



Submission by Genesis Power Limited
Trading as Genesis Energy

ON

Submission by Genesis Energy on Proposed National Policy
Statement for Freshwater Management

23 January 2009

Submission by Genesis Power Limited

Trading as Genesis Energy

ON

Proposed National Policy Statement for Freshwater Management

To: Board of Inquiry – Proposed National
Policy Statement for Freshwater
Management

C/- PO Box 10362
Wellington 6143

Date: 23 January 2009

Name: Genesis Power Limited

Contact: Andrea Marshall

Manager Corporate Social Responsibility
and Environmental Strategy

Genesis Energy
PO Box 17-188
Greenlane
AUCKLAND

Phone: 09 580 2094

Fax: 04 580 4892

E-mail Andrea.marshall@genesisenergy.co.nz

1. Introduction

1. Genesis Power Limited, trading as Genesis Energy ("**Genesis Energy**"), welcomes the opportunity to submit on the Proposed National Policy Statement for Freshwater Management ("**Proposed NPS**").
2. Genesis Energy is a State Owned Enterprise with a diverse electricity generation portfolio and is one of New Zealand's largest energy retailers. Our total assets have the capacity to generate a total of 2049MW and include:
 - Hydro schemes (500MW) at Tongariro, Waikaremoana and Kourarau;
 - Hau Nui wind farm (8.6MW) in South Wairarapa; and
 - Huntly Power Station which incorporates four 250MW gas/coal units, one 400MW gas fired combined cycle gas turbine and a 48MW open cycle gas turbine.

2. Overview

3. Genesis Energy considers the Proposed NPS can be improved by:
 - a) Recognising the law in relation to non-derogation of existing resource consents;
 - b) Recognising physical resources and the value of investments through formal priority or a specific policy to address such pre-existing matters;
 - c) Defining the phrase "increased benefits" by reference to the contribution of the use of freshwater to social, economic and cultural wellbeing;
 - d) Recognising that adverse effects on quality and available quantity of freshwater can be appropriate if they are outweighed by the benefits of a particular activity, particularly where no practicable alternatives exist;
 - e) Recognising that there are practicalities which may hinder the adoption of industry good practice and technology for existing activities and infrastructure.
 - f) Achieving consistency with other national policies; and
 - g) Recognising that water based (contact) recreation/ swimmability is just one of a number of recreational values.

3. Submission

4. The detailed submissions of Genesis Energy on the Proposed NPS are contained in Appendix 1, while the proposed ('track change') amendments are set out in Appendix 2.
5. In summary, Genesis Energy believes:
 - a) The Proposed NPS promotes freshwater quality and efficient use generally. However, it also needs to recognise and ensure consistency with the law¹ in relation to non-derogation from existing resource consents.²
 - b) The Proposed NPS fails to adequately recognise the Resource Management Act 1991 ("RMA") directive to sustainably manage 'physical resources'³ and the value of investments that are dependent on the use of freshwater resources.⁴ The Proposed NPS should:
 - i. Provide for formal priority of all existing uses;
 - ii. Provide that lawfully established consented electricity generation activities that use freshwater and incorporate a substantial value of investment are entitled to priority over new uses of freshwater; or
 - iii. Include a specific policy or mandatory consideration recognising physical resources and the value of investments which are dependent on the use of freshwater resources.⁵
 - c) The Proposed NPS aims to facilitate opportunities to "increase benefits from the use of freshwater." This phrase should be defined by reference to the contribution of the use of freshwater to social, economic and cultural wellbeing, rather than simply the direct economic value of use of freshwater⁶;
 - d) The Proposed NPS appears to follow the incorrect premise that the RMA is a "no effects" statute, for example, by including prescriptive controls in relation to the quality and available quantity of freshwater resources. In accordance with the sustainable management purpose of the RMA,

¹ See *Aoraki Water Trust v Meridian Energy Trust Limited* [2005] 2 NZLR 268.

² See the Preamble, Objective 7 and Policy 1(g).

³ See section 5 of the RMA.

⁴ See section 104(2A) of the RMA.

⁵ See the Preamble, Objective 7, Policy 1(b), Policy 4(d) and (g), Policy 5(e) and Policy 6(a).

⁶ See the Preamble, Objective 7 and Policy 4(d).

adverse effects on quality and available quantity are appropriate if they are outweighed by the benefits of a particular activity, particularly where no practicable alternatives exist.⁷ The Proposed NPS inappropriately requires mandatory consideration of industry good practice, and resource consent conditions for industry good practice and technology. Consistent with recognition of physical resources and the value of investments (as set out at paragraphs a) and c)), the Proposed NPS should recognise the practicability of adopting industry good practice and technology for existing activities and infrastructure⁸;

- e) The Proposed NPS fails to demonstrate integration and consistency with other national policies, in particular national policies regarding energy ("Government Energy Policy").⁹ Furthermore, the RMA requires regional and district plans to "give effect to" national policy statements.¹⁰ Therefore, it is crucial that the Proposed NPS is consistent with the Proposed National Policy Statement for Renewable Electricity Generation, in order to avoid uncertainty as to application and excessive administrative costs.
- f) It is important that the Proposed NPS and the Proposed National Policy Statement for Renewable Electricity Generation are consistent to facilitate local authorities giving effect to both policies. Any inconsistency between national policy statements would lead to uncertainty as to how they will be applied, and result in increased administration costs; and
- g) The Proposed NPS expressly protects contact recreation / swimming. Such express reference inappropriately elevates the relative value of contact recreation / swimming, given that no other specific activity is expressly protected. It would be more appropriate to remove express references to contact recreation / swimming, so that it is provided for as a subset of recreational values or social/cultural wellbeing, and appropriately balanced with other interests in freshwater.¹¹

⁷ See Policy 2(c)(iii)(A) and (C), and Policy 3(b)(i) and (iii).

⁸ See Policy 2(c)(i) and Policy 5(b).

⁹ The Proposed National Policy Statement for Renewable Electricity Generation; the New Zealand Energy Strategy; and the New Zealand Energy Efficiency and Conservation Strategy.

¹⁰ Sections 67(3)(a) and 75(3)(a).

¹¹ See Preamble, Objective 3 and Policy 1(c).

