



**Submission on the Proposed National  
Policy Statement for Freshwater  
Management**

From

**Contact Energy Limited**

23 January 2009

## Proposed National Policy Statement for Freshwater Management

To:

The Chairperson

Board of Inquiry

Proposed Freshwater Management NPS

c/o PO Box 10362

Wellington 6143

By email to: [freshwatermps@mfe.govt.nz](mailto:freshwatermps@mfe.govt.nz)

1. This is a submission on the proposed National Policy Statement for Freshwater Management by Contact Energy Limited ("Contact").
2. This submission relates to the Objective and Policies in the Proposed National Policy Statement for Freshwater Management.
3. Contact's submissions are set out in Parts A and B of this document.
4. The changes sought by Contact are set out in Parts A and B of this document.
5. Contact wishes to be heard in support of its submission.
6. If others make a similar submission, Contact would not consider presenting a joint case with them at the hearing.

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Signed by:



Date: 23 January 2009

A person authorised to sign this submission on behalf of Contact Energy Limited.

**Address for Service of Submitter:**

Rosemary Dixon

Legal Counsel

Contact Energy Limited

L 1 Harbour City Tower

29 Brandon Street

PO Box 10742

Wellington

Email: [rosemary.dixon@contact-energy.co.nz](mailto:rosemary.dixon@contact-energy.co.nz)

Phone: (04) 462 1284

Fax: (04) 463 9261

## **PART A**

### **INTRODUCTION AND BACKGROUND**

1. Contact was formed in 1995 and acquired its initial portfolio of electricity and gas assets from ECNZ in early 1996. It has added substantially to those assets since then and is one of New Zealand's largest energy companies, generating 28 per cent of the country's total electricity with 2,000 MW of installed capacity.
2. It has around 650,000 customers to whom it supplies electricity and gas products and services. It is listed on the New Zealand Stock Exchange and has about 84,000 New Zealand shareholders, and 1,000 staff located around the country.

### **CONTACT AND FRESH WATER MANAGEMENT**

#### **GENERAL SUBMISSIONS**

3. Contact is supportive of the government's efforts to create a robust policy framework for fresh water management, and has reviewed the Proposed National Policy Statement for Freshwater Management (as it did the Proposed Environmental Standard on Ecological Flows and Water Levels) to assist in the development of well reasoned and clearly expressed policy documents relating to fresh water management.
4. Contact has some overall concerns with the drafting and layout of the proposed National Policy Statement for Freshwater Management, each of which will be discussed in subsequent sections of this submission. However, at the outset Contact would raise the overall concern that the Proposed National Policy Statement for Freshwater Management does not seem well integrated into the wider government policy on water management and energy issues, including with the Proposed National Environmental Standard on Ecological Flows and Water Levels, and the Proposed National Policy Statement for Renewable Electricity Generation.
5. The Proposed National Policy Statement for Freshwater Management should be a high level policy document providing guidance, but the Proposed National Policy Statement for Freshwater Management is rather extremely detailed and prescriptive without any supporting rationale.
6. Contact also reiterates its concern (expressed in its submission on the Proposed National Environmental Standard on Ecological Flows and Water Levels) that the preparation of the Proposed National Environmental Standard on Ecological Flows and Water Levels preceded the preparation of the Proposed National Policy Statement for Freshwater Management. An example of the inconsistency that results is the use of similar but different terms such as "Environmental Flows and Water Levels" as used in the Proposed National Policy Statement and "Ecological Flows and Water Levels" as used in the National Environmental Standard. Confusion can only result. Should both these documents proceed, Contact submits that some means needs to be found to align them more closely.

