTMAC representative.

## 13. He utu | Payment

Payments for members of TW-WAG for meeting attendance will be \$240 (members) or \$300 (co-chairs), and mileage will be in accordance with the council's policies and in accordance with this Terms of Reference up until December 2021. From January 2022 onwards TWWAG members will be reimbursed for participation in workshops, other hui and monthly zui in accordance with individual contracts setting out a maximum number of hours @ \$70/hr. In addition, co-Chairs' will be reimbursed for time spent on liaison/project management and attendance at TTMAC workshops and meetings @ \$70/hr. Council will also reimburse mileage (one claim per vehicle) and travel time. see Appendix 2 for more detail.

## 14. Whakaoti raruraru | Conflict resolution

Should conflict occur, the co-Chairs and the TW-WAG members will be responsible for working together to resolve the conflict in the first instance. If the conflict persists, the council will only intervene at the request of the majority of TW-WAG members.

## 15. Ngā purongo | Reporting - accountability

TW-WAG, through the co-Chairs will provide a summary report to TTMAC following each meeting and be available to respond to any questions.

## 16. Arotakenga | Review

The Terms of Reference may be reviewed as required. All significant changes to the Terms of Reference will be subject to the approval of council through a recommendation made by TTMAC. Minor changes to the Terms of Reference will be approved by the TW-WAG Co-Chairs, NRC Policy & Planning Manager and NRC Pou Tiaki Taiao Group Manager Environmental Services.

## 17. Tuku mahi | Delegations

TW-WAG has no delegated authority from council.

## 18. Taumahatanga | Liability

The members of the TW-WAG will not be liable to the Council for any litigation costs, liabilities, expenses, or claims suffered or incurred by the Council (**Council Liability**) due to acts or omissions of the Council which rely, directly or indirectly, on the advice of the TW-WAG, unless the advice which gave rise to the Council Liability involved the dishonesty or wilful misconduct of the TW-WAG or any of its members.

## 19. Taonga Hinengaro | Intellectual Property<sup>6</sup> and Sensitive Information

- Mātauranga Māori is recognised by council as an evolving ancestral inheritance that is a taonga protected under the Treaty of Waitangi and which services to maintain, enhance, transmit and generate cultural identity within Māori communities. Council accepts that under tikanga Māori (Māori law and ethics) Māori individuals and communities have conditional rights to use and access mātauranga Māori, contingent upon their fulfilment of Kaitiakitanga (guardianship) obligations.
- Council recognises that mātauranga Māori introduced to the council remains subject to the Kaitiakitanga obligations and principles recognised by the originating community and/or individual(s).
- Council recognises that the use and development of mātauranga Māori is subject to the overriding principles and obligations of Kaitiakitanga, and subject to confirmation from the originating community and/or individual/s. Council will ensure that at all times, access to and use of intellectual property containing mātauranga Māori maintains and enhances the integrity of the mātauranga and the originating community and/or individual(s).
- Intellectual property created in the course of work or research that incorporates mātauranga Māori, or elements thereof, shall recognise that mātauranga Māori aspects shall remain under the ownership and kaitiaki relationship of the originating community and/or individual(s) and that any use of that mātauranga Māori in any council document is discussed beforehand and that appropriate acknowledgement of the originators of that knowledge is provided.
- Council recognises that mātauranga Māori is a significant component of Northland's heritage, and that sharing mātauranga Māori facilitates inter-cultural dialogue and understanding that is in the regional interest. However, council recognises that the originating Māori community and/or individual has the primary interest as kaitiaki over the mātauranga. Council will ensure that mātauranga Māori held by council will be stored and managed in a way that respects and enhances its cultural and spiritual integrity.
- TW-WAG recognises that council is subject to the local Government Official Information and Meetings Act 1987 (LGOIMA) and that most information is therefore public information, including internal correspondence and documentation except where expressly covered by the Privacy Act 2020.

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<sup>6</sup> This section has been taken from the Otago Polytechnic Intellectual Property Mātauranga Māori policy available at: <https://www.op.ac.nz/assets/Uploads/842d8c8dd3/MP1103-Intellectual-Property-Matauranga-Maori.pdf> and amended.