4. Next Steps

Deferring Advancement of the Proposed NES on Ecological Flows and Water Levels

6. Integrated management under the RMA necessitates that the development of a national environmental standard should be integrated with a proposed national policy statement, to the extent they overlap. It is best regulatory practice for regulation to follow and implement agreed policy. Therefore, the overall policy framework should be set prior to selection of the implementation method(s).
7. As an NES is a regulatory tool to implement policy, the Proposed NES on Ecological Flows and Water Levels should not be finalised prior to the finalisation of the policies set out in the Proposed NPS. To do otherwise would create a real risk that the Proposed NES on Ecological Flows and Water Levels would be inconsistent with the Proposed NPS which in turn would result in regulatory uncertainty.
8. The Proposed NPS therefore should be finalised before the Proposed NES on Ecological Flows and Water Levels is progressed further.

Release of Draft NPS

9. Genesis Energy seeks that the Minister releases the specific wording of any NPS for review prior to Gazetting of the NPS. This would assist in mitigating any risk of drafting errors that may undermine the final NPS.

Hearing

10. Genesis Energy wishes to be heard in support of this submission.

Yours sincerely



Andrea Marshall
**Manager – Corporate Social Responsibility
and Environmental Strategy**

APPENDIX 1

DETAILED SUBMISSIONS BY GENESIS ENERGY ON SPECIFIC PROVISIONS

PREAMBLE

Provision

"All New Zealanders have a common interest in ensuring that the country's freshwater resources are managed wisely, in order to provide for present and future environmental, cultural, social and economic well-being of New Zealand.

Water is central to the social, economic and cultural well-being of many aspects of New Zealand's society. It has deep cultural meaning to all New Zealanders. It is also highly valued for its recreational aspects. It forms a vital input to many forms of economic activity, and most crucially underpins important parts of New Zealand's biodiversity and natural heritage. Many of New Zealand's freshwater bodies are iconic and well known globally for their natural beauty and intrinsic values. Understanding and managing threats to water with respect to the availability, quality, health and economic value are therefore fundamental to our well-being.

New Zealand now faces real challenges, of varying degrees and causes across regions, in ensuring there is sufficient water in our lakes, rivers, and aquifers; protecting freshwater ecosystems, in limiting and remediating degradation of water quality; and in ensuring that society gains the greatest benefit from the allocation of available water. For example, recent monitoring reported that only 60% of New Zealand's freshwater swimming spots tested met the New Zealand guidelines for water-based (contact) recreation almost all of the time. In addition, there is an incomplete understanding of how much water can be sustainably allocated and where it can best be used, and of how alternative land uses affect water quality and options for managing those effects. Those challenges, including those arising from climate change, are nationally significant. Key issues identified through previous consultation and hui regarding fresh water and freshwater management include water quality, allocation, ongoing engagement, and effective implementation of the RMA.

To respond effectively to these challenges and issues requires agreement on and balancing of cultural, ecological, economic and social goals for management of New Zealand's freshwater resources. Identifying sustainable targets for take and use of water, and achieving a smooth transition to them are not straightforward tasks. This National Policy Statement forms part of a suite of efforts to achieve that balance and deliver those targets.

The Treaty of Waitangi (Te Tiriti o Waitangi) is the underlying foundation of the Crown–Maori relationship with regard to

Freshwater Resources. This proposed National Policy Statement is one step in the process of addressing tangata whenua values and interests including the involvement of iwi and hapu in the management of fresh water. Additionally, the proposed National Policy Statement is a non-exhaustive step towards progressive strategies at the national and regional level in order to meet shared objectives in respect of the Freshwater Resources of New Zealand.

Given the central importance of Freshwater Resources to New Zealand and New Zealanders and in order to achieve the purpose of the RMA, the Crown recognises that there is a particular need for clear central government policy that directs local government to implement measures necessary to achieve the following goals:

- address existing and future constraints on the availability of Freshwater Resources
- address the effects of existing and future discharges of contaminants to Freshwater Resources
- provide more certainty in respect of competing demands on New Zealand's Freshwater Resources and facilitate opportunities to increase benefits from the use of Freshwater Resources, within the above constraints on availability and effects of discharges
- meet the recreational aspirations of New Zealanders, including that Freshwater Resources are swimmable
- address matters of national significance relating to the sustainable management of Freshwater Resources
- improve the integrated management of Freshwater Resources by territorial authorities, regional councils, and others whose activities affect Freshwater Resources.

In developing and applying measures, local government should aim wherever possible to provide flexibility in how these goals are achieved, so as to encourage and empower innovation and local solutions. It is expected that this National Policy Statement will have an immediate influence on RMA decision-making. It will also call for progressive improvement in the management of New Zealand's Freshwater Resources. Councils will be expected to make publically available information in this regard, which will be monitored and published as required under section 35 of the RMA. Each national state of the environmental report should demonstrate progress in achieving the goals of the NPS and show continuing improvements in the state of New Zealand's Freshwater Resources, including towards meeting contact recreation guidelines. This is in order that by 2035 the quality of these resources meets the aspirations of all New Zealanders. This date has been chosen as an ambitious yet achievable target, setting a balance between the need to make changes in a timely manner and the cost incurred by making those changes."

Submission

Importance of freshwater for electricity generation

1. The Preamble details the national significance of freshwater. In doing so, paragraph 2 of the preamble refers to freshwater as a "vital input to many forms of economic activity". In light of Government Energy Policy, it is appropriate to include a specific reference to the importance of freshwater for electricity generation.

Contact recreation / swimming

2. Through express reference to contact recreation / swimming the Preamble inappropriately elevates the relative value of contact recreation / swimming, given that no other specific activity is expressly protected. It would be more appropriate to remove express references to contact recreation / swimming, so that it is provided for as a subset of recreational values or social/cultural wellbeing, and appropriately balanced with other interests in freshwater.

"Benefits"

3. Within the goals listed in the Preamble is a reference to "facilitate opportunities to increase benefits from the use of Freshwater Resources". Section 2 of the RMA defines benefits to include benefits of any kind, whether monetary or non-monetary. Similarly, the purpose of the RMA refers to enabling "social, economic, and cultural wellbeing", and does not restrict the concept of benefits of use of resources to direct economic value. Furthermore, Policy 4(d) of the Proposed NPS refers to contribution to "social, economic and cultural well-being", and it is important that the preamble aligns with this policy.
4. Consistent with the RMA, the phrase "increase benefits from the use of freshwater" should be defined by reference to the contribution of the use of freshwater to social, economic and cultural wellbeing, rather than simply the direct economic value of use of freshwater. For example, the flow on benefits of electricity generation may exceed the benefits of other activities that generate a greater direct economic value from use of freshwater. The benefits of specific electricity generation activities are enhanced when scarcity of supply and contribution to security of supply are considered. Facilitation of opportunities to increase benefits must also recognise existing resource consents, physical resources (under section 5 of the RMA), and the value of investments that are dependent on the use of freshwater resources (under section 104(2A) of the RMA).

