

Te Mana o te Wai Kaitiaki Wānanga

31 May 2024



Poipoia

Ko wai mātou?



Tina Porou

Ngāti Porou,
Ngāti Tuwharetoa, Ngai
Tāmanuhiri, Ngati Rakaipaaka,
Rongomaiwahine



Nicki Douglas

Te Arawa, Ngāti Porou,
Raukawa



Nakia Randle

Ngāti Kahu

9.30am - 10.30am	Mihi/Whakatau Kapu Tī
10.30am	Ko Wai Au
11.30am	Legislation and Policy
12.00pm - 1.00pm	Lunch
1.00pm	Wai Stocktake
2.00pm	Breakout Workshops
3.00pm - 3.30pm	Whakakapi - Feedback and Reflections



Programme Outcomes

- Create confidence within whānau, hapū, and iwi to articulate how their own taiao and freshwater issues can be addressed, and aspirations realised.
- Assist hapū and iwi to participate in and respond to RMA processes that better align with local tikanga and kawa.
- Empower hapū and iwi to exercise rangatiratanga over their freshwater needs, develop and implement whānau, hapū and iwi aspirations and mātauranga Māori to their system.
- Preparing hapū and iwi for upcoming reforms, what to know, suggestions for response and how to keep on keeping on.



WĀHANGA 1
10.30-11.30am
Whakawhanaungatanga



Ko Wai Au

Whakwhanaungatanga (5mins)

- Our wai is the physical representation of our whakapapa
- Introduce yourself and your wai providing us with a brief korero on “why this is your wai.”



Our Lived Experience

Its helpful to understand our connection to our Taiao, not only through our whakapapa, but our own time spent with our taonga.

Nicki will work you through this activity...

