



**SUBMISSION TO**  
**Ministry for the Environment**

**On the**  
**PROPOSED NATIONAL POLICY STATEMENT ON FRESH**  
**WATER MANAGEMENT**

**By**  
**GISBORNE/ WAIROA PROVINCE of FEDERATED**  
**FARMERS OF NEW ZEALAND (INC)**

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## **1.0 Introduction**

- 1.1 The Gisborne/Wairoa Province of Federated Farmers of New Zealand (Inc) fully supports and endorses the submissions made by the national body of Federated Farmers and the Gisborne District Council. However, we welcome the opportunity to comment on the areas of the proposed National Policy Statement on Fresh Water Management that are of particular concern to the province.
- 1.2 Federated Farmers is an industry organisation that has a long history of representing the interest of rural farming communities throughout New Zealand.

## **2.0 Recommendation**

- 2.1 **Gisborne/Wairoa Federated Farmers submits that the proposed National Policy Statement be amended as recommended below.**
- 2.2 Gisborne/ Wairoa Federated Farmers recommend that:
- (a) the NPS be amended to focus more on addressing the effects of land use activities rather than limiting land use itself;
  - (b) the timeframes for councils to prepare and notify policy statements and plans be amended to be in line with the review timeframes in the RMA;
  - (c) the NPS be amended to exclude policy statements and plans that are already complying with the NPS from undertaking the Schedule 1 process;
  - (d) Objective 3 (improving the quality of freshwater) is amended to include reference to reaching swimmable standard where the natural conditions allow.
  - (e) Objective 9 is reworded to refer to 'cost-effective' monitoring and reporting.
  - (f) using terms already defined in the RMA and backed with a body of interpretive case law.
  - (g) the NPS recognises that the adoption of good practices relating to fencing off streams for hill country sheep and beef farmers is relatively low for financial and practical reasons.

## **3.0 General Comment**

- 3.1 Federated Farmers generally supports the goals of the National Policy Statement on Freshwater Management. Water is a vital resource to farming businesses and it is an important facet of domestic and recreational life, for both rural and urban people.

### 3.2 **Timeframes to Achieve Goals**

The timeframe for any actions on water quality need to be long-term, such as the 25 year timeframe set in the NPS. Changes in water quality will require changes in attitudes and practices, possible changes in technology, and the groundwater age in some areas also needs to be taken into account when expecting results.

### 3.3 **Local Flexibility**

It is important for local communities to be able to decide for themselves what the priority issues and water resources are in their area, and how much they can afford to pay for water quality versus other community priorities. The Federation is pleased to see that the NPS provides for communities to set their own goals for their region. Maintaining the flexibility for regional councils to take into account their own set of circumstances is important due to the distinct geological and geographical features for different regions and sub-regions. Recognizing naturally high levels of specific chemical components or sediment is crucial. The natural state of freshwater resources needs to be considered in the NPS as they will determine the viability of trying to achieve the stated NPS objectives.

The adoption of good practice standards also requires flexibility to recognize local limitations. Fencing to keep stock out of streams for example is not an option for the hill country farmers in the Gisborne/ Wairoa region for both financial and practical reasons.

### 3.4 **Scientific Water Quality Standards**

It is also important that decisions regarding water quality standards and goals are based on thorough understanding and accurate information, not perception. A scientific basis for water quality standards will help ensure that goals are realistic, measurable, achievable, and objective.

### 3.5 **Economic Importance of Water**

An additional objective should be included which explicitly recognises the economic importance of freshwater and addresses its use in an economic context. Economic wellbeing is an important consideration in water management issues, as water is a vital component of farming and farmers need certainty of use and investment. This needs to be appropriately reflected and recognised in the NPS.

### 3.6 **Council Consultation Timeframes**

As discussed below in more detail, Federated Farmers believes the timeframes set out in the NPS for councils to prepare and notify policy statements and plans are too tight, and place an unrealistic time and cost burden on the councils and participants in the submission processes, particularly those who will be participating on a national scale. Many councils are already facing great strains on their resources, and these requirements would unnecessarily burden them even further.

### 3.7 **Recreational Values**

Federated Farmers would be very concerned if the NPS results in recreational values being elevated above a well-established RMA hierarchy

concerning the protection of water and its use. Recreational values are just one set of values that have to be considered and balanced with other values, and should not be artificially elevated above those other values. It should be remembered that "The maintenance and enhancement of amenity values" is listed under section 7, "Other matters" in the hierarchy within Part II of the RMA. In Part II of the RMA, section 5 sets out the purpose of the Act. Sections 6, 7, and 8 are to be interpreted and applied as an integral part of achieving the overall purpose defined in section 5<sup>1</sup>. The matters in sections 6, 7, and 8 are not to be regarded as ends in themselves. Section 7 and 8 matters carry less weight than those in section 6, which in turn are subordinate to the principle of sustainable management stated in section 5(2)<sup>2</sup>. There is a duty to provide for section 6 matters but there is discretion as to whether to provide for section 7 and 8 matters in any given situation<sup>3</sup>. Therefore, the maintenance and enhancement of amenity values should be placed in a context of the relative benefit and cost alongside other values within the Part II hierarchy.