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7. Contact's biggest concern with the Proposed National Policy Statement for Freshwater Management is the effect it might have on existing consents, particularly those on the Clutha and Hawea Rivers. Contact has recently undergone an extensive process to renew its consents on these rivers, which govern Contact's ability to generate electricity from the Clyde and Roxburgh power stations and dams. Specific flow regimes and environmental mitigation measures have been incorporated in Contact's consents and have been determined with regard to a number of environmental factors, including habitat values, amenity values, recreational values, and safety impacts. As the Proposed National Policy Statement for Freshwater Management will eventually result in new rules in plans on water flows and levels, the proposed National Policy Statement for Freshwater Management would have the ability to reopen the consent conditions that were made with specific reference to a particular fresh water body. Contact submits that this would be an inappropriate waste of resources and effort. In particular, Policies 1, and 2 will result in rules in Plans that set Environmental Flows and Levels in 'Outstanding, Degraded and other' (that is, all) Freshwater Resources.
8. Fresh water is extremely important to New Zealand. From an electricity generation point of view, the availability of fresh water powers the country's hydro generation and provides cooling water for a large proportion of its thermal generation. In particular, New Zealand's hydro electricity generation provides a strong foundation to the nation's electricity system as well as an international competitive advantage. Despite the comment in the s.32 Report (section 1.1 paragraph 3), which states that water is "vital for generation of electricity", this nationally important industry is not provided for in the Proposed National Policy Statement for Freshwater Management, and indeed, by the apparent devaluing of economic contributions the Proposed National Policy Statement for Freshwater Management potentially hinders hydro-generation in favour of a range of other, predominantly protective, values.
9. In comparison with other OECD countries, New Zealand has a relatively low-cost hydro based electricity supply, and this helps to bolster the competitiveness of goods manufactured here.
10. As is noted also in the same section of the s.32 Report noted above, the economic importance of fresh water is more far-reaching than just its contribution to the electricity system. Agriculture and forestry – and related industries – comprise a large proportion of New Zealand's economy and also are heavily reliant on the availability of fresh water.
11. The importance of fresh water is not limited to its economic worth. Water also has recreational, cultural, and spiritual significance to New Zealanders. However as discussed in relation to specific policy provisions in Part B, the Proposed National Policy Statement for Freshwater Management makes very little meaningful reference to economic values.
12. Because fresh water is so important in many different contexts in New Zealand, its use and management are affected by a number of different government policies and instruments, including:
  - Proposed National Policy Statement for Freshwater Management
  - New Zealand Energy Strategy

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- New Zealand Energy Efficiency and Conservation Strategy
  - Proposed National Environmental Standard on Ecological Flows and Water Levels
  - Proposed National Policy Statement for Renewable Electricity Generation
  - National Policy Statement on Electricity Transmission
  - Proposed National Environmental Standard on Electricity Transmission
  - Water quality initiatives, such as the Dairying and Clean Streams Accord and Riparian Management Guidelines
  - Water Conservation Orders.
13. These instruments all focus on different aspects of policy, but they all have the ability to influence the way in which New Zealanders use, value, and manage fresh water resources. Contact submits that it is crucial that the overall policy framework for fresh water management be carefully constructed and internally consistent, and give rise to no unintended consequences. Careful consideration of the issues, and of how they connect, intersect, and overlap, is essential to the development of a policy framework that allows the use of fresh water resources to develop in a way that maximises their benefit for all New Zealanders. Careful consideration must also be given to the role that fresh water has in meeting the Government's stated intention in the New Zealand Energy Strategy to achieve 90 per cent renewable electricity generation by 2025.
14. Contact considers it is not appropriate for the Proposed National Policy Statement for Freshwater Management to fail to give appropriate recognition to economic values in addressing management priorities for fresh water.
15. To date in New Zealand the only national policy statements are the NPS on Electricity Transmission and the operative NZ Coastal Policy Statement.
16. These two NPS' (electricity transmission and restricted coastal activities) are purpose-specific, and each is crisp and tight in terms of content. Unfortunately, in contrast, the Proposed National Policy Statement for Freshwater Management is repetitive and often ambiguous. In particular, definitions and terminology used in the Proposed National Policy Statement for Freshwater Management are vague; and in many places seem to be inconsistent with the existing RMA framework.

**PART B**

**SPECIFIC SUBMISSIONS**

**Preamble**

17. The wording of the preamble seems to be inconsistent with the wording of the RMA at paragraph four where it refers to "...agreement on and balancing of cultural, ecological, economic and social goals...". It is well accepted case law<sup>1</sup> that promoting sustainable management (the purpose of the RMA) requires an overall broad judgement of whether a proposal will promote the sustainable management of natural and physical resources whilst balancing conflicting considerations in terms of their respective significance or proportion in the final outcome.
18. In paragraph 5 the term: "Freshwater Resources" is used. This term appears to have morphed from "freshwater resources" in paragraph 4 to become capitalised and is used in that sense thereafter in the Proposed National Policy Statement for Freshwater Management. The term is defined in the glossary as "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]".
19. However, this definition differs from the definition of fresh water given in the RMA: "...all water except coastal water and geothermal water"; and it is unclear how this new definition should be related to the RMA definition and why a new term needs to be introduced. There are already separate definitions in the RMA for "water", "water body", "river" and yet another definition of fresh water is not helpful. If there is special reason for its use that should be explained along with how it relates to the RMA definition.
20. In addition, the Proposed National Policy Statement for Freshwater Management does not appear anywhere to take into account the National Energy Strategy or either of the Renewable Energy Proposed National Policy Statement or the Proposed National Environmental Standard on Ecological Flows and Water Levels. Guidance on how the Proposed Freshwater Management National Policy Statement is consistent with and relates to these other documents should be provided in the Proposed National Policy Statement for Freshwater Management.