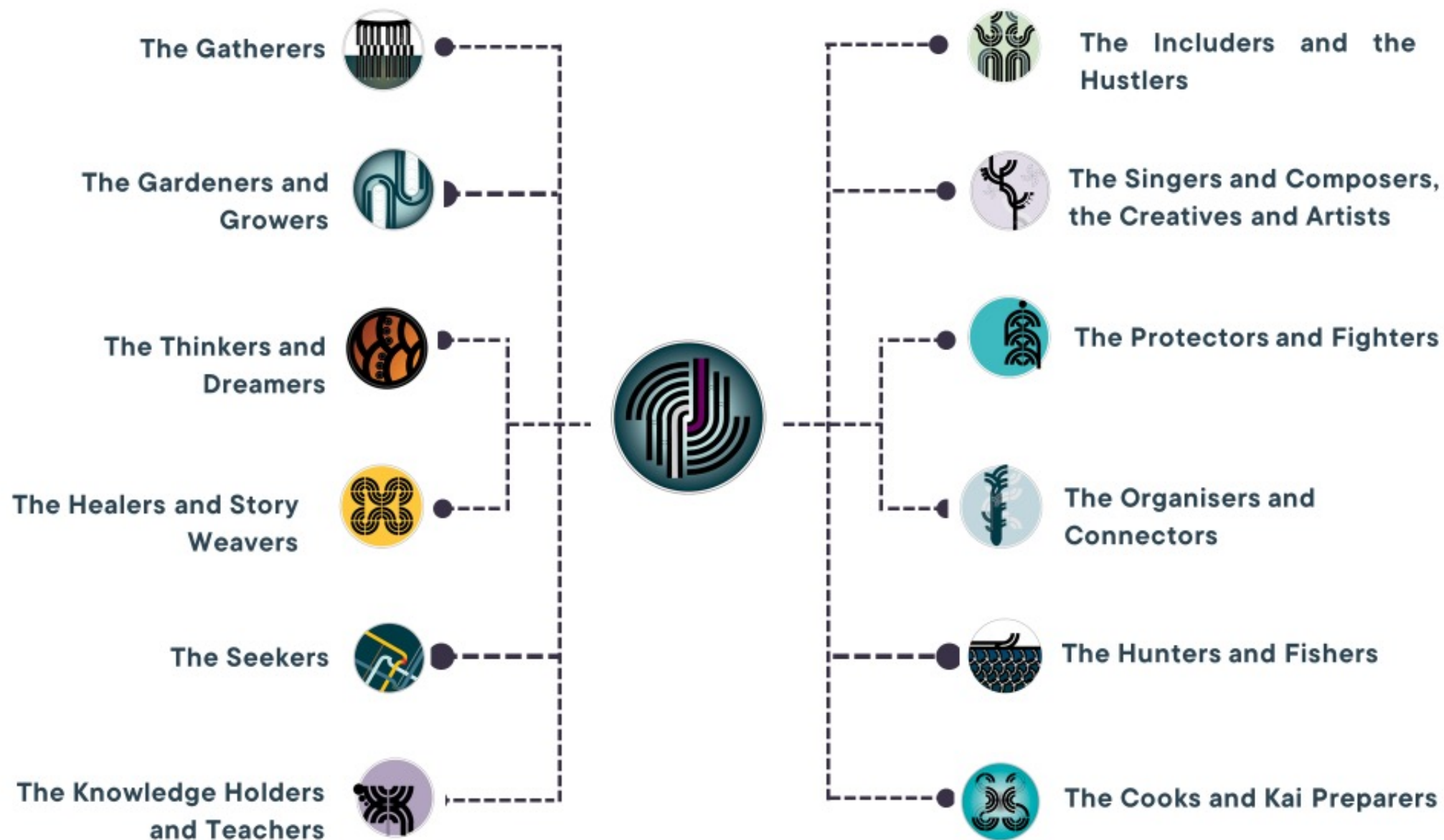


What are your Superpowers?

- We know that our whānau hold a range of skill bases and often we do not acknowledge these but they show up every day... in ways that are needed for our Taiao.
- Building confidence requires us to sit in our practical skills we bring to the table everyday.
- This exercise requires you to reflect on how your whakapapa gifts and how they show up for Te Taiao...
- Where are the gaps in your team?
- This is a group activity, because people may get whakamā!



What can we contribute to our Taiao, what are our Superpowers?



WĀHANGA 2
11.30-12.30pm
Legislation and Policy



Technical Session 1; Current Landscape

- What are the policy and legislative changes that are coming towards us?
 - Fast Track Bill (open for submissions now, enactment expected in November 2024)
 - Maori Wards (currently going under urgency)
 - Substantive Te Mana o te Wai 're-balancing' (2024-2025)
 - Resource Management Reform (2026)



Fast-Track Bill

- The Government has proposed a Bill which is currently open for submissions which close on the 19th of April 2024.
- This Bill proposes to establish a permanent fast track approvals regime for a range of infrastructure, housing and development projects.
- The purpose of this bill is **“to provide a fast track decision making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits.”**
- The Fast-track Bill provides a fast-track consenting option for projects that require one or more of a range of approvals, so this is not restricted to consents under the Resource Management Act (RMA), it also includes the Wildlife Act 1953, the Conservation Act or the Reserves Act 1977 and the Public Works Act.
- Under the Fast-track Approvals Bill's proposals, a broad range of activities will have access to the approval process, including infrastructure, renewable energy, housing and mining.



Introduction

- The regime's approval process involves several joint Ministers.
- These are the Ministers for:
 - Infrastructure
 - Transport
 - Regional Development
 - Conservation and,
 - the Minister Responsible for the Crown Minerals Act.
- The joint Ministers will determine if projects will be referred to an Expert Panel.
- When making referral decisions, the joint Ministers must consider if the project is consistent with the purpose of the Bill – that projects would have significant regional or national benefits – and they meet the eligibility criteria.