### 3.8 Land Use Development

The NPS focuses on the effects of land use development rather than the effects of land use *activities*. The effects of the land use activities impact on resources such as water, not the land use itself, and a lack of reference to activities runs the risk of land use being controlled without just cause. To control the effects of any land use it is the activities that take place within that land use that need to be controlled, and focusing on the effects of land use activities makes this clear.

3.9 **Federated Farmers recommends that the proposed national policy statement on fresh water management be amended in line with our submission points.**

### 4.0 Specific Comments on Objectives

#### 4.1 Objective 3 – Improving the quality of freshwater

4.2 The inclusion of 'appropriate' in the goal empowers communities to apply this objective in their region according to their goals and taking into account issues specific to their region. It does need to be recognised, however, that areas will not necessarily be of a swimmable standard 100% of the time, due to natural variations and events, such as weather events or the occurrence of introduced pest plants.

#### 4.3 Objective 5 – Addressing fresh water degradation

4.4 As discussed in 3.8, the Federation is concerned at the focus on controlling the effects of land use development. In accordance with the enabling, effects-based philosophy of the RMA, the NPS should focus on controlling

<sup>1</sup> *NZ Rail Limited v Marlborough District Council* [1994] NZRMA 70

<sup>2</sup> Williams, D.A.R. 1997: *Environmental and Resource Management Law*. Butterworths, Wellington

<sup>3</sup> *Ngati Hokopu ki hokowhitu v Whakatane DC* [2000] NZRMA 460

the effects of the land use activities, not the land use itself. The definition of land use development in the NPS refers to land use types rather than the activities that take place and interact with the environmental resources. The definition of land use development fails to acknowledge that some land use changes may have a positive effect on water resources.

4.5 *Federated Farmers recommends that Objective 5 be reworded to relate to controlling the effects of activities rather than land use itself*

#### **4.6 Objective 6 – Managing demand for fresh water**

4.7 The Federation supports the acknowledgement of economic considerations and the development of water infrastructure and storage as important considerations when managing water demand. As discussed in section 3 above, water is a vital component of the agricultural industry, and contributes a huge amount to the productive capability of the industry in terms of export dollar value. The ability to store water for when it is needed will enable agriculture to remain productive in the face of continued and increased summer droughts.

#### **4.8 Objective 9 – Ensuring Effective Monitoring and Reporting**

4.9 While the Federation acknowledges that gathering information is an important part of ensuring effective management of resources, any monitoring and reporting should be subject to being cost-effective, so as to avoid excessive bureaucracy and costs being imposed on councils and resource users.

4.10 *Federated Farmers recommends rewording Objective 9 to refer to cost-effective monitoring and reporting.*

### **5.0 Specific Comments on Policies**

#### **5.1 Policy 1 – Regional Policy Statements**

5.2 The Federation believes that the timeframes set out in this policy are too tight, and do not take into account the effect on the councils and those parties who will be participating in the submission processes. The significance of such major changes to policy statements is often beyond the capabilities of individuals and small businesses to participate in such consultation periods. It is these individual consent holders and water users who will be the ones who are most affected by the scope of the NPS and also by the condensed timeframes for consultation. The processes of amending Regional Policy Statements, Regional Plans and District Plans will involve a huge amount of work for councils and stakeholders. Collectively, there is the potential for a massive waste of resources.

5.3 The policy does not allow for those regional policy statements that do not need amending in order to adequately address fresh water management. All Regional Policy Statements already address water quality as a regional issue, and set out objectives, policies, and methods accordingly, and while

the extent to which water issues are addressed differs, this reflects the different regional circumstances.

- 5.4 Any policy for allocation of water takes needs to adhere strongly to the principle of non derogation of rights. Existing water users have a legitimate expectation that, provided any effects are appropriately managed, their existing use will not be undermined.
- 5.5 As discussed above, the Federation is pleased to see, and supports, the specific recognition given to the importance of water infrastructure and storage.
- 5.6 *Federated Farmers recommends amending Policy 1 to allow regional policy statements to be amended in line with the review timeframes under the RMA.*
- 5.7 *Policy 1 should be amended to exclude from the Schedule 1 process any regional councils with regional policy statements that already adequately address the NPS objectives.*

#### **5.8 Policies as to regional and district plans**

#### **5.9 Policy 2**

- 5.10 The Federation believes that, as in the points relating to Policy 1 above, the timeframes set out in this policy are too tight, and do not take into account the effect on the councils or the parties who will be participating in the submission process.
- 5.11 The requirement for all regional plans to be rewritten under the Schedule 1 process does not take into account the current content of the regional plans and whether they already comply with the NPS and RPS.
- 5.12 The Federation supports the specific recognition of the part that industry good practice has to play in achieving water quality goals. The Federation strongly supports industry-led non-regulatory methods for achieving the objectives of the NPS, but these should not be adopted as default regulation, as this would defeat the purpose of non-regulatory methods. The adoption of industry-led best practice would, in itself, would suggest meeting or exceeding the NPS objectives.
- 5.13 *Amend Policy 2 to exclude from the Schedule 1 process regional plans that already comply with the NPS and RPS.*

#### **5.14 Policy 3**

- 5.15 As in Policy 1 and Policy 2, the timeframes are too tight, and do not take into account the effect on councils and participants in the submission process.
- 5.16 As in Policy 1 and Policy 2, Policy 3 does not take into account situations where district plans may already comply with the NPS and RPS.