**Purpose of Proposed National Policy Statement for Freshwater Management**

21. The Proposed National Policy Statement for Freshwater Management identifies its purpose as the statement of "...inter-related and integrated objectives and policies as to the management of Freshwater Resources as a matter of national significance...". Contact's submission is that a

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<sup>1</sup> *Geotherm Group Limited and Ors v Waikato Regional Council* (A047/2006), paragraphs 74 and 75. 2 *Marlborough Ridge Ltd v Marlborough DC* C111/97, (1997) 3 ELRNZ 483, [1998] NZRMA 73, 2 NZED

## Proposed National Policy Statement for Freshwater Management

“purpose” is unnecessary and what is required is a simple statement of the “matter” of significance to be addressed.

22. Further, Contact considers that the identification of the matter of national significance expressed in the current purpose does not go far enough. That is, to what end is it important to have integrated objectives and policies in managing New Zealand’s Freshwater Resources? What is the underlying issue that has prompted this National Policy Statement? The current drafting seems to suggest that it is the having of integrated objectives and policies, rather than the sustainable management of freshwater resources itself, that is the matter of national significance.
23. What needs to be made explicit in the initial statement of national significance is that the matter of national significance is the management of fresh water resources and that these resources need to be managed sustainably in the interests of New Zealand’s future social, economic and cultural well being. It is not that such management is “relevant” to the purpose of the Act as the Purpose to the draft Proposed National Policy Statement for Freshwater Management currently suggests. Rather, such management achieves the purpose of the Act (in relation to fresh water resources).

### **Objectives and Policies**

#### **General**

24. Contact has a number of concerns about the structure and approach of the Objectives and Policies in the Proposed National Policy Statement for Freshwater Management . The best approach for such policy documents is for them to provide clear linkages between issues, objectives, policies and (where appropriate) rules. This approach provides for the most effective implementation because users and stakeholders can clearly understand relationships between policy components. Unfortunately this is not the case for the Proposed National Policy Statement for Freshwater Management, which has consequently developed a confused management approach that makes it difficult to see how, or if, each objective is given effect through the policies.
25. Contact submits that relationships between objectives and policies should be clearly set out in the proposed National Policy Statement for Freshwater Management. In Contact’s view this could be achieved, for instance, by use of a table that shows which policies give effect to each objective.
26. Also, it appears that the only mechanism that the proposed National Policy Statement for Freshwater Management has to give effect to its objectives is the managing of council regional policy statements and regional and district plans (at an inappropriate level of micromanagement as set up by the purpose already discussed). This is not considered an effective or efficient means of achieving the objectives.

#### **Objective 1**

27. Contact supports Objective 1 as being in keeping with the enabling focus of the RMA. Unfortunately, many of the objectives and policies that follow dilute that enabling focus and restrict the normal RMA mechanisms for dealing with effects.

**Objective 2**

28. This Objective is not well drafted. The use of the bracketed clause confuses rather than clarifies the meaning. The bracketed clause would be better added as a second sentence.

**Objective 3**

29. Objective 3 gives particular focus to attainment of a 'swimmable standard' with no definition of what this means. The RMA refers to Contact Recreation in Schedule 3(5) where it describes Class CR Water. Class CR Water appears to be so classified as to determine its suitability for swimming, presumably what would be expected in a 'swimmable standard' for water. This introduction in the Proposed National Policy Statement for Freshwater Management of a new term with no generally understood meaning is not helpful. It should be deleted and replaced with a known term such as 'Class CR Water' (or defined by reference to such a known standard).