There are two ways a project can access the fast-track process

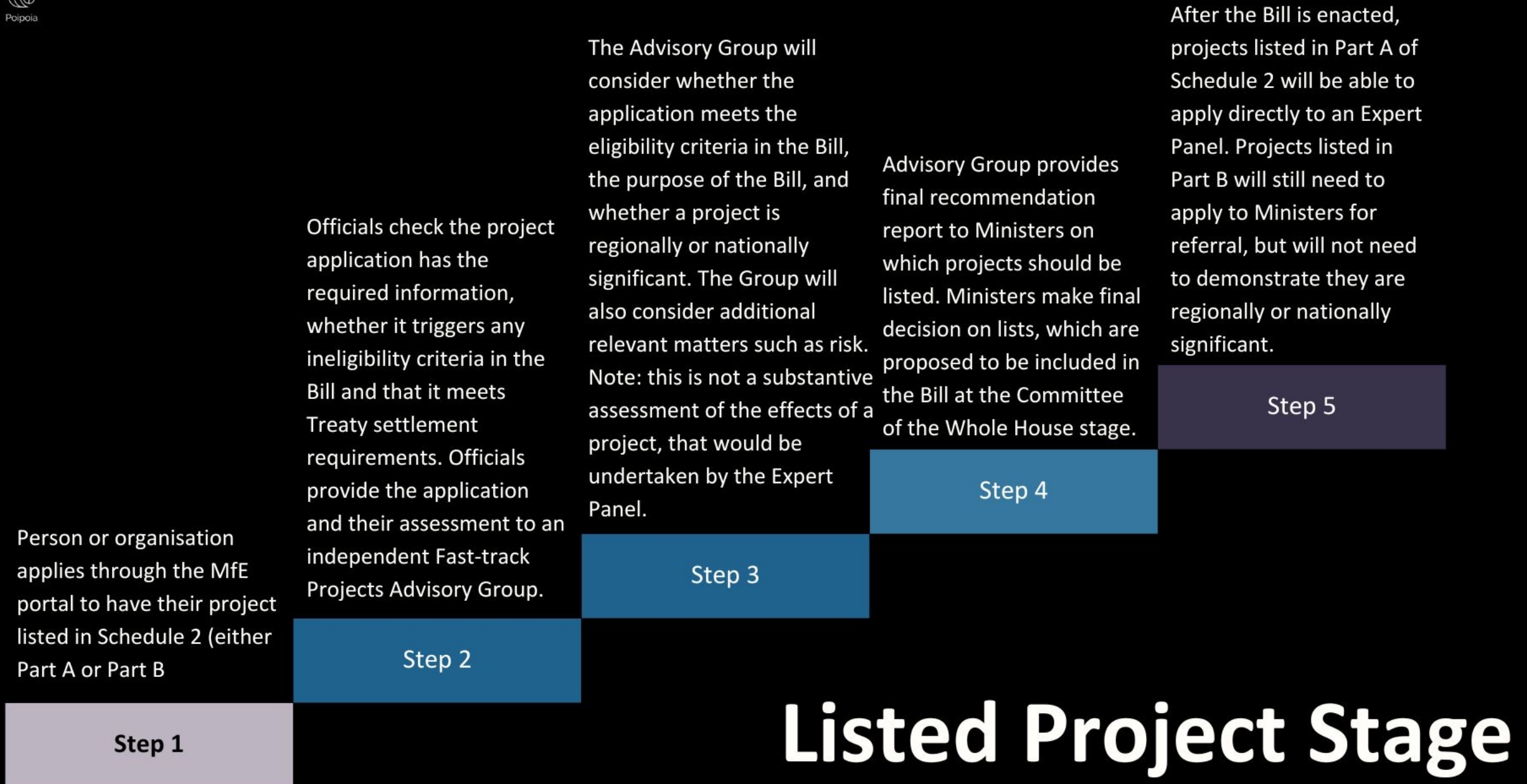
- Listed projects
 - Some projects will be listed in Schedule 2 of the Bill and will go straight to the Expert Panel.
- Referred projects
 - The Bill's proposed process is that, if it becomes law, any person, or organisation, could apply to have their project fast-tracked by joint ministers who will determine whether a project should be fast tracked.
- The 'joint Ministers' are the Ministers for Infrastructure, Transport and Regional Development.



Application process to be a 'listed project'

- The Fast-track Approvals Bill will include two Schedules of listed projects:
- Schedule 2 Part A
 - Projects will be referred directly to an Expert Panel and will not go through the Ministerial referral process included in the legislation.
- Schedule 2 Part B
 - Projects will still need to be referred by the Minister to the Expert Panel, but have demonstrated that they are regionally or nationally significant.
 - There is an application form to have a project included in Schedule 2. Projects which apply to be included in Schedule 2 Part A but are not found to be eligible can still be considered for inclusion in Part B. This form is on the MFE website and applications close on the 3rd of May.







Referral Stage

Person applies to have their project fast-tracked.

Step 1

Ministers receive application and seek comments from certain groups (including other Ministers, Māori groups, local government).

Step 2

Ministers consider the project against the eligibility criteria (eg, does it have significant regional and national benefits) and any comments received and decide whether to fast-track the project.
If the Ministers determine it meets the eligibility criteria the application will be referred to an Expert Panel. Ministers must decline projects at this stage if they don't meet the criteria outlined below

Step 3

Expert Panel receives application and seeks comments from relevant groups, such as Ministers, Māori groups, local government, and affected landowners.

Step 4

Expert Pane considers application details and seeks feedback from the applicant and any submitters on its draft conditions.

Step 5

Expert Pane provides its recommendation to Ministers.

