

Form 3

Submission on proposal for national policy statement

Sections 49 of the Resource Management Act 1991

To the Chairperson
Board of Inquiry-Water
Freepost Board of Inquiry-Water
c/o PO Box 10362
Wellington 6143

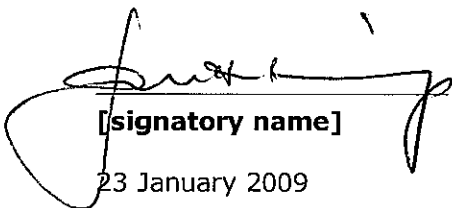
This is a submission by **Fonterra Co-operative Group Limited** (*Fonterra*) on the Proposed National Policy Statement for Freshwater Management, notified on 20 September 2008 (*the Proposed NPS*).

Fonterra's submission relates to the entire Proposed NPS.

Fonterra's submission and the changes it seeks to the Proposed NPS are outlined in detail in the **attached** document.

Fonterra wishes to be heard in support of its submission.

If others make a similar submission, Fonterra will consider presenting a joint case with them at a hearing.



[signatory name]
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Address for service of submitter:

Fonterra Co-operative Group Limited

P O Box 417

Wellington 6140

Telephone: 04 494 0725

Fax/email: 04 494 0739

Contact person: Sean Newland, Sustainability Strategist



Dairy for life

**SUBMISSION ON THE PROPOSED NATIONAL POLICY
STATEMENT ON FRESHWATER MANAGEMENT BY FONTERRA
CO-OPERATIVE GROUP LIMITED**

Executive Summary

Fonterra Co-operative Group Limited (Fonterra) supports the purpose of the Proposed National Policy Statement on Freshwater Management (Proposed NPS).

Fonterra has identified a number of considerations that must be addressed either within the Proposed NPS or through parallel streams of work, if the purpose of the Proposed NPS is to be achieved.

Given the extent of these considerations Fonterra request that the Board of Inquiry, having considered the first round of submissions, develop a further version of the Proposed NPS and allow for further submissions being made on this revised Proposed NPS.

Introduction

Fonterra is New Zealand's largest business and a major contributor to New Zealand's economic, social and cultural well being. Fonterra's business is based on New Zealand's natural advantages in terms of water, sunshine and grass.

Access to adequate supplies of suitable water is critical to the continued health of the New Zealand dairy sector and the economic, social and cultural outcomes this sector supports regionally and nationally. As such Fonterra welcomes the opportunity to provide a submission on issues that should be addressed or supported within the NPS.

Fonterra:

- Is committed to a long term, sustainable, future for dairying in New Zealand. Fonterra recognises that this requires the activities undertaken by Fonterra and its shareholders (including farming and processing activities), to make use of practises and technology and to make decisions that strike an appropriate balance between economic growth and the achievement of agreed social, cultural and environmental outcomes;
- Recognises that effective and appropriate management of fresh water is critical to the achievement of New Zealand's environmental and economic goals and, through these, providing support for the broader social and cultural values of the wider New Zealand community;
- Is aware that water sustains many valued environmental systems and that fresh water resources are highly valued for the cultural, social and economic contribution they make to New Zealand;
- Recognises it has a responsibility to work with suppliers to manage impacts on waterways in a manner that is aligned with community values.

Fonterra continues to demonstrate significant leadership through ongoing commitment to maintaining a sustainable dairy company. To this end Fonterra along with the wider New Zealand dairy industry are undertaking a large number of initiatives in the environmental sphere. While the Clean Streams Accord is the highest profile of these, in many ways it represents only a small part of the overall approach that industry and regulators are taking. The activities of the Primary Sector Water Partnership are a further example of actions being taken by Fonterra and the dairy industry, in close alignment with the wider primary sector, to effect change in environmental performance and outcomes.

General Submissions

Fonterra has identified a number of considerations it submits should be addressed either within the Proposed NPS or by way of streams of work carried out that support the Proposed NPS, which are necessary if the purpose of the Proposed NPS is to be achieved.

Role of Central Government

There must be recognition that central government has a key role to play in making decisions of national significance with regard to water management and in providing leadership in the implementation of these decisions.

The Proposed NPS contains little that recognises the strategic role of central government in freshwater management. For example, water storage and infrastructure investment will play a key role in the future of water management. Given the importance, long time frames, planning issues, cross regional impacts and costs associated with such investment, central government must take a leadership role in this area rather than devolving this to local government and private sector interests as has been the case to date.

Consideration must be given to the value in central government making decisions on the appropriate management objectives for those waterways determined to be of national significance, whether for environmental, economic or cultural reasons. This is also currently absent from the Proposed NPS.

Alignment of Related Policy and Activities

A strategic approach should be taken to water management. Related policy and operational activities (e.g. the proposed National Policy Statement on Renewable Energy Generation and assorted Climate Change activities) should be considered as a whole to ensure the policies and activities support the differing objectives being sought. This issue has been identified in submissions on the proposed National Policy Statement on Renewable Energy Generation.

