



FORM 3:

Submission on Proposal for National Policy Statement for Freshwater Management

Section 49 of the Resource Management Act 1991.

To: the Chairperson
Board of Inquiry

From: **The National Wetland Trust of New Zealand**

This is a submission on the following proposed national policy statement (the proposal):

Proposed national policy statement for freshwater management.

The specific provisions of the proposal that my submission relates to are:

- Scant reference to biodiversity in the objectives and policies
- Opportunity to address the short-comings in NZ's international obligations under the RAMSAR Convention
- Problems with terminology (outstanding and degraded) and some of the definitions
- Insufficient direction to local authorities to adequately monitor the state of the environment

My submission is:

In general we support the development of a NPS on Freshwater, however we would like to see it amended to strengthen the areas of biodiversity and wetland protection and councils obligations to *adequately* monitor and report on the state of the environment.

The National Wetland Trust was established in 1999 to increase the appreciation of wetlands and their values by all New Zealanders. Our first major task is to build a wetland interpretation centre for people to learn more about wetlands and experience their special qualities. Other Trust aims are to:

- Increase public knowledge and appreciation of wetland values
- Increase understanding of wetland functions and processes
- Ensure landowners and government agencies commit to wetland protection, enhancement and restoration

Our view is that wetlands are collectively of national significance and we therefore support the development, and more importantly the effective implementation, of a national policy statement that recognises and provides for the wise use of wetlands and their protection from inappropriate use and development.

We consider the Wetland Trust to be a key stakeholder in wetland issues and look forward to working with the Ministry for the Environment to increase public awareness of the plight of wetlands, and to reverse their decline.

I seek the following changes to the proposal:

General Comments

NWT generally supports the establishment of a National Policy Statement on Freshwater Management. Our freshwater ecosystems, particularly palustrine (woody and herbaceous) wetlands, are among our most depleted and degraded. Drainage and vegetation clearance from palustrine wetlands is a significant contributor to loss of indigenous biodiversity and this is not clearly addressed by this NPS despite repeated calls for greater national direction on wetland protection.

The Office of the Controller and Auditor General (2001) found that *“New Zealand is generally meeting the specific obligations of the Ramsar Convention, but that the measures taken have failed to arrest the continuing degradation of wetlands. And the desired outcome of the Ramsar Convention – to stem the progressive encroachment on and loss of wetlands now and in the future – has not been met. This is especially true in respect of privately owned land.”*

The Office further states that *“Allocation of policy responsibility for wetlands has also, in our view, been deficient. This has resulted in the lack of a coherent national policy framework on wetlands.”* This NPS provides an opportunity, perhaps our only opportunity, to rectify this indictment on our international obligations.

Palustrine wetlands often fall through the cracks between freshwater and terrestrial systems, and therefore vulnerable to some ‘buck-passing’ between regional and local councils. Although in the proposed NPS they are included in the definitions, it would provide clarity to specifically mention them in the preamble e.g., *many of NZ’s rivers, lakes, wetlands and groundwater systems are iconic... Some 90% of our palustrine (herbaceous and woody) freshwater wetlands have been destroyed, and this NPS is very important in helping to protect their remaining values and ecosystem services.* “

Given the recent amendments to the RMA to include roles and responsibilities of local authorities to maintain biodiversity, the 2007 National Priorities for Biodiversity specifically mentioning wetlands, the existence of a national biodiversity strategy and the reluctance of government to produce an NPS on biodiversity, we are surprised at the scant mention of biodiversity in the proposed NPS, other than an acknowledge that water *“crucially underpins important parts of New Zealand’s biodiversity and natural heritage.”*

We therefore recommend adding emphasis to biodiversity and ecosystems throughout, for example:

1. In the **Preamble** "...address matters of national significance relating to the sustainable management of Freshwater Resources *and protection of the natural character of freshwater ecosystems and their margins*"
2. In the **Preamble** add specific reference to maintaining biodiversity in the goals (bullets)
3. In **Objective 4** refer explicitly to maintaining the full range of indigenous biodiversity at the genetic, species, and ecosystem levels. Some aquatic species have much greater tolerance of diminished water quality and quantity than others, and therefore policies could be set that maintain the life-supporting capacity for, say, chironomids, but not the more sensitive mayflies and still meet the objective. Although we recognise that inclusion of ecological values is perhaps an encompassing term for biodiversity, specific reference here to biodiversity, perhaps "*biodiversity and ecological values*" is more consistent with the RMA Amendments.