Step 6

Final Decision Stage

- This is important. The Joint Ministers will **consider** the panel's recommendations before making the final decision to decline or approve applications. Ministers can also ask the panel to reconsider the conditions or ask the applicant to relodge their application.



The list of ineligible projects includes activities:

- on land returned under a Treaty settlement, on identified Māori Land, on Māori customary land, on land set apart as Māori reservation, or in a customary marine title or protected customary rights area without written permission from the land owner or rights holder.
- on Māori customary land, or land set apart as Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993
- in a customary marine or protected customary rights area without written agreement from the rights holder/group
- within an aquaculture settlement area without the required authorisation
- activities that would be prevented under section 165J, 165M, 165Q, 165ZC, or 165ZDB of the RMA (which deal with occupation of space in the common marine and coastal area).
- that require permissions on:
 - national reserves held under the Reserves Act 1977
 - on land listed under clauses 1 to 11 or 14 of Schedule 4 of the Crown Minerals Act 1991 (and clauses 12 and 13 for mining activities).
- For projects in the open ocean, activities prohibited under international law, decommissioning activities, and until permitting legislation is put in place – offshore wind.



Applications must include the following...

- Applicant details
- Project location
- Project details
- Approvals required
- Applications already made for the project
- Construction readiness
- Record of consultation
- Relevant Treaty settlements, relationship with the Takutai Moana Act, Māori land considerations
- Adverse effects
- Alignment with national direction
- Details on how the project is eligible and meets the purpose of the Act
- Details on whether the project triggers any ineligibility criteria
- Relationship to climate change and natural hazards
- Compliance track record under any relevant legislation



What 'approvals' are impacted by this Bill?

- Approvals covered under the Fast-Track process:
 - A resource consent, notice of requirement, or certificate of compliance under the Resource Management Act 1991.
 - Authority to do anything otherwise prohibited under the Wildlife Act 1953
 - An approval under the Conservation Act 1987 or the Reserves Act 1977
 - An approval under the Freshwater Fisheries Regulations 1983
 - An archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014
 - A marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects Act 2012
 - A land access arrangement under section 61 of the Crown Minerals Act 1991
 - Efficient Environment Court processes for Public Works Act 1981 processes
 - The Undue Adverse Effect on fishing test under the Fisheries Act 1996



How does it work?

- Upon referral, an expert panel will review a project and recommend any relevant consent and/or permit conditions. The project will then be sent back to the Joint Ministers who may approve or decline the project, or refer the project back to the expert panel if they consider that the conditions are too onerous.
- Ministries will have 10 days to process the consent.
- **This leaves no time for us to respond to applications within our hapu and iwi rohe.**



Specific Areas of Concern

This bill is completely problematic, but we draw your attention to these as they will give further context for potential submissions



Te Tiriti o Waitangi

- There is no Te Tiriti o Waitangi clause within this bill, this is unacceptable.
- This is of concern and so therefore seeks to exclude our rights, interests and obligations beyond those explicitly mentioned only in Te Tiriti Settlements.



Section 6: Obligation to Treaty settlements and recognised customary rights

- All persons exercising functions, powers and duties under this Act must act in a manner that is consistent with -
 - The obligations arising under existing Treaty Settlements; and
 - Customary rights recognised under
 - The Marine and Coastal Area (Takutai Moana) Act 2011:
 - The Nga Hapū o Ngāti Porou Act
- During decision-making joint Ministers must consider;
 - A report on Treaty settlements and other obligations prepared by the agency responsible for processing the application (clause 13 of the Fast-track Approvals Bill).
 - Comments received (applicants are required to consult a range of stakeholders, including Māori groups (clause 16).
 - Written comments from certain Māori groups on referral applications (clause 19).



If this Bill becomes law, what are some of the
issues we should be preparing for...



Intimately understand your settlements if you have them

Carefully review your Treaty Settlements. There is a space for your comments to be considered in the process, this space is very limited and the influence and time of this process also is limited.

Make sure the Crown knows who you are and where you are

Ensure the EPA, Te Arawhiti, TPK, MFE and all appropriate Ministries have your up to date contact details, make sure there is no confusion on who they should contact if a project is within your rohe.