**Objective 4**

30. This Objective contains the terms "life supporting capacity" and "ecological values" without any definition or distinction between the two.
31. This Objective provides only for protection (from inappropriate activities) without explicit recognition of RMA practices relating to mitigation and mixing zones (whereby contaminants are permitted to have localised effects).
32. Objective 4 protects Freshwater Resources from inappropriate use and damming but the Proposed National Policy Statement for Freshwater Management contains no balancing objective promoting or providing for such important activities as hydro electricity generation.
33. The only Policy linkage for this Objective appears to be to Policy 1 (g) which states:

*..every regional council must notify...a proposed regional policy statement or variation to a proposed regional policy statement or change to its operative regional policy statement in order that ... every regional policy statement specifies objectives, policies and methods which:*

*(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*

34. Objective 4 thereby gives rise to a potentially major constraint on existing consents, notwithstanding the legality of providing for the restricting of existing consented activities. For this reason particular attention should be given to the wording of Objective 4 to ensure it reflects RMA practice in respect of provision for mitigation where effects cannot be avoided or remedied, and for mixing zones.

**Objective 5**

35. This Objective also fails to recognise RMA mechanisms providing for mitigation where effects cannot be avoided or remedied.

**Objective 6**

36. This Objective provides for sustainable management hence it appropriately provides for Section 5(c) matters (and in that sense is inconsistent with previous objectives).
37. Contact suggests that Objective 6 is the Objective within which to recognise and make provision for the continued supply of appropriate quantities of water to the country's hydro and other electricity generating power stations.
38. Contact suggests the addition of a further bullet point as follows (or to like effect):
- (d) the need to retain appropriate water for hydro electricity generation to enable New Zealand's future needs for electricity to be met.

**Objective 7**

39. Objective 7 links with Policy 2 c (i) as follows:

*Every regional council must –*

- (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:*

40. This introduces the concept of "industry good practice and technology to achieve efficient use", without any guidance as to what this might be.
41. Policy direction towards more **efficient** use of resources is seen by Contact as not unreasonable, but the difficulty arises in the mechanism of defining what is "efficient". In particular, is it 'economic efficiency' or 'technical efficiency' that is meant in this context?
42. Contact's submission is that the focus of RMA policy initiative should be on sustainable management of resources and environmental effects, and not on in-plant practices and activities.

**Objective 8**

43. Objective 8 sets out to ensure that iwi and hapū are involved, and Tangata Whenua Values and Interests are identified and reflected, in the management of Freshwater Resources.

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44. Accepted RMA practice involves consent applicants and holders consulting with and interacting with 'Tangata Whenua' and in all cases Council have now developed information and mechanisms for this interaction to take place.
45. Separate need to consult with all hapu and iwi in a region or area affected (where projects cover many rohe) could lead to extensive and costly processes involving conflicting aspirations and messages. Contact's submission is that the focus should be on Tangata Whenua as the primary point of consultation.
46. In addition, Objective 8 adds the following element which is not defined (despite being capitalised) and could lead to significant confusion and increased costs for consent holders and resource users: Tangata Whenua Values and Interests.
47. No guidance is provided as to how this term is to be understood. Contact sees this as a significant omission given that the practical applications of resource consent users interacting with all iwi and hapu, and "identifying and reflecting Tangata Whenua Values and Interests" may well prove to be a significant compliance item with associated major costs. The s.32 Report evaluation of this objective (pg 35) does not appear to appreciate the costs associated with the implementation of Objective 8 as proposed.

### **Policies**

#### **Policy 1**

48. Policy 1 introduces a number of new terms under "Definitions":
  - Freshwater Quality Standards
  - Environmental Flows and Levels
  - Notable Values
  - Outstanding Freshwater Resources
  - Degraded Freshwater Resources

Further comment is provided in this submission on these definitions (below).

49. These terms should be aligned with accepted terminology to avoid confusion. In particular "Freshwater Quality Standards" requires attention – there are presently no National Environmental Standards relating to Freshwater Quality, and use of such a term in the Proposed National Policy Statement for Freshwater Management will invariably lead to confusion.
50. Reference is made to "Outstanding Freshwater Resources" – presumably most if not all of these have already been captured under Water Conservation Orders ("WCOs"), and yet the Proposed National Policy Statement for Freshwater Management makes no reference to how WCOs are to align with "Outstanding Freshwater Resources". This should be clarified in the Proposed National Policy Statement for Freshwater Management.