## Appendix 1 – Desired Membership Criteria

Individual membership criteria (desired):

- Tāngata whenua (whakapapa to tāngata whenua Te Taitokerau)
- Freshwater kaitiaki knowledge and/or experience
- An understanding of Te Ao Māori (the Māori world view)
- Knowledge of the Treaty of Waitangi and He Whakaputanga (Declaration of Independence 1835)

Collective membership criteria (desired):

- Diverse representation of member gender and age
- Balanced geographical affiliation/connections across Te Taitokerau
- A mix of people who have practical experience gained at a national, iwi, hapū, and/or whanau level
- At least one person with legal and/or policy development experience
- At least three people with on-the-ground freshwater Kaitiakitanga experience
- At least two people with experience in Māori land management
- At least one person should have project management experience
- At least 50% of the working group are competent with Te Reo me ona tikanga / kawa o Te Taitokerau (competence in Te Reo and Māori processes in Northland)

## Appendix 2 – Allowances and Remuneration

**From December 2020 – December 2021**

### Meeting Allowance

The council will pay a maximum daily meeting (workshop) allowance of \$240 (member) or \$300 (co-chairs) subject to the provisions of council's allowances policy. If a TW-WAG member attends two meetings (workshops) on the same day, the allowance may only be claimed once for that day.

For further information please see: <https://www.nrc.govt.nz/resource-library-summary/plans-and-policies/governance-documents/non-elected-members-allowances-policy/>

### Out of Meeting Remuneration

There is a certain amount of meeting preparation and follow up support required from each member captured in the agreed meeting fee. Additional work over and above this expectation will be negotiated separately. This type of work may include (but not limited to); additional reading, specific research, planning and reporting back to the TW-WAG, NRC and other forums if necessary. All such work will be undertaken by specific contract and remuneration for such additional work is separate to the remuneration for meeting attendance.

In addition to the formal meetings identified (see clause 12.) contracts will be issued to TW-WAG members for monthly zui (2hrs/month) and nine workshops (half- and full-day) @ \$70/hr.

**From January 2022 onwards**

The council will contract all TWWAG members (@ \$70/hr) for participation in:

- Workshops (including preparation time)
- Monthly zui

- Other hui/workshops of relevance that will help inform the work of TWWAG up to a maximum number of hours (@ \$70/hr).

In addition, council will contract co-Chairs for participation in:

- Liaison/project management
- TTMAC meetings/workshops (including preparation time)

up to a maximum number of hours (@ \$70/hr).

All contracts will be approved by NRC Pou Tiaki Taiao Group Manager Environmental Services.

### **Other Research/Specific Work Required by TWWAG**

The TW-WAG Co-Chairs, NRC Policy & Planning Manager and NRC Pou Tiaki Taiao Group Manager Environmental Services will jointly decide on the award of any contracts to provide work required by the TW-WAG. Council's Procurement Policy applies.

This represents a transparent and efficient process having representation of the TW-WAG that leads the kaupapa and NRC that holds financial and administrative responsibility for the contracts and budget.

### **Vehicle Mileage Claims**

1. Vehicle mileage may be claimed for a TW-WAG member's use of their own vehicle, including travel to and from the member's residence, if the travel is:
  - a) In the member's own vehicle; and
  - b) By the most direct route that is reasonable in the circumstances; and
  - c) Is to attend TW-WAG meetings.
2. The vehicle mileage allowance is payable to TW-WAG members at the following rates:
  - a) for a petrol or diesel vehicle:
    - (i) 79 cents per kilometre for the first 14,000 kilometres of eligible travel; and
    - (ii) 30 cents per kilometre after the first 14,000 kilometres of eligible travel.
  - b) for a petrol hybrid vehicle:
    - (i) 79 cents per kilometre for the first 14,000 kilometres of eligible travel; and
    - (ii) 19 cents per kilometre after the first 14,000 kilometres of eligible travel.
  - c) for an electric vehicle:
    - (i) 79 cents per kilometre for the first 14,000 kilometres of eligible travel; and
    - (ii) 9 cents per kilometre after the first 14,000 kilometres of eligible travel.
3. Mileage claims must be made monthly.
4. A maximum of 500 km mileage claim per meeting applies.

### **Travel Time Allowance**

1. Council will pay a travel time allowance to TW-WAG members for travel by a member, including travel to and from the member's residence, if the travel is:
  - a) to attend TW-WAG meetings; and

- b) by the quickest form of transport reasonable in the circumstances; and
  - c) by the most direct route that is reasonable in the circumstances
- 2. The allowance payable for each day is:
  - a) \$37.50 per hour; but
  - b) only for the travel for that day that exceeds 1 hour.
- 3. However, if a member resides outside Northland region<sup>7</sup> and travels to the area to attend TW-WAG meetings, the member is only eligible for a travel time allowance in respect of eligible travel time:
  - a) after the member crosses the boundary of Northland region; and
  - b) after the first hour of eligible travel within Northland region.
- 4. The maximum amount of travel time allowance that a member may be paid for eligible travel in a 24-hour period is eight hours.
- 5. Travel time allowance claims must be made monthly.

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<sup>7</sup> Refer to regional boundary map available here: <https://www.lgnz.co.nz/assets/585d67aa95/North-Island-PNG.PNG> - Northland boundary is taken from 9.5km south of Kaiwaka on SH1.