" Recognising and protecting life supporting capacity and ecological values To ensure the life supporting capacity, *biodiversity* and ecological values of Freshwater Resources are recognised and protected from inappropriate –

 - (a) taking, use, damming, *drainage* or diverting of fresh water; and
 - (b) Land-use Development *including infilling wetlands*; and
 - (c) discharges of contaminants.
4. In **Objective 6**: "To ensure that demands (including social, economic, cultural *and environmental* demands) for fresh water are sustainably managed in a manner that has regard to the following:
 - a. available supply of fresh water:
 - b. *the need to provide for the life-supporting capacity of the full range of indigenous biodiversity in freshwater and associated ecosystems*
 - c. the need to provide for resilience against the biophysical effects of climate change (such as through infrastructure for supply, storage and distribution of fresh water):
 - d. the adverse effects that arise from those demands. "
5. In **Policy 4** "When preparing a regional policy statement or variation or change to give effect to Policy 1 and when preparing a regional plan or variation or change to give effect to Policy 2, every regional council must consider the following:
 - (a) The Notable Values of each Freshwater Resource:
 - (b) The sensitivity of each Freshwater Resource and its Notable Values to adverse effects including effects of Land-use Development and the discharge of contaminants *on biodiversity and the quality and quantity of indigenous ecosystems:...*"
6. In **Policy 5** "When preparing a district plan or variation or change to give effect to Policy 3, every territorial authority must consider the following:
 - (a) The importance of controlling Land-use Development in a way and at a rate that minimises the adverse effects on the quality and available quantity of Freshwater Resources *including indigenous biodiversity of freshwater ecosystems.*"

7. In **Policy 5** "When preparing a district plan or variation or change to give effect to Policy 3, every territorial authority must consider the following:
- (a) The importance of controlling Land-use Development in a way and at a rate that minimises the adverse effects on the quality and available quantity of Freshwater Resources *including indigenous biodiversity of freshwater ecosystems*:"

Public access

There is much focus on quality of water for recreational purposes in the proposed NPS, but no reference to access to such water bodies for that purpose. The NWT supports appropriate access to wetlands (in a manner that protects sensitive ecological values) to increase appreciation and awareness of wetland values. How will the policies in this document mesh with the requirement to provide public access, and also to ensure public access is only provided where it will not compromise the sensitive values of freshwater areas (e.g. threatened species, fragile surfaces)?

Specific comments

Policy 1

- "(b) Identify Notable Values (including potential values) of –
- (i) Any Outstanding Freshwater Resources; and
 - (ii) Any Degraded Freshwater Resources; and"

While we applaud the recognition in Policy 1 that degraded systems have notable values, we find the terms outstanding and degraded problematic and at odds with each other.

For a start, there is undoubtedly a category of freshwater ecosystems *between* outstanding and degraded that are not otherwise provided for in this policy statement. These, "average" freshwater ecosystems may well form the vast majority of freshwater resources potentially left in a policy vacuum.

Secondly, paradoxically a site could be both degraded and outstanding. The criteria that would typically be applied to an outstanding site (e.g. best of its kind, habitat for highly threatened species etc) could also apply to sites in a degraded state. A site in poor ecological condition could be the best or only example of its type remaining (consider the willow invasion of our internationally recognised Whangamarino wetland). Likewise, many threatened species are restricted largely to degraded water bodies, for example pateke (brown teal) that feed on drained, grazed and mown wetlands.

We suggest instead, the term outstanding be changed to 'Healthy' such that the categories are healthy and degraded waterbodies. The two terms are more consistent with each other, and a site could not fall into both categories. They also neatly mesh with the stated policy direction under Policy 1c of, respectively, protection vs restoration and

enhancement, and are all-encompassing rather than potentially being at opposite ends of a spectrum.