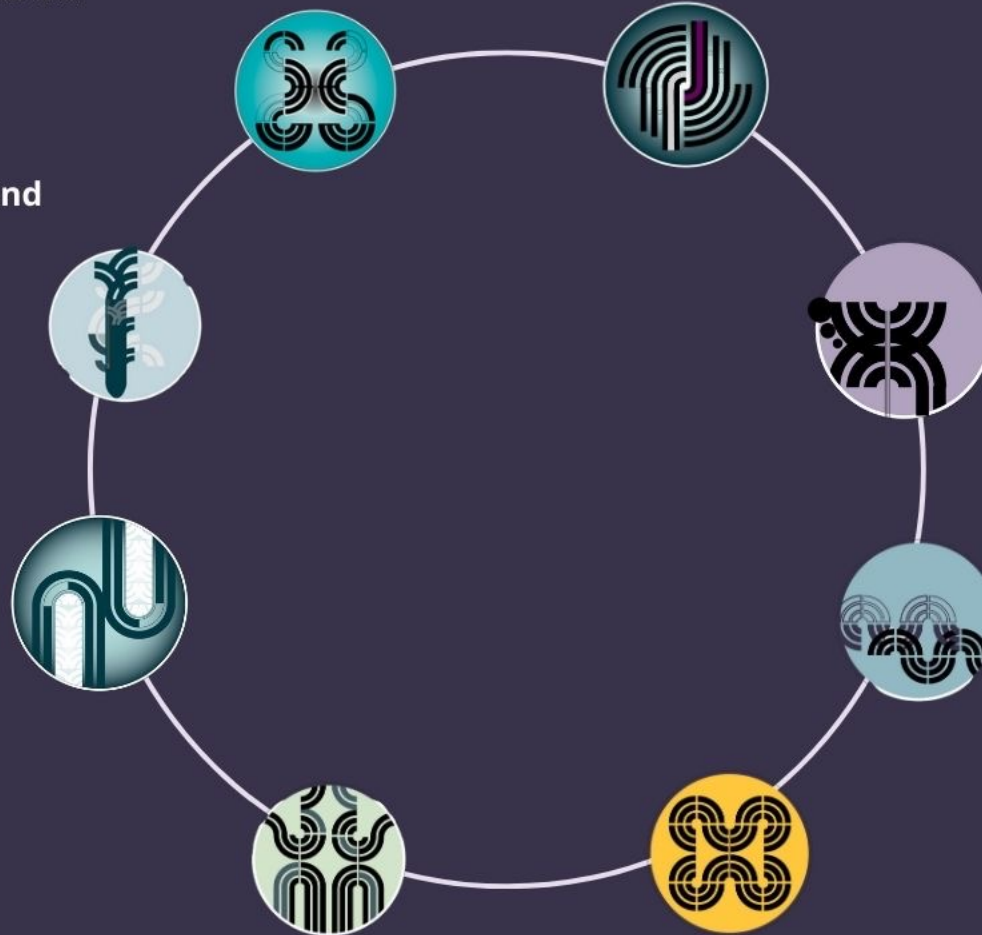
Be clear on how you expect to be engaged

Start now a statement of position on your expectations of any process of engagement for the pre- lodgment application process and post lodgment processes. Once an application is lodged it must be processed within 10 days. Prepare a document, now, that you can use as a base document to assess an application against your values, interests, relationships in your rohe. Make it generic but also do it with reference to the known or potential future big projects you already know about.

Be Prepared... what is happening in your rohe?

Look at the categories of the development options in your rohe, check if there are large scale developments that may have been declined in the past, or check on any large re-consenting projects that may be looming.

OPTIONS TO PREPARE



Have a position on large scale projects in your rohe and set out expectations now.

Create a clear understanding of what you will and wont accept in your rohe across these areas, i.e. mining, renewable energy projects, aquaculture, roading, infrastructure and housing

Be clear on your position on the conservation estate and other areas that should be categorised as 'ineligible'

Consider the ineligibility criteria. It is the only way to avoid entirely the FTA Bill impacting your relationship with the wāhi and taonga of significance to you. As drafted, what is protected by the ineligibility criteria and what isn't? Is the underlying land or status of your taonga covered? (i.e your maunga or wāhi tapu). If not, what should be added in this section to protect your interests?

Applicant Relationships

Work directly with potential applicants in your rohe. How can you ensure that those who may use fast track have a clear understanding of what is acceptable and what is not? The phase prior to these two milestones is the only part of the process that is not subject to unreasonably rushed timeframes, so there is the potential for meaningful kōrero to happen here, and at the pace that it needs to take.

Section 13 Report

If you have a settlement, and particular provisions guarantee a role for you in an approval process, consider reaching out to Te Arawhiti / TPK/EPA (knowing they are likely to be the agencies drafting the Section 13 Report) to tell them how your settlement should be interpreted rather than have it interpreted for you.