Relief sought

5. Genesis Energy seeks:

- (a) That paragraph 2 of the Preamble be amended as follows:
- "Water is central to the social, economic and cultural well-being of many aspects of New Zealand's society. It has deep cultural meaning to all New Zealanders. It is also highly valued for its recreational aspects. It forms a vital input to many forms of economic activity including electricity generation, and most crucially underpins important parts of New Zealand's biodiversity and natural heritage. ..."
- (b) Remove the reference to contact recreation / swimming from the goals listed in the Preamble, as follows:
- "meet the recreational aspirations of New Zealanders, ~~including that Freshwater Resources are swimmable~~
- (c) That a definition for "increase benefits" be inserted in the Proposed NPS as follows:
- "Increase Benefits from the Use of Freshwater" means to increase contribution to social, economic and cultural wellbeing."

OBJECTIVES

OBJECTIVE 3

Provision

"Objective 3 – Improving the quality of fresh water

To ensure the progressive enhancement of the overall quality of Freshwater Resources, including actions to ensure appropriate Freshwater Resources can reach or exceed a swimmable standard."

Submission

6. Objective 3 raises the concerns outlined at paragraph 2 above.

Relief sought

7. Genesis Energy seeks that Objective 3 be amended as follows:

"To ensure the progressive enhancement of the overall quality of Freshwater Resources, ~~including actions to ensure appropriate Freshwater Resources can reach or exceed a swimmable standard.~~"

OBJECTIVE 4

Provision

"Objective 4 – Recognising and protecting life supporting capacity and ecological values

To ensure the life supporting capacity and ecological values of Freshwater Resources are recognised and protected from inappropriate –

- (a) taking, use, damming or diverting of fresh water; and
- (b) Land-use Development; and
- (c) discharges of contaminants."

Submission

8. The language used in Objective 4 of the Proposed NPS differs from that of section 5 of the RMA, which refers to "safeguarding the life-supporting capacity of air, water, soil, and ecosystems...". The wording used in Objective 4 should be amended to achieve consistency with the RMA.

Relief sought

9. Genesis Energy seeks that Objective 4 be amended as follows:

"Objective 4 – Recognising and ~~protecting~~safeguarding life supporting capacity and ecological values

To ensure the life supporting capacity and ecological values of Freshwater Resources are recognised and ~~protected~~safeguarded from inappropriate –

- (a) taking, use, damming or diverting of fresh water; and
- (b) Land-use Development; and
- (c) discharges of contaminants."

OBJECTIVE 7

Provision

"Objective 7 – Efficient use of fresh water

To ensure that allocated fresh water is used efficiently particularly in terms of the following:

- (a) avoiding wastage:
- (b) avoiding excessive contamination:
- (c) facilitating opportunities to increase benefits from the use of fresh water."

Submission

10. Objective 7 raises the concerns outlined at paragraphs 2 and 4 above.

Relief sought

11. Genesis Energy seeks the relief set out in paragraph 5(c) above.

POLICIES

POLICY 1

Provision

"By the second anniversary of the date of commencement of this National Policy Statement, every regional council must notify, in accordance with Schedule 1 of the Act, a proposed regional policy statement or variation to a proposed regional policy statement or change to its operative regional policy statement in order that as soon as practicable thereafter every regional policy statement specifies objectives, policies and methods which –

- (a) Determine and timetable priorities for when regional plans will set Freshwater Quality Standards and Environmental Flows and Levels for all Freshwater Resources of the region; and
- (b) Identify Notable Values (including potential values) of –
 - (i) Any Outstanding Freshwater Resources; and
 - (ii) Any Degraded Freshwater Resources; and
- (c) In accordance with Policy 1(a) and (b), guide and direct the setting in regional plans for all Freshwater Resources of the region of –
 - (i) Freshwater Quality Standards; and
 - (ii) Environmental Flows and Levels;

including for the protection of Notable Values of any Outstanding Freshwater Resources and the enhancement or restoration of Notable Values of any Degraded Freshwater Resources; and
- (d) Guide and direct local authorities as to the involvement of iwi and hapu in the management of, and decision-

making regarding, all Freshwater Resources of the region, including but not limited to, requiring local authorities to disclose how they are intending to achieve this involvement; and

- (e) Identify Tangata Whenua Values and Interests in respect of all Freshwater Resources of the region; and
- (f) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) in relation to the recognition of Tangata Whenua Values and Interests in respect of all Freshwater Resources of the region; and
- (g) Guide and direct regional plans (including considerations for the determination of resource consent applications) to restrict existing takes, uses, damming and diversion of fresh water in order to sustain Notable Values and non-consumptive Tangata Whenua Values and Interests in times of low flow; and
- (h) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to effectively manage Land-use Development and discharges of contaminants to control the adverse effects of the discharge of contaminants into fresh water or onto or into land in circumstances where contaminants may enter fresh water; and
- (i) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to manage demands for fresh water, including demands arising from Land-use Development and discharges of contaminants, in a manner which –
 - (i) Provides certainty to communities and water users (including as appropriate through prioritisation of allocation for takes of fresh water for reasonably foreseeable Consumptive Use); and
 - (ii) Provides priority for reasonably foreseeable domestic water supply, over other competing demands, provided that appropriate demand strategies are established for such supply; and
 - (iii) Promotes efficient Freshwater use (including through the transferability of resource consents, where appropriate); and
 - (iv) Increases resilience to the effects of climate change; and
 - (v) Controls adverse effects; and

- (j) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to ensure integrated management of the effects of Land-use Development –
 - (i) by encouraging co-ordination and sequencing of infrastructure for supply, storage and distribution of fresh water; and
 - (ii) by controlling adverse effects (including associated discharges of contaminants) on the quality and available quantity of Freshwater Resources."