## Proposed National Policy Statement for Freshwater Management

51. The term “Notable Values including potential values” is meaningless. All waters contain potentially notable values if various physical and biological parameters were changed.
52. Definition of Notable Values should also make some provision for “economic well-being”. For example, Contact considers a Notable Value of the Clutha River is its value as a hydro electricity generating system as recognised in various regional planning documents. However, the Proposed National Policy Statement for Freshwater Management as drafted removes scope for “economic” factors to count towards eligibility as a Notable Value.
53. Regarding Policy 1(a) Contact submits that it is not appropriate to set flows and levels in **all** waterways. These may have already been addressed in resource consent applications. Further, not all water ways need to have flows and levels determined as many are not under threat. Contact submits that where a regional council has already reviewed a particular waterbody and assessed the need to set flows and levels and either done so through resource consents, or chosen not to set flows and levels, it should not be required to do so.
54. Further, Policy 1(c) directs regional plans to set Freshwater Quality Standards and Environmental Flows and Levels for all Freshwater Resources of the region. This mandatory requirement is additional to, and inconsistent with, the approach of the Proposed National Environmental Standard on Ecological Flows and Water Levels, which provides for discretionary setting of such measures and includes a minimum default standard. Contact’s submission is that Councils should be given the discretion to set such standards and limits on those waters in their regions that they warrant as having priority for such work. To undertake such a task throughout New Zealand would inevitably involve extremely high costs to Councils.
55. This Policy introduces the term “Environmental Flows” without any explanation of how this term differs from “Ecological Flows” in the Proposed National Environmental Standard on Ecological Flows and Water Levels. This discrepancy should be explained to avoid confusion, or the two terms should be aligned.
56. Refer also to comments above re Policy 1(g). Further to those comments, Contact submits that it is not necessarily appropriate to restrict damming in times of low flows. It can be appropriate to hold water in hydro dams during times of low flows so as to provide for future hydro electricity generation needs.

### Policy 2

57. This Policy introduces reference to “industry good practice” without explaining what this term means (refer previous discussion on Objective 7).
58. Policy 2(c)(iii)(A) requires regional councils to require all discharge permits post the Proposed National Policy Statement for Freshwater Management to include conditions for “protection against degradation of the quality of freshwater”. This ignores s5(2)(c) provisions to mitigate adverse effects where they cannot be avoided or remedied, and is thus inconsistent with s5.

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59. Policy 2(a) requires councils to set Freshwater Quality Standards and Environmental Flows and Levels for 'Outstanding, Degraded and other Freshwater Resources'. In effect, this is for 'all' Freshwater Resources and, if that is what is meant, it should simply say 'all Freshwater Resources'. As noted above, Contact opposes such an imposition.
60. As noted in discussing Policy 1(a) and Policy 2(a) above, it is not necessary for all flows and levels to be addressed through the planning process as the flows and levels in some waterways may have already have been addressed in resource consent applications. Further, not all water ways need to have flows and levels determined as many are not under threat.

### Policy 4

61. This Policy appropriately requires regional councils to consider the needs of primary and secondary industry and refers to "economic well-being". These Policy recognitions have been omitted from all other policies. The other policies should be re-worded to reflect economic well-being considerations.
62. However, importantly, Policy 4 does not require regional councils to consider the need to maintain water flows and levels for hydro electricity generation. Contact submits that this Policy should include such a requirement.
63. Policy 4 also elevates "swimmability" to a desired goal without any definition of what the term means (refer comments above re contact recreation).

### Policy 6

64. Policy 6 sets out that ...the Proposed National Policy Statement for Freshwater Management 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).*
65. Taking these policy items one-by-one:
- The Policy vaguely defines what is to be done "unless inappropriate" without giving any indication of what might be deemed to be inappropriate.

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- Item (a) –
    - how will “Efficient Consumptive Use of fresh water” be defined? Consumptive Use is defined as “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... and takes under s14(3)(b) and (c) of the Act”. Again, it is not clear whether it is ‘economic efficiency’ or ‘technical efficiency’ that is meant in this context.
    - Under the Policy, and potentially the definition, damming of water would be deemed to be a Consumptive Use because it will alter flows and levels. This seems to be an unintended consequence of the wording of the Policy (the definition of Consumptive Use makes no reference to levels and flows).
    - This item leads to further questions such as how efficiency of use will be determined in relation to the damming of water. Will it relate to efficiency of energy extraction (appropriate if it was a hydro dam, but not for a dam principally to be used for irrigation) or perhaps minimising the leakage of water past the dam? Another interpretation could be that it is economic efficiency that is to be considered and that this Policy would therefore require that the dam finally built is the most cost beneficial. How in those circumstances would consent conditions be applied to ensure ‘efficient’ use?
  - Item (b) – There is no recognition of ability to mitigate adverse effects and no recognition of mixing zone (see discussion above). This policy direction would prevent discharge of any contaminant which might exceed guidelines inside a mixing zone but which meets a guideline at boundary.
  - Item (c) – The use of “sustainable management” conflicts with “protection” in Item (b), thus there is internal inconsistency.
  