Council Relationships

Collaborate with your Councils to understand what projects may be on the cards for your rohe. This Act does not have an expiry date so in some shape or form it may continue to be in existence.

Other Avenues

- The option of judicial review is available but is costly – you would need to also file for injunctive relief.
- Consider alliances and funding that could be available. If environmental NGOs continue to be cut out of the system as currently drafted under the Bill (and even if they're not) then they represent a funding option.
- Any judicial review application will need to be accompanied by an application for injunctive relief if you want to stop the consent holder implementing the consent in the meantime, as an injunction does not prevent a consent holder getting on with their consented activity like an RMA appeal does.
- Consent holders just run the risk that they have implemented a consent that is then the subject of a quashed decision, but I expect some consent holders will be willing to take those odds.



Scenario One

- A “Project Owner” (this is how it is defined in the Bill, not an applicant as we are used to in terms of terminology) wants to develop a water bottling plant within the rohe of an iwi or hapu.
- The land that will be developed is ‘owned’ by the project owner and it is not Māori land nor is it on land owned by a PSGE as part of a Treaty Settlement.
- The project owner wants to develop this water bottling plant from an aquifer that has substantive connections to neighbouring awa and puna that are important taonga to the iwi or hapu.
- This water bottling plant will provide 50 jobs to the community and the applicant proposes that this business will be regionally significant.
- The project owner applies to the Joint Ministers to access the fast track process, these are currently Minister Chris Bishop, Minister Shane Jones and where applications are on the Department of Conservation held lands, this will also include Minister Potaka.



Te Mana o te Wai

What we have currently...



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What do the Coalition Agreements say about Te Mana o Te Wai?



Poipoi

Replace the National Policy Statement for Freshwater 2020 to rebalance Te Mana o te Wai to better reflect the interests of all water users.

Replace the National Policy Statement for Freshwater Management 2020 and the National Environmental Standards for Freshwater to better reflect the interests of all water users.

Replace the National Policy Statement for Freshwater Management 2020 to allow district councils more flexibility in how they meet environmental limits and seek advice on how to exempt councils from obligations under the National Policy Statement for Freshwater Management 2020 as soon as practicable.



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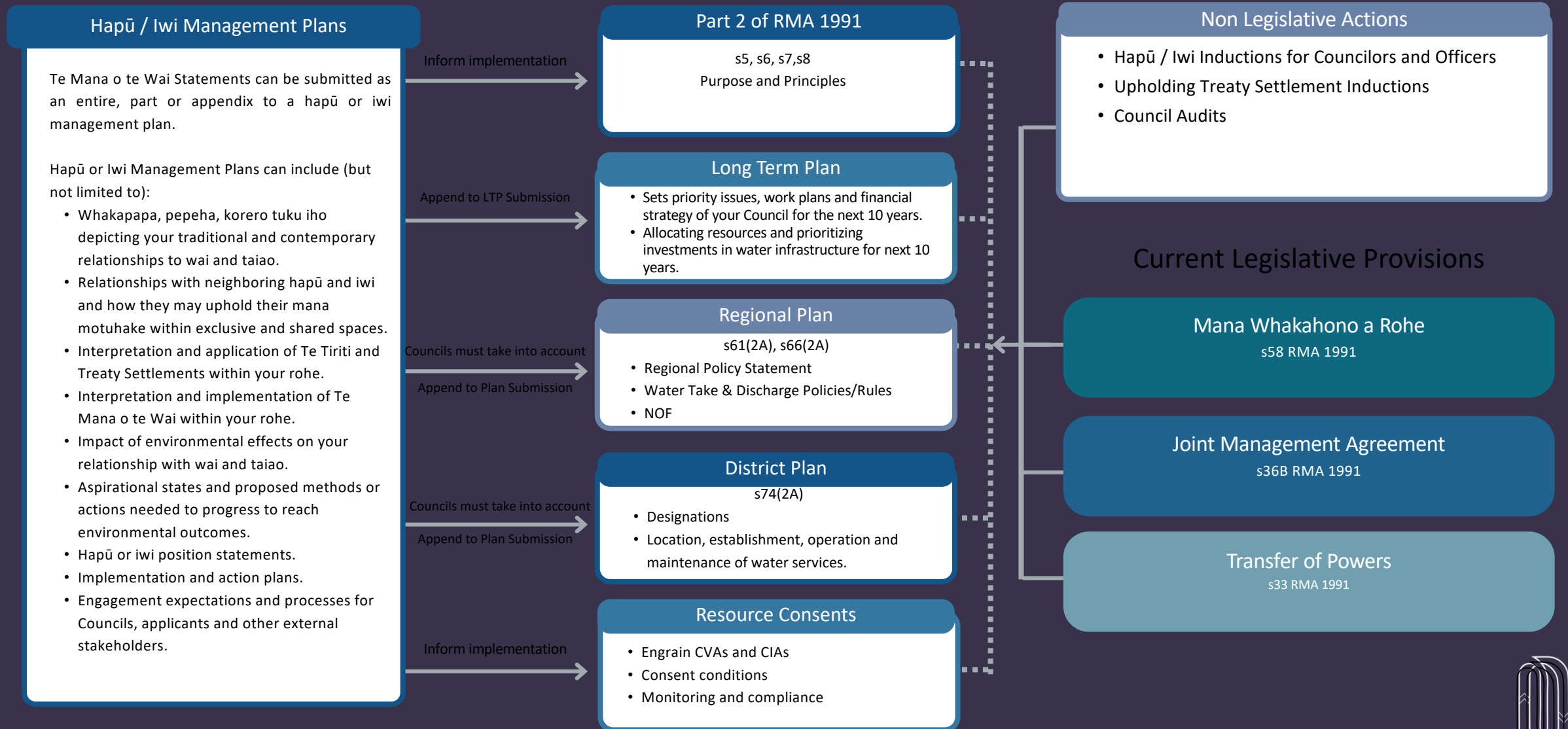
What we had in the previous legislation...