Submission

Electricity generation values

12. Paragraph (b) of Policy 1 provides for the identification of notable values of outstanding freshwater resources and degraded freshwater resources. As defined, notable values relate specifically to scientific, ecological, biodiversity, cultural and recreational values. There is no corresponding provision in the Proposed NPS for the identification of values associated with appropriate use and development of freshwater resources, such as electricity generation values. Consistent with the purpose of the RMA it is appropriate to identify appropriate use and development values, as well as the categories of notable values listed in the Proposed NPS. Furthermore, specific identification of electricity generation values is supported by Government Energy Policy.

Restricting existing activities

13. Paragraph (g) of Policy 1 provides for restricting existing activities in order to "sustain notable values and non-consumptive tangata whenua values and interests in times of low flow". There is a risk that the requirement to sustain values could be interpreted as empowering a decision-maker to restrict activities undertaken pursuant to an existing resource consent. It is important that paragraph (g) of Policy 1 is consistent with the law in relation to non-derogation from existing resource consents.¹

Demand management strategies

14. Paragraph (i) of Policy 1 provides for demand management strategies, including through prioritisation of reasonably foreseeable consumptive use. Genesis Energy supports appropriate demand management strategies. It is important that guidance on managing demands is consistent with the law in relation to non-derogation from existing resource consents, and recognises the existing physical environment

¹ See *Aoraki Water Trust v Meridian Energy Trust Limited* [2005] 2 NZLR 268.

(section 5 of the RMA) and the value of investments (section 104(2A) of the RMA). Consistent with prioritisation of reasonably foreseeable consumptive use, and recognising the existing physical environment and the value of investments, the Proposed NPS should protect re-consenting of existing consented activities.

"Efficient freshwater use"

15. Paragraph (i) of Policy 1 also refers for promoting "efficient freshwater use". This raises the same concerns as the phrase "increase benefits from the use of freshwater resources" as set out at paragraphs 2 and 4 above. Consistent with the RMA, the phrase "efficient freshwater use" should be defined by reference to the contribution of the use of freshwater to social, economic and cultural wellbeing, rather than simply the direct economic value of use of freshwater.

Relief sought

16. Genesis Energy seeks:
- (a) The insertion of a new paragraph in Policy 1 regarding electricity generation values:
- (c) Identify Electricity Generation Values of freshwater resources; and"
- (b) The insertion of the following definition of electricity generation values:
- "Electricity Generation Values"** in relation to any Freshwater Resource includes:
- (a) The potential for the Freshwater Resource to be used for ongoing operation of existing hydro-electric generation activities.
- (b) The potential for the Freshwater Resource to be used for new hydro-electric generation activities.
- (c) The potential for the Freshwater Resource to be used for ongoing operation of existing thermal generation activities."
- (c) The insertion of a new policy regarding non-derogation from existing resource consents:
- "Policy 1**
- Nothing in this national policy statement empowers a decision-maker to do anything that would lessen or diminish the rights of a consent holder under an existing resource consent."

(d) Amendments regarding the physical environment and the value of investments:

(i) Primarily, Genesis Energy seeks the insertion of the following new policy:

"Policy 2

Decision-makers shall attribute priority status to resource consent applications for activities undertaken pursuant to existing resource consents, over other resource consent applications."

(ii) Alternatively, Genesis Energy seeks the insertion of the following new policy:

"Policy 2

Decision-makers shall attribute priority status to resource consent applications for electricity generation activities undertaken pursuant to existing resource consents, over other resource consent applications."

(iii) If neither of the above policies are inserted in the Proposed NPS, Genesis Energy seeks the insertion of the following new policy:

"Policy 2

In managing freshwater resources, decision-makers must have regard to the existence of physical resources and the value of investments dependent on the use of freshwater resources."

(e) The insertion of the following definition of "efficient freshwater use":

"Efficient Freshwater Use" means the maximisation of the contribution to social, economic and cultural wellbeing from the use of freshwater resources."

POLICY 2

Provision

"Every regional council must –

(a) By the date or dates specified in the regional policy statement, notify a proposed regional plan, change or variation, to set Freshwater Quality Standards and Environmental Flows and Levels for the Outstanding, Degraded and other Freshwater Resources of the region to give effect to the regional policy statement in relation to the matters in Policies 1(a) to (c); and

- (b) By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 1 is made operative, every regional council must notify a proposed regional plan, change or variation to give effect to the regional policy statement in relation to all other matters in Policy 1; and
- (c) By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 1 is made operative, every regional council must notify a proposed regional plan, change or variation to include rules to achieve the following:
 - (i) Require that all water permits for the Consumptive Use of fresh water granted after the date of commencement of this National Policy Statement include conditions for the efficient Consumptive Use of fresh water including, as a minimum, providing for the use of industry good practice and technology to achieve efficient use:
 - (ii) Require that all water permits for the Consumptive Use of fresh water granted after the date of commencement of this National Policy Statement include conditions for, where appropriate, the return of fresh water to Freshwater Resources, in order to achieve the requirements of paragraph (a) of this Policy:
 - (iii) Require that all discharge permits affecting Freshwater Resources granted after the date of commencement of this National Policy Statement include conditions for –
 - (A) Protection against degradation of the quality of fresh water of Freshwater Resources (including through the management of activities giving rise to stormwater discharges); and
 - (B) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative; and
 - (C) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources; to be achieved, as a minimum, by the use of industry good practice:

- (iv) Require effective monitoring and reporting on matters relating to paragraphs (c)(i), (ii) and (iii) of this Policy."

Submission

Industry good practice and technology

17. Paragraph (c)(i) of Policy 2 requires resource consent conditions for "industry good practice and technology to achieve efficient use". Consistent with recognition of physical resources (section 5 of the RMA) and the value of investments (section 104(2A) of the RMA), the Proposed NPS should recognise the practicability of adopting industry good practice and technology for existing activities and infrastructure.

Required consent conditions

18. Paragraphs (c)(iii)(A) and (c)(iii)(C) of Policy 2 require resource consent conditions for protection against degradation of water quality and integrated management of the effects of discharges of contaminants. It is important the Proposed NPS recognises that the RMA is not a "no effects" regime. In accordance with the sustainable management purpose of the RMA, adverse effects on quality and available quantity are appropriate if they are outweighed by the benefits of a particular activity, particularly where no practicable alternatives exist. Consistent with the wording of Policy 6, Policy 2 should not require conditions where they are inappropriate.