5.17 While we support the recognition of industry good practice as a way to achieve water quality goals, we are concerned with the focus on the effects of land use development rather than the effects of land use activities. Under the Act's enabling philosophy, activities should not be controlled but should be allowed as long as the effects from the activities on the environment can be avoided, mitigated, or remedied.

5.18 The protection of water resources from degradation, while a laudable intention, goes further than the RMA, which allows for a balancing of considerations and activities to occur as long as effects can be avoided, mitigated, or remedied. The balancing of considerations also gives local government the flexibility to take into account the achievability of goals.

5.19 *Amend Policy 3(b)(i) to be consistent with the RMA.*

## **5.20 Policies as to the preparation of policy statements and plans**

### **5.21 Policy 4 and 5**

5.22 The Federation is pleased to note the specific recognition of the needs of primary industry, economic considerations, and transition costs as matters for consideration in regional policy statements and plans.

## **6.0 Specific Comment on Section 32 Analysis**

6.1 The analysis assumes that the necessary reductions in agricultural discharges can be made and that those who will need to make reductions are all currently operating inefficiently. While some individuals may not be operating to best practice standards, many are operating to current best practice standards and any further reductions will therefore either be at a much higher cost to achieve or will not be achievable at all with currently available technology. By default, industry best practice will already be achieving the goals of the NPS. Industry best practice may also vary according to individual farm characteristics such as topography and need to provide water access for stock.

6.2 The Gisborne/Wairoa province is alarmed at the information provided by the Harris report and referred to on page 43 of the Section 32 Evaluation which estimates that measures to ensure a 10 per cent reduction in contaminated discharges would cost \$10,000 for each high-country farm. The cost is considerably more at \$25,000 if the property is within the catchment of an outstanding or sensitive water body. How would this cost be met when the actual farm profit before tax earnings for the national sheep and beef model farm of the year 2007-08 was \$19,268<sup>4</sup>? This is an important consideration as it is all about getting the balance right. Any course of action must be feasible, affordable and actually achieve the stated objectives when the reality is riparian planting is a luxury most hill country farmers can't afford.

6.3 The cost to sectors and the general public of participating in the public consultation for planning provisions has not been taken into account. This is

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<sup>4</sup> [http://www.maf.govt.nz/mafnet/rural-nz/statistics-and-forecasts/farm-monitoring/2008/sheep-and-beef/national/#P12\\_583](http://www.maf.govt.nz/mafnet/rural-nz/statistics-and-forecasts/farm-monitoring/2008/sheep-and-beef/national/#P12_583)

likely to be a significant cost, particularly for organisations such as Federated Farmers who will be participating on a national scale with many consultation processes likely to be occurring at the same time, placing significant strain on resources. As discussed above, individuals often do not have the capability to engage with the councils on such comprehensive consultation processes. Many of these individuals rely on member-led organisations, such as Federated Farmers, to engage in the consultation process on their behalf and in consultation with them, in order to have their views and circumstances represented to councils.

- 6.4 The listed benefit of opportunities for investment in and development of mitigation technologies is dubious and the economic cost of the investment has been discounted in favour of the possible long-term gain in efficiency. The agricultural sector is a proactive sector which is constantly developing new technology and practices to improve efficiency and reduce adverse effects. The opportunities for investment in and development of mitigation technologies is therefore already present and the NPS simply contributes a timeframe. The cost of not developing the necessary technology within that timeframe has also not been considered.
- 6.5 The listed economic benefits relating to consenting projects being aligned with regional policy statements and streamlining of consent applications are not benefits that are provided by the NPS. Consenting projects already have to be aligned with the regional policy statements and the regional and district plans already provide clear guidance on what is considered for a resource consent application, the NPS simply adds to the content of those documents.

## **7.0 Specific Comment on Definitions**

- 7.1 The Federation has some concern regarding the identification of outstanding water resources and “notable values”. Previous discussions around similar identification of values in section 6 of the RMA in respect to landscapes and native vegetation have lead to years of adversarial conflict, many of which have had to be resolved by the Environment Court. While the NPS defines notable values, the definition is vague and broad, so will not avoid the contention regarding interpretation that has been previously experienced. Further, the current definition doesn’t take into account the economic value of freshwater.
- 7.2 *Federated Farmers recommends using terms already defined in the RMA and backed with a body of interpretive case law.*