It removes the potential for highly inconsistent application of the term outstanding (which is not tightly defined in the proposed NPS, nor are their criteria to ensure consistent application across councils and across ecosystems). We have seen for instance a report on outstanding water bodies where any stream with riparian vegetation was considered outstanding, but herbaceous wetlands had to pass the extraordinarily high bar of having been internationally recognised under the RAMSAR convention. Not surprisingly in this particular report there were several hundred streams and just 3 palustrine wetlands considered to be outstanding.

Redefining the categories also avoids the problems that the terrestrial ecosystem fraternity has experienced with protracted and divisive debate over relative levels of significance under section 6c of the RMA – how 'good' does it have to be to be outstanding, especially given that all freshwater ecosystems for instance have been deemed priorities for protection under the 2007 National Priorities for Biodiversity. There is a risk that sites that fail to meet the 'outstanding' class will be deemed not significant under the s6c provision of the RMA.

Either way, it is important that greater direction, including criteria, are provided to avoid inconsistencies and otherwise inevitable duplication of effort across the many regional and local councils in New Zealand.

Policy 2 and 3

We recognise that management of invasive weeds and animal pests mainly comes under the Biosecurity Act through regional pest management strategies (RPMS), but we see a strong link between pest invasion and ecosystem degradation from the activities controlled by local authorities under the RMA. While the Biosecurity Act focuses on individual pests, and a limited suite of organisms listed in pest management strategies, a broader view needs to be taken to protect ecosystems from multiple invasions, including exotic species not targeted in RPMS, that result from water takes, abstractions etc, and land use activities.

Therefore, we seek reference to consent conditions including measures to avoid or remedy weed and or animal pest invasion or expansion where these have occurred as a result of consented changes to hydrology, nutrient status, light regime, or other environmental changes that facilitate pest invasion.

Eg

(b) Includes rules to require that all relevant land-use and subdivision consents granted after the commencement of this National Policy Statement include conditions for –

(i) Protection against degradation of the quality of fresh water of Freshwater Resources *and against invasion by or expansion of exotic plant and animal species* (including through the management of activities giving rise to stormwater discharges);

and

Policy 8 Information

This policy needs to go beyond reporting council outputs and include a strong directive to adequately monitor and report on outcomes, including measurable targets and thresholds.

Monitoring, particularly of biodiversity value and the extent and health of ecosystems, is poorly conducted by most regional and local authorities in New Zealand. This has been stated by Green and Clarkson, 2005: *"This review has shown that monitoring and reporting systems are presently insufficient to meet the reporting requirements of the Biodiversity Strategy."* and by the Controller and the Auditor General (2005) *"While both councils had some form of monitoring strategy, neither comprehensively covered all the types of monitoring that we expected."*

Clearly stronger directives on councils are required to resolve this situation.

The NPS should re-in force the RMA requirement on local authorities to monitor and report on the state of the environment with a specific policy on monitoring the state of freshwater resources (including extent, distribution, condition, biodiversity, legal protection status). There are several national monitoring systems already available for monitoring condition of components/ whole freshwater ecosystems, e.g., wetlands, water quality, streams etc and these should be used to monitor changes, including whether the water body is improving/maintaining or declining. Thresholds should be set that trigger action on the ground.

To 'consider' the Notable Values of each Freshwater Resource adequately each regional council should have baseline information (inventory) of the scientific, biodiversity, cultural and recreational values of all water bodies under their jurisdiction (part of SOE reporting). Then changes can be monitored and assessed for any negative (and positive) consequences.

Policy 9 (10 year review)

A 10 year review is an appropriate time frame for reviewing outcomes, but not for reviewing outputs. We would like to see an interim 5 yearly implementation review, particularly on the incorporation of the NPS in regional policy statements and regional and district plans, and on resource consent processing. Ten years is too long to wait to determine if councils are adequately implementing the policies into their plans and consent decisions.