Relief sought

19. Genesis Energy seeks:
 - (a) Amendments to paragraph (c)(i) of Policy 2 as follows:
 - "(i) Require that all water permits for the Consumptive Use of fresh water granted after the date of commencement of this National Policy Statement include conditions for the efficient Consumptive Use of fresh water including, as a minimum, providing for the use of industry good practice and technology (where practicable) to achieve efficient use:"
 - (b) Amendments to paragraph (c)(iii) of Policy 2 as follows:
 - "(iii) Require that, unless inappropriate, all discharge permits affecting Freshwater Resources granted after the date of commencement of this National Policy Statement include conditions for –
 - (A) Protection against degradation of the quality of fresh water of Freshwater Resources (including through the management of

activities giving rise to stormwater discharges); and

- (B) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative; and
- (C) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources; to be achieved, as a minimum, by the use of industry good practice:"

POLICY 3

Provision

"By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 1 is made operative, every territorial authority must notify a proposed district plan, change or variation in order that as soon as practicable thereafter every district plan –

- (a) Gives effect to the regional policy statement; and
- (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 (including through the management of activities giving rise to stormwater discharges); and
 - (ii) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative; and
 - (iii) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources; and

to be achieved, as a minimum, by the use of industry good practice; and
- (c) Includes rules to require that all relevant land-use and subdivision consents granted after the commencement of this National Policy Statement include conditions to require monitoring and reporting on matters relating to paragraph (b)."

Submission

Required consent conditions

20. Paragraphs (b)(i) and (b)(iii) of Policy 3 require resource consent conditions for protection against degradation of water quality and integrated management of the effects of discharges of contaminants. This raises the concerns outlined at paragraph 18 above.

"Industry good practice"

21. Paragraph (b) of Policy 3 requires resource consent conditions for the use of "industry good practice". This raises the concerns outlined at paragraph 17 above.

Relief sought

22. Genesis Energy seeks amendments to paragraph (b) of Policy 3 as follows:

"(b) Includes rules to require that, unless inappropriate, 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 (including through the management of activities giving rise to stormwater discharges); and
- (ii) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative; and
- (iii) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources; and

to be achieved, as a minimum, by the use of industry good practice where practicable; and"

POLICY 4

Provision

"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:
- (c) The needs of primary and secondary industry and communities for sustainable fresh water supply:
- (d) The contribution of existing and potential uses of Freshwater Resources and of existing economic investment to regional and national social, economic and cultural well-being:
- (e) The importance of avoiding over-allocation of Freshwater for Consumptive Use:
- (f) Tangata Whenua Values and Interests:
- (g) Social and economic transition costs:
- (h) The value of swimmability to the community."

Submission

Contribution to social, economic and cultural wellbeing

23. Paragraph (d) of Policy 4 recognises the contribution of use of freshwater resources to social, economic and cultural wellbeing, and is strongly supported by Genesis Energy.

Social and economic transition costs

24. Paragraph (g) of Policy 4 requires consideration of "social and economic transition costs" and is consistent with considerations of physical resources (section 5 of the RMA) and the value of investment (section 104(2A)) of the RMA. Paragraph (g) therefore is strongly supported by Genesis Energy.

Contact recreation / swimming

25. Paragraph (h) refers to "swimmability" and raises the concerns outlined at paragraph 2 above.

Regard to existing consents

26. Some existing resource consents contain limits that have been derived through extensive and thorough resource consent processes under the RMA with input from multiple parties, for example, Genesis Energy's Tongariro Power Scheme. In these cases the resource consent limits are robust and provide the most appropriate limits in the consent location and the relevant catchment. In these cases, setting different environmental flows in regional plans may be unnecessary and may undermine effective water management methods that have already been

established through existing resource consent processes. In setting environmental flows and limits, regional councils should take into account any environmental flows and other methods contained in existing resource consents that have been derived through extensive RMA processes.

Relief sought

27. Genesis Energy seeks:

- (a) The deletion of paragraph (h) of Policy 4.
- (b) The insertion of a new paragraph in Policy 4 as follows:

"In recognising general policies 1 and 2, the detail of and basis for any environmental flows and limits or water quality standards or other methods contained in existing resource consents."

POLICY 5

Provision

"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:
- (b) The importance of ensuring that the planning and implementation of Land-use Development applies industry good practice in order to –
 - (i) Minimise the adverse effects on the quality and available quantity of Freshwater Resources; and
 - (ii) Maximise efficiency in the use of Freshwater Resources:
- (c) The importance of ensuring that the planning for and implementation of infrastructure for water supply, wastewater treatment and stormwater are undertaken –
 - (i) In an integrated manner; and
 - (ii) At a rate that, as a minimum, keeps pace with the rate of Land-use Development:
- (d) Tangata Whenua Values and Interests:
- (e) Social and economic transition costs."

Submission

"Industry good practice"

28. Paragraph (b) of Policy 5 requires consideration of the application of "industry good practice". This raises the concerns outlined at paragraph 17 above.

Social and economic transition costs

29. Paragraph (e) of Policy 5 requires consideration of "social and economic transition costs" and is consistent with considerations of physical resources (section 5 of the RMA) and the value of investment (section 104(2A)) of the RMA. Paragraph (e) therefore is strongly supported by Genesis Energy.

Relief sought

30. Genesis Energy seeks amendments to paragraph (b) of Policy 5 as follows:

- "(b) The importance of ensuring that the planning and implementation of Land-use Development applies industry good practice where practicable in order to –
- (i) Minimise the adverse effects on the quality and available quantity of Freshwater Resources; and
 - (ii) Maximise efficiency in the use of Freshwater Resources:"

POLICY 6

Provision

"Without limiting Policies 1 to 3, this National Policy Statement will be achieved also through the inclusion, unless inappropriate, of conditions on any relevant resource consents granted and recommendations on designations confirmed in respect of the following:

- (a) Efficient Consumptive Use of fresh water (including where appropriate, the return of fresh water to Freshwater Resources):
- (b) Protection against degradation of the quality of Freshwater Resources (including through the management of activities giving rise to stormwater discharges):
- (c) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative:

- (d) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources:

to be achieved, as a minimum, by the use of industry good practice:
- (e) Monitoring and reporting on matters relating to paragraphs (a) to (d)."

Submission

31. Paragraph (a) of Policy 6 refers to "efficient consumptive use". This raises the same concerns as the phrase "increase benefits from the use of freshwater resources" as set out at paragraphs 2 and 4 above. Consistent with the RMA, the phrase "efficient consumptive use" should be defined by reference to the contribution of the use of freshwater to social, economic and cultural wellbeing, rather than simply the direct economic value of use of freshwater.