Do we want to retain any of this through direct agreements with Councils through our Te Mana o te Wai Statements... which may manifest themselves as Iwi Management Plans or specific agreements with Councils.



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Ways to Influence the System



National Objectives Framework (NPS-FM)

Values
Mahinga kai, Mauri

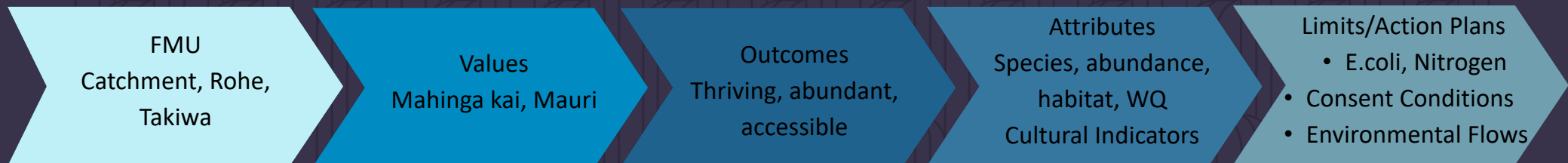
Outcomes
Thriving, abundant, accessible

Attributes
Species abundance,
habitat, WQ
Cultural Indicators

Visions
Mahinga kai, Mauri

Action
Mahinga kai, Mauri

Limits
-E.coli, nitrogen
-Consent conditions
-Environmental Flows





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Te Mana o te Wai Statements

Introductory Guidance to support hapū and iwi to develop Te Mana o te
Wai Statements



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Developing positions through Wānanga and Hui

Identifying areas for discussion

POSITIONS

An articulation of Te Mana o te Wai that is specific to the rohe/takiwā which may be mātauranga led and can include bottom lines, principles and values. Clearly states the expectation of how the WSE's operate in the rohe/takiwā and where applicable, outlines expectations for addressing legacy issues.

HIERARCHY OF OBLIGATIONS

Descriptions on how the HOO may be applied within the iwi/hapu respective rohe/takiwā including clear operational guidance for WSE's.

RELATIONSHIPS

Considering how Te Tiriti Settlements and existing arrangements with Councils may be upheld within the new system and how the relationship between the iwi/hapu and the WSE may be formalised in addition to RRG roles.

OPERATIONAL MATTERS

Explore how consenting may be managed, engagement protocols, WSE staffing appointments, constitutional and strategic documents input. May include discussions on how cultural expectations on consent applications and monitoring, including waahi tapu management and regeneration can be met. How would training to support WSE's to understand the statements and resourcing for implementation occur?



MONITORING, ACCOUNTABILITY AND SYSTEM OVERSIGHT

Discussion of how these matters may be undertaken within the iwi/hapu rohe/takiwā including indicators and measurement methods.

COMMERCIAL EXPECTATIONS

Consideration of the expectations of the hapu/iwi on procurement and tender processes that may specifically enable hapu/iwi to participate in staffing and potential commercial opportunities.