Definitions

"Degraded Freshwater Resources" means those Freshwater Resources of a region whose Notable Values have been so degraded by inappropriate Land-use Development, discharges of contaminants and/or the taking, use, damming or diverting of fresh water as to require that priority be given to enhancement or restoration in order to achieve the purpose of the Act."

This definition needs further information. Is the intent to refer to degraded in quality, or degraded in quantity (i.e. our most depleted freshwater ecosystem types), or both? It

also needs more direction on prioritising areas for restoration, e.g. headwaters, almost intact sequences, habitat for highly threatened species etc.

“Freshwater Resources” means the fresh water of New Zealand’s rivers, lakes, wetlands and groundwater systems [but does not include fresh water of any ephemeral stream or artificial watercourse].

We submit that this definition be amended to read **“Freshwater Resources** means the fresh water of New Zealand’s rivers, lakes, wetlands and groundwater systems, *including ephemeral streams and wetlands that support indigenous communities, and the species, ecosystems and processes that such fresh water supports.*”

We feel that a freshwater resource goes beyond H₂O and includes the species, ecosystems and processes that freshwater supports. By implication, the addition of the term “resource” suggests the term is not just referring to simply water. The use of the term fresh water, in addition to the term freshwater resources, in the proposed NPS further suggests that freshwater resources is broader than fresh water. Based on this definition the objective in Policy 1 becomes identifying notable values of outstanding and degraded *water*, not ecosystems.

Excluding ephemeral streams is a serious short-coming. Much research in recent years has revealed the biodiversity value of ephemeral waterbodies, including different communities to perennial reaches and surprisingly high species richness eg Parkyn, S., N. Phillips and B. Smith. 2006. Aquatic Invertebrate Biodiversity and Spatial Characterisation of Non-Perennial Streams in Native Forest in the Waikato Region. Environment Waikato Technical Report 2006/38. We accept that takes from ephemeral streams are unlikely, but other aspects of the proposed NPS regarding enhancement, restoration, protection from inappropriate landuse apply equally to ephemeral and perennial water resources.

The exclusion of artificial water courses risks damage to connections between natural freshwater wetlands, particularly where the ‘artificial’ watercourse is simply a straightened, shortened version of the original natural course.

“Notable Values” in relation to any Freshwater Resource includes:

- (a) Scientific, ecological and biodiversity values:
- (b) Cultural values:
- (c) Recreational (including contact recreational; eg, swimming) values.”

Further direction is required here to clarify that these include potential values (as mentioned in Policy 1). Eg with respect to recreational use, the values may apply not only to sites presently used for recreation, or also sites suitable in terms of water quality etc but not presently used because of access issues.”

“Outstanding Freshwater Resources” means those Freshwater Resources of a region whose Notable Values and/ or Tangata Whenua Values and Interests are such as to require that priority be given to protection in order to achieve the purpose of the Act.

We consider this definition too vague and will result in huge inconsistencies between councils and between ecosystems as discussed with examples above..

Lack of criteria to determine which sites are OFR, DFR means duplication of effort across the country rather than a combined and consistent approach.

Contaminant

We would like to see a definition of contaminant included in the NPS, to clarify that it includes solid material such as fill or spoil, whether inadvertently let into freshwater systems, or deliberately placed there to 'reclaim' them. The RMA definition should be inserted.

References

Green Wren & Clarkson Bruce. 2005. Turning the tide? A Review of the First Five Years of the New Zealand Biodiversity Strategy. Prepared for Department of Conservation, pp1-50.

Controller and the Auditor General. 2005. Horizons and Otago Regional Councils: Management of freshwater resources. May 2005. Office of the Auditor-General, Wellington

Controller and Auditor-General. 2001. Meeting International Environmental Obligations. Office of the Auditor-General, Wellington

I wish ~~(or do not wish)~~ to be heard in support of my submission.

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

* Delete if you would not consider presenting a joint case.

Prepared by Karen Denyer on behalf of the National Wetland Trust with contributions from NWT Trustees and wetland scientists Bev Clarkson, Keith Thompson, and Kerry Bodmin.

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Signature of submitter

(or signature of person authorised to sign)

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Date: 22 January 2009

(A signature is not required if you make your submission by electronic means.)

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