Relief sought

32. Genesis Energy seeks the insertion of the following definition of "efficient consumptive use":

"**Efficient Consumptive Use**" means the maximisation of the contribution to social, economic and cultural wellbeing from consumptive use."

DEFINITIONS

"Environmental flows and water levels"

Provision

"**Environmental Flows and Water Levels**" means a regional rule to prevent the allocation for Consumptive Use of Freshwater Resources necessary for the purposes of protecting, maintaining, enhancing or restoring Notable Values of the relevant Freshwater Resource."

Submission

33. The definition of "environmental flows and water levels" inappropriately refers to preventing allocation. The purpose of "environmental flows and water levels" is not to prevent the grant of any resource consent allocating freshwater resources, but to restrict the level of allocation of freshwater resources.

Relief sought

34. Genesis Energy seeks amendments to the definition as follows:

"**Environmental Flows and Water Levels**" means a regional rule to ~~prevent~~ restrict the level of allocation for Consumptive Use of Freshwater Resources necessary for the purposes of protecting, maintaining, enhancing or restoring Notable Values of the relevant Freshwater Resource."

"Notable values"

Provision

"**Notable Values**" in relation to any Freshwater Resource includes:

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

Submission

35. The definition of "notable values" refers to contact recreation / swimming and raises the concerns outlined at paragraph 2 above.

Relief sought

36. Genesis Energy seeks amendments to the definition as follows:

"**Notable Values**" in relation to any Freshwater Resource includes:

- (a) Scientific, ecological and biodiversity values:
- (b) Cultural values:
- (c) Recreational (~~including contact recreational; e.g,~~ ~~swimming~~) values."

"Outstanding freshwater resources"

Provision

"**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."

Submission

37. The Proposed NPS inappropriately requires protection by reference to "outstanding freshwater resources" that are defined without any reference to use and development. This definition does not provide the proper balance between protection and appropriate use and development that is sought to be achieved by the RMA and therefore is

subjective in nature. Consistent with the purpose of the RMA and in light of Government Energy Policy it is appropriate to consider the electricity generation values of a freshwater resource when defining outstanding freshwater resources that require protection.

Relief sought

38. Genesis Energy seeks amendments to the definition as follows:

"Outstanding Freshwater Resources" means those Freshwater Resources of a region whose Notable Values, ~~and/or Tangata Whenua Values and Interests, and/or Electricity Generation Values~~ are such ~~as to~~ that it is appropriate to require ~~that~~ priority be given to protection in order to achieve the purpose of the Act."

APPENDIX 2

AMENDMENTS TO THE PROPOSED NPS SOUGHT BY GENESIS ENERGY

Proposed National Policy Statement for Freshwater Management

Preamble

All New Zealanders have a common interest in ensuring that the country's freshwater resources are managed wisely, in order to provide for present and future environmental, cultural, social and economic well-being of New Zealand.

Water is central to the social, economic and cultural well-being of many aspects of New Zealand's society. It has deep cultural meaning to all New Zealanders. It is also highly valued for its recreational aspects. It forms a vital input to many forms of economic activity including electricity generation, and most crucially underpins important parts of New Zealand's biodiversity and natural heritage. Many of New Zealand's freshwater bodies are iconic and well known globally for their natural beauty and intrinsic values. Understanding and managing threats to water with respect to the availability, quality, health and economic value are therefore fundamental to our well-being.

New Zealand now faces real challenges, of varying degrees and causes across regions, in ensuring there is sufficient water in our lakes, rivers, and aquifers; protecting freshwater ecosystems, in limiting and remediating degradation of water quality; and in ensuring that society gains the greatest benefit from the allocation of available water. For example, recent monitoring reported that only 60% of New Zealand's freshwater swimming spots tested met the New Zealand guidelines for water-based (contact) recreation almost all of the time. In addition, there is an incomplete understanding of how much water can be sustainably allocated and where it can best be used, and of how alternative land uses affect water quality and options for managing those effects. Those challenges, including those arising from climate change, are nationally significant. Key issues identified through previous consultation and hui regarding fresh water and freshwater management include water quality, allocation, ongoing engagement, and effective implementation of the RMA.

To respond effectively to these challenges and issues requires agreement on and balancing of cultural, ecological, economic and social goals for management of New Zealand's freshwater resources. Identifying sustainable targets for take and use of water, and achieving a smooth transition to them, are not straightforward tasks. This National Policy Statement forms part of a suite of efforts to achieve that balance and deliver those targets.

The Treaty of Waitangi (Te Tiriti o Waitangi) is the underlying foundation of the Crown–Māori relationship with regard to Freshwater Resources. This proposed National Policy Statement is one step in the process of addressing tangata whenua values and interests including the involvement of iwi and hapū in the management of fresh water. Additionally, the proposed National Policy Statement is a non-exhaustive step towards

progressive strategies at the national and regional level in order to meet shared objectives in respect of the Freshwater Resources of New Zealand.

Given the central importance of Freshwater Resources to New Zealand and New Zealanders and in order to achieve the purpose of the RMA, the Crown recognises that there is a particular need for clear central government policy that directs local government to implement measures necessary to achieve the following goals:

- address existing and future constraints on the availability of Freshwater Resources
- address the effects of existing and future discharges of contaminants to Freshwater Resources
- provide more certainty in respect of competing demands on New Zealand's Freshwater Resources and facilitate opportunities to increase benefits from the use of Freshwater Resources, within the above constraints on availability and effects of discharges
- meet the recreational aspirations of New Zealanders, ~~including that Freshwater Resources are swimmable~~
- address matters of national significance relating to the sustainable management of Freshwater Resources
- improve the integrated management of Freshwater Resources by territorial authorities, regional councils, and others whose activities affect Freshwater Resources.

In developing and applying measures, local government should aim wherever possible to provide flexibility in how these goals are achieved, so as to encourage and empower innovation and local solutions. It is expected that this National Policy Statement will have an immediate influence on RMA decision-making. It will also call for progressive improvement in the management of New Zealand's Freshwater Resources. Councils will be expected to make publicly available information in this regard, which will be monitored and published as required under section 35 of the RMA. Each national state of the environmental report should demonstrate progress in achieving the goals of the NPS and show continuing improvements in the state of New Zealand's Freshwater Resources, including towards meeting contact recreation guidelines. This is in order that by 2035 the quality of these resources meets the aspirations of all New Zealanders. This date has been chosen as an ambitious yet achievable target, setting a balance between the need to make changes in a timely manner and the cost incurred by making those changes.