OTHER KAUPAPA

Specific discussions on matters like; guidance for drinking water, wastewater and stormwater management, Taumata Arowai, Economic Regulation, allocation, Marae and Papakainga and Water Poverty

FUTURE STATE

Data management, technical and cultural capability building and succession. Innovation focus for transition to TMOTW compliant technology and IP arrangements, alignment with other legislation.



Te Mana o te Wai

POTENTIAL COMPONENTS OF A PROCESS



COLLATING

Identify and collate existing information into a single repository.

Stock take of existing resources and information gaps.

Identify sources of mātauranga to draw from.

Information could be drawn from:
Literature reviews, outcomes of previous hui, previous submissions etc.



WĀNANGA

Characterise hapū and iwi relationships to their wai.

Hapu based rohe/takiwā identification.

Maps gathered both whenua and wai.

Explore appropriate methods of conveying mātauranga.

Determining hapū and iwi positions.

Research gaps identification.
Hapū led mapping exercises.



RELATIONSHIPS

Concerted partnership approach with the other iwi and hapū, iwi Secretariats, RRG's WSE's Councils and the infrastructure industry.

Communicating clearly and working closely with these roopu to develop a statement that works operationally and strategically.

Discuss sub-catchment arrangements



DRAFTING AND MANDATING

Drafting the statements and all the matters required from consenting to procurement to investment.

These may not only be written, there may be visual components or other mediums that work best for hapū and iwi.

Agree a mandating process that is most appropriate for your whānau



MONITORING AND ENFORCEMENT

Developing the process to monitor how the system is giving effect to Te Mana o te Wai and Te Tiriti

Develop the indicators and measurements so all parties understand how it will work and how regularly the monitoring will occur.

Agree how enforcement and improvement occurs.



Ngāti Turangitukua Case Study

<https://www.youtube.com/watch?v=DwBulQCQe5Y>



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WĀHANGA 3
1.00-1.50pm
Stocktake



Stocktake

- This exercise assists in creating a better context for how we may apply tools later in our sessions.
- This is a 'quick fire' round, so you have 10 minutes per pātai to consider your answers and to place these on the map.
- Please use a different colour post it for each of the three pātai.
 - What are your taonga? What are you protecting?
 - What are the pressures or challenges your taonga are facing?
 - What are the opportunities to progress Taiao outcomes?



Stocktake

Other Methods:

- Mātauranga Māori
 - Place name analysis, waiata, whakatauki/whakatauaki, traditional practices, karakia etc
- Literature Reviews
- Archival Records
- Collating information and outcomes from previous wananga and hui



WAHANGA 4
2.00-2.50pm
ACTION



What did you want to get out of today?

- Collaborating
 - What is everyone doing?
 - How can we work together?
 - How I can help my hapū?
- Insights
 - What are we collectively thinking and doing – so I can carry that to my work and do work that supports and aligns
- ACTION
- Knowledge and upskilling
- **Mo ngā mokopuna / uri whakaheke**

What are your main taiao kaupapa?

- Hapū capability and capacity building
 - Establish groups and roles at the hapū level to drive taiao kaupapa
- Specific taiao issues in your rohe E.g. SH1 Waitahanui, Oruanui, Waiotaka
- Tamariki and rangatahi – whakatō te kakano for future generations
- He Tipu nursery
- Wastewater, erosion, tuna, stream health, rising lake levels, developments, marae water source, access to swim in our awa, science and matakura opportunities for stream restoration
- Kaitiaki Plans
- Regulating what goes in and out of our wai. So our uri will still be able to swim in our lake in the future



In your roopu

- What are your taonga?
 - *What are you protecting?*
 - *What are the traditional and contemporary relationships your taonga?*
 - *History of these sites.*
- What are the pressures or challenges posed on your taonga?
 - What are the impacts on your relationship with taonga?
- What are the opportunities to progress freshwater outcomes?
 - What are your priorities?
 - What works well? What doesn't?
 - What are the gaps or barriers to progressing outcomes?



In your roopu

- What are the three things to focus on when you leave?
- Why is this your focus?



WĀHANGA 5
Feedback Session
3.00-3.30pm



Feedback

We invite your reflections on the wānanga today.

- New learning or insights?
- Topics that were most interesting? Least interesting?
- Venue, kai, resources?
- Where to from here for you?





Poipoia te kakano, kia puawai
Nurture the seed and it will blossom

Nga mihi
Team Poipoia



Poipoia