A changing water management environment is likely to require consideration of alternative policies for water allocation to suit the new objectives, demands and constraints. The Proposed NPS needs to at a minimum acknowledge and allow for this to occur. It does not currently address this issue.

Clarification of the Role of Tangata Whenua

Current Resource Management Act 1991 (RMA) processes exist to allow for Tangata Whenua involvement in planning processes however formalised co-management regimes are also now emerging. Until the role of Tangata Whenua and the process through which this role will be undertaken is clarified, there will remain a large degree of uncertainty within the water management environment. This will have a significant impact in the setting of water quality targets, managing land use, and in any changes to the water allocation process. Objective 9 and Policy 8 of the Proposed NPS do not sufficiently address this issue.

Management of Water within the Context of Sustainable Development

Fonterra submits that the Proposed NPS should recognise and provide for the management of fresh water within the context of sustainable management (i.e., recognising fresh water as a resource which is available for the benefit of all New Zealanders). Explicit acknowledgement that water is a resource that is necessary to the maintenance of the New Zealand way of life, not just environmentally, socially and culturally but also economically, will promote balanced consideration as to how this resource is managed;

Given increasing pressures that are being placed on the fresh water resource, and the potential for management decisions to have significant regional and national impacts, it is important that decisions are made following consideration of all opportunities and consequences. Cost-benefit analysis is one tool that could assist decision makers in ensuring the community is aware of the consequences of different decisions and lead to greater alignment of decisions with community values;

The Proposed NPS should support this outcome through reconfirming the need for water management decisions to be made in a sustainable development context, with the consequences of different decisions on environmental, social, cultural and economic values being appropriately and assessed.

Ensuring Management Objectives and Methods are Appropriate to the Freshwater Resource

The nature and extent of pressures on catchments or waterways within New Zealand vary. The values and objectives of the communities associated with specific water resources also vary. Therefore the manner in which catchments or individual waterways are managed and the objectives of those management practices (e.g. water quality targets) are also likely to vary.

Fonterra submits that all waterways should not be treated in a common manner (e.g. that the water quality objective for all freshwater resources are swimmable). Doing so will result in either excessive or insufficient management of the majority of waterways. It is also likely to increase the risk that sub-optimal regional and national resource use will be achieved and that the management objectives for waterways will not be in keeping with relevant community objectives.

Recreation water quality guidelines are based on water clarity, presence of faecal indicator bacteria and algal biomass. Some waterways will never meet recreational guidelines based on clarity (e.g. lower Waikato, Whanganui etc). Other waterways are too dangerous for swimming (e.g. parts of Waikato River, parts of Waihou River). To attempt to manage for a specific recreational use in places where it is entirely inappropriate to do so will serve no useful purpose and is likely to be accompanied by unwanted costs and impacts.

The Proposed NPS should provide direction as to how individual waterways or catchments can be assessed and optimal management regimes determined and implemented. In the absence of this direction being provided within the NPS this decision making would need to be supported by the development of relevant National Environmental Standards at a later date.

Appropriateness of Mechanisms to Achieve Water Management Objectives

The Sustainable Water Programme of Action (Programme) has identified that improved management of the potential for undesirable impacts of land use on water quality should be a sought after outcome.

Fonterra submits that it is appropriate that the Proposed NPS support such an outcome by ensuring potential adverse effects of land use are managed in the most effective and efficient manner possible. In Fonterra's view, this means allowing the use of appropriate and available technologies by land managers to mitigate the risk of undesirable impacts on the water resource could occur, where these technologies exist. This is an alternative to attempting to manage potential effects through the imposition of controls on inputs or the type of land uses or land use development that may occur within a catchment or close to a waterway

Such an approach would provide the greatest opportunity to maintain flexibility of land use, would recognise the differences between land use systems and catchments, and allow for available technologies to be used to mitigate the potential adverse impacts. It would also encourage ongoing innovation by and partnership with land users in the development of such technologies and ensuring their uptake, and therefore assist to achieve a further national goal of the Programme.

If such a direction is not provided by the Proposed NPS, there is a risk that less efficient or effective controls (i.e. prohibiting certain land uses) will be implemented as the first option when regional authorities put in place measures to achieve water management objectives.

Regulatory Structure for Water Management

Fonterra is pleased that the Programme supports the continued management of fresh water resources by regional authorities under the RMA. It is Fonterra's view that this is the only acceptable process by which the values of the community associated with a water resource can be incorporated into the management process.

Fonterra submits that the Proposed NPS should not introduce short cuts to the decision making process. To do so would effectively separate the values and objectives of the community from the management objectives of the waterway with which they are associated.

Improved management of fresh water resources will occur if the Proposed NPS provides greater clarity and direction as to what the existing Regional Plan development process should be achieving, the context within which this occurs and the criteria to be used in the decision making process. Greater guidance as to how these decisions should be made is required.