Purpose

The purpose of this National Policy Statement is to state inter-related and integrated objectives and policies as to the management of Freshwater Resources as a matter of national significance that is relevant to achieving the purpose of the Act.

Objectives

Objective 1 – Enabling well-being of people and communities

To ensure that Freshwater Resources are managed in a way that enables the people and communities of New Zealand to provide for their social, economic and cultural well-being, and their health and safety.

Objective 2 – Ensuring integrated management of effects on fresh water

To ensure effective integrated management (including by the co-ordination and sequencing of Land-use Development with investment in infrastructure for supply, storage and distribution of fresh water) of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of fresh water.

Objective 3 – Improving the quality of fresh water

To ensure the progressive enhancement of the overall quality of Freshwater Resources, ~~including actions to ensure appropriate Freshwater Resources can reach or exceed a swimmable standard.~~

Objective 4 – Recognising and ~~protecting~~safeguarding life supporting capacity and ecological values

To ensure the life supporting capacity and ecological values of Freshwater Resources are recognised and ~~protected~~safeguarded from inappropriate –

- (a) taking, use, damming or diverting of fresh water; and
- (b) Land-use Development; and
- (c) discharges of contaminants.

Objective 5 – Addressing freshwater degradation

To control the effects of Land-use Development and discharges of contaminants to avoid further degradation of Freshwater Resources.

Objective 6 – Managing demand for fresh water

To ensure that demands (including social, economic and cultural 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 resilience against the biophysical effects of climate change (such as through infrastructure for supply, storage and distribution of fresh water):

- (c) the adverse effects that arise from those demands.

Objective 7 – Efficient use of fresh water

To ensure that allocated fresh water is used efficiently particularly in terms of the following:

- (a) avoiding wastage:
- (b) avoiding excessive contamination:
- (c) facilitating opportunities to increase benefits from the use of fresh water.

Objective 8 – Iwi and hapū roles and Tangata Whenua Values and Interests

To ensure that iwi and hapū are involved, and Tangata Whenua Values and Interests are identified and reflected, in the management of Freshwater Resources including the matters specified in Objectives 1–7.

Objective 9 – Ensuring effective monitoring and reporting

To ensure that regional councils and territorial authorities undertake effective monitoring and reporting of the matters specified in Objectives 1–8.

General Policies

Policy 1

Nothing in this national policy statement empowers a decision-maker to do anything that would lessen or diminish the rights of a consent holder under an existing resource consent.

Policy 2

Decision-makers shall attribute priority status to resource consent applications for activities undertaken pursuant to existing resource consents, over other resource consent applications.

Policies as to regional policy statements

Policy 43

By the second anniversary of the date of commencement of this National Policy Statement, every regional council must notify, in accordance with Schedule 1 of the Act, a proposed regional policy statement or variation to a proposed regional policy statement or change to its operative regional policy statement in order that as soon as

practicable thereafter every regional policy statement specifies objectives, policies and methods which –

- (a) Determine and timetable priorities for when regional plans will set Freshwater Quality Standards and Environmental Flows and Levels for all Freshwater Resources of the region; and
- (b) Identify Notable Values (including potential values) of –
 - (i) Any Outstanding Freshwater Resources; and
 - (ii) Any Degraded Freshwater Resources; and
- (c) Identify Electricity Generation Values of freshwater resources; and
- (d) In accordance with Policy 1(a) and (b), guide and direct the setting in regional plans for all Freshwater Resources of the region of –
 - (i) Freshwater Quality Standards; and
 - (ii) Environmental Flows and Levels;

including for the protection of Notable Values of any Outstanding Freshwater Resources and the enhancement or restoration of Notable Values of any Degraded Freshwater Resources; and

- ~~(de)~~ Guide and direct local authorities as to the involvement of iwi and hapū in the management of, and decision-making regarding, all Freshwater Resources of the region, including but not limited to, requiring local authorities to disclose how they are intending to achieve this involvement; and
- ~~(ef)~~ Identify Tangata Whenua Values and Interests in respect of all Freshwater Resources of the region; and
- ~~(fg)~~ Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) in relation to the recognition of Tangata Whenua Values and Interests in respect of all Freshwater Resources of the region; and
- ~~(gh)~~ Guide and direct regional plans (including considerations for the determination of resource consent applications) to restrict existing takes, uses, damming and diversion of fresh water in order to sustain Notable Values and non-consumptive Tangata Whenua Values and Interests in times of low flow; and
- ~~(hi)~~ Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to effectively manage Land-use Development and discharges of contaminants to control the adverse effects of the discharge of contaminants into fresh water or onto or into land in circumstances where contaminants may enter fresh water; and
- ~~(ij)~~ Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to

manage demands for fresh water, including demands arising from Land-use Development and discharges of contaminants, in a manner which –

- (i) Provides certainty to communities and water users (including as appropriate through prioritisation of allocation for takes of fresh water for reasonably foreseeable Consumptive Use); and
 - (ii) Provides priority for reasonably foreseeable domestic water supply, over other competing demands, provided that appropriate demand strategies are established for such supply; and
 - (iii) Promotes efficient Freshwater use (including through the transferability of resource consents, where appropriate); and
 - (iv) Increases resilience to the effects of climate change; and
 - (v) Controls adverse effects; and
- (jk) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to ensure integrated management of the effects of Land-use Development –
- (i) by encouraging co-ordination and sequencing of infrastructure for supply, storage and distribution of fresh water; and
 - (ii) by controlling adverse effects (including associated discharges of contaminants) on the quality and available quantity of Freshwater Resources.

Policies as to regional and district plans

Policy 24

Every regional council must –

- (a) By the date or dates specified in the regional policy statement, notify a proposed regional plan, change or variation, to set Freshwater Quality Standards and Environmental Flows and Levels for the Outstanding, Degraded and other Freshwater Resources of the region to give effect to the regional policy statement in relation to the matters in Policies 43(a) to (c); and
- (b) By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 43 is made operative, every regional council must notify a proposed regional plan, change or variation to give effect to the regional policy statement in relation to all other matters in Policy 43; and
- (c) By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 43 is made operative, every regional council must notify a proposed regional plan, change or variation to include rules to achieve the following:

- (i) Require that all water permits for the Consumptive Use of fresh water granted after the date of commencement of this National Policy Statement include conditions for the efficient Consumptive Use of fresh water including, as a minimum, providing for the use of industry good practice and technology to achieve efficient use (where practicable):
- (ii) Require that all water permits for the Consumptive Use of fresh water granted after the date of commencement of this National Policy Statement include conditions for, where appropriate, the return of fresh water to Freshwater Resources, in order to achieve the requirements of paragraph (a) of this Policy:
- (iii) Require that unless inappropriate, all discharge permits affecting Freshwater Resources granted after the date of commencement of this National Policy Statement include conditions for –
 - (A) Protection against degradation of the quality of fresh water of Freshwater Resources (including through the management of activities giving rise to stormwater discharges); and
 - (B) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative; and
 - (C) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources;

to be achieved, as a minimum, by the use of industry good practice:
- (iv) Require effective monitoring and reporting on matters relating to paragraphs (c)(i), (ii) and (iii) of this Policy.

Policy 35

By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 43 is made operative, every territorial authority must notify a proposed district plan, change or variation in order that as soon as practicable thereafter every district plan –

- (a) Gives effect to the regional policy statement; and
- (b) Includes rules to require that, unless inappropriate, 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 (including through the management of activities giving rise to stormwater discharges); and

- (ii) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative; and
 - (iii) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources; and to be achieved, as a minimum, by the use of industry good practice where practicable; and
- (c) Includes rules to require that all relevant land-use and subdivision consents granted after the commencement of this National Policy Statement include conditions to require monitoring and reporting on matters relating to paragraph (b).

Policies as to the preparation of policy statements and plans

Policy 46

When preparing a regional policy statement or variation or change to give effect to Policy 43 and when preparing a regional plan or variation or change to give effect to Policy 24, 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:
- (c) The needs of primary and secondary industry and communities for sustainable fresh water supply:
- (d) The contribution of existing and potential uses of Freshwater Resources and of existing economic investment to regional and national social, economic and cultural well-being:
- (e) The importance of avoiding over-allocation of Freshwater for Consumptive Use:
- (f) Tangata Whenua Values and Interests:
- (g) Social and economic transition costs:
- ~~(h) The value of swimmability to the community.~~
- (h) In recognising general policies 1 and 2, the detail of and basis for any environmental flows and limits or water quality standards or other methods contained in existing resource consents.

Policy 57

When preparing a district plan or variation or change to give effect to Policy 35, 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:
- (b) The importance of ensuring that the planning and implementation of Land-use Development applies industry good practice where practicable in order to –
 - (i) Minimise the adverse effects on the quality and available quantity of Freshwater Resources; and
 - (ii) Maximise efficiency in the use of Freshwater Resources:
- (c) The importance of ensuring that the planning for and implementation of infrastructure for water supply, wastewater treatment and stormwater are undertaken–
 - (i) In an integrated manner; and
 - (ii) At a rate that, as a minimum, keeps pace with the rate of Land-use Development:
- (d) Tangata Whenua Values and Interests:
- (e) Social and economic transition costs.

Policy as to certain consents and designations

Policy 68

Without limiting Policies 43 to 35, this National Policy Statement will be achieved also through

the inclusion, unless inappropriate, of conditions on any relevant resource consents granted and recommendations on designations confirmed in respect of the following:

- (a) Efficient Consumptive Use of fresh water (including where appropriate, the return of fresh water to Freshwater Resources):
- (b) Protection against degradation of the quality of Freshwater Resources (including through the management of activities giving rise to stormwater discharges):
- (c) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative:
- (d) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources:

to be achieved, as a minimum, by the use of industry good practice:

- (e) Monitoring and reporting on matters relating to paragraphs (a) to (d).

Policy as to non-regulatory methods

Policy ~~7~~9

In addition to giving effect to Policies ~~4~~3 to ~~3~~5 and Policy ~~6~~8 by regulatory means, regional councils and territorial authorities may give effect to this National Policy Statement through non-regulatory methods (including financial contributions, development contributions under the Local Government Act 2002 and other methods).

Policy as to information

Policy ~~8~~10

All local authorities will make publicly available (including electronically) a record of the process used to identify the Tangata Whenua Values and Interests in Freshwater Resources of the region as required to give effect to Policy ~~4~~3(e), including the identification of the relevant iwi and hapū.

All local authorities will assist the Minister for the Environment by making publicly available (including electronically) an up-to-date register of the regulatory and non-regulatory methods to give this National Policy Statement full effect.

Review of this National Policy Statement

Policy ~~9~~11

The Minister for the Environment will seek an independent review of the implementation and effectiveness of this National Policy Statement at achieving all the objectives and policies of the National Policy Statement no later than 10 years after it comes into force and shall then consider the need to review, change or revoke this statement. Collection of data to inform this review will begin at least two years prior to the review.

Definitions

In this National Policy Statement:

“**Act**” means the Resource Management Act 1991.

“**Consumptive Use**” means any use of fresh water that alters the flows and or levels in a Freshwater Resource on either a temporary or permanent basis, including:

- storage and later release downstream of fresh water:

- permitted activities:
- takes under section 14(3)(b) and (e) of the Act:

but excludes any water that is returned to the same Freshwater Resource at or about the same location and which does not affect the spatial or temporal availability, or the physical, chemical or biological quality, of the fresh water.

"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.

"Efficient Consumptive Use" means the maximisation of the contribution to social, economic and cultural wellbeing from consumptive.

"Efficient Freshwater Use" means the maximisation of the contribution to social, economic and cultural wellbeing from the use of freshwater resources.

"Electricity Generation Values" in relation to any Freshwater Resource includes:

- (a) The potential for the Freshwater Resource to be used for ongoing operation of existing hydro-electric generation activities.
- (b) The potential for the Freshwater Resource to be used for new hydro-electric generation activities.
- (c) The potential for the Freshwater Resource to be used for ongoing operation of existing thermal generation activities.

"Environmental Flows and Water Levels" means a regional rule to ~~prevent~~restrict the level of allocation for Consumptive Use of Freshwater Resources necessary for the purposes of protecting, maintaining, enhancing or restoring Notable Values of the relevant Freshwater Resource.

Freshwater Quality Standard" means a regional rule on freshwater quality which gives effect to this National Policy Statement.

"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].

"Increase Benefits from the Use of Freshwater" means to increase contribution to social, economic and cultural wellbeing.

"Land-use Development" includes land-use intensification, land-use change, and subdivision of land.

"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.

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