The Proposed NPS must be explicit in defining the roles of various parts of local government to ensure policy direction given under the Proposed NPS to regional and district authorities not cause ambiguity in terms of those authorities' respective jurisdictions under the RMA. As currently drafted, the Proposed NPS directs district councils to consider matters relating to land use effects on water quality and quantity, which overlap with regional council functions under the RMA. This issue could be addressed by the inclusion of the phrase "where appropriate" in Policy 3(b) and (c), and Policy 5.

The practical constraints faced by local government in carrying out the roles placed on them by any NPS must be recognised. The enforcement of unnecessarily onerous policy or timeframes will be resource hungry for both local government and other stakeholders and unlikely to provide any practical benefit in achieving the purpose of the Proposed NPS.

Water Management Infrastructure

While within New Zealand water is, in a global context, abundant, the availability of adequate water (both when and where it is required) is becoming increasingly variable and pressured across regions. The pressure on some water resources is well recognised and this pressure is likely to increase in the future with increasing demands due to population and economic growth, and in some instances as a result of climate change.

The increasing pressure on water resources and the tensions this promotes are making the management of the resource more complicated. Given that the current water resources of New Zealand are unlikely to increase and the demand on water resources is highly likely to increase, this tension can only be expected to increase also.

The options available to deal with this issue are limited: NZ can constrain further use of the existing water resource (e.g. not so many uses or less volume), increase the efficiency with which water is used (so what is available and used now goes further), or provide for a greater source of water for use through improved management of water in those areas or at those times when it is abundant (e.g. harvest, store and transfer water that isn't effectively available now).

Fonterra submits that the Proposed NPS should support increased efficiency of water use (across water users and by individual water user groups) as well as the development of infrastructure that provides for better use of water resources that are currently not suitable for use. Examples of this include providing for a policy and regulatory environment that:

- Allows for transfer of water resources between users in an efficient manner;
- Encourages efficient use of water for municipal supply, power generation and irrigation etc; and
- Recognises and supports greater use of water harvesting, storage and transfer.

Fonterra considers that such an environment is likely to provide a greater available water resource for use, and in doing so reduce competition between water resource users. Such an outcome will make management of water resources less confrontational while increasing the opportunity to achieve water management objectives, most especially water quality targets.

Role of Science

Water management decisions must be based upon credible science and information.

Specific Submissions

Fonterra's submissions in respect of specific sections of the Proposed NPS are outlined in the following paragraphs.

Preamble

Fonterra welcomes the recognition made in the Preamble of the Proposed NPS that there needs to be a "balancing" of social, cultural, ecological, and economic goals in the management of New Zealand's fresh water resources.

Fonterra submits there also needs to be recognition that in the majority of cases, all land use activities (residential, industrial and primary sector) have the potential to affect water resources to some extent. Fonterra considers that the Proposed NPS should explicitly recognise this so that unrealistic expectations (e.g. the ability to have pristine water quality in all freshwater resources while achieving currently desired economic and social outcomes), do not promote the development of unworkable policy.

Fonterra submits that the goal recorded in the Preamble (at paragraph 6) that all "Freshwater Resources are swimmable" is not practical and that the consequences of attempting to achieve this goal have not been adequately assessed nor communicated to the New Zealand public.

In the absence of such an assessment and discussion with the wider New Zealand community having been carried out Fonterra submit that this goal should be deleted.

Purpose

Fonterra supports the purpose of the Proposed NPS.

Objectives

Objective 1

Fonterra supports Objectives 1.

Objective 2

Fonterra supports Objective 2 with regard to investment in water storage and supply infrastructure.

Fonterra seeks clarification as to what is meant in practice by "ensuring effective integrated management".

Objective 3

Fonterra supports Objective 3 on the basis that it explicitly recognises that there are fresh water resources where a swimmable (or greater) water quality standard is “appropriate”, and by implication recognises that there are water resources where, for reasons of need, practicality or the balancing of other desired outcomes, reaching such a standard is not “appropriate”. Direction is required as to the criteria local government should apply in determining whether this water quality standard is appropriate to a specific water resource.

Given the potential impacts of this objective Fonterra submits that this issue requires considerable discussion and assessment before the required criteria could be finalised.

Objective 4

Fonterra supports Objective 4 but submits that “ecological values” should be defined.

Objective 5

Fonterra seeks that Objective 5 be amended to read:

“To control the effects of Land-use activities Development and discharges of contaminants to avoid further degradation of Freshwater Resources where this is appropriate.”

The RMA is effects-based. Fonterra submits that Objective 5 requires amendment to reflect this, and that it is not “Land-use Development” itself that should be controlled or managed, but rather any adverse effects of land use activities that occur. The defined term “Land-use Development” should be removed throughout the document and reference made instead to “the adverse effects of land use activities”.

The use of the word “further” presupposes that all Freshwater Resources are currently degraded.

In some instances communities may agree that specific Freshwater Resources would more appropriately be managed at a lower water quality level than currently exists to assist with the achievement of other objectives. Objective 5 would preclude this occurring.

Objective 6

Fonterra supports Objective 6.

Objective 7

Fonterra supports Objective 7.

Objective 8

Fonterra supports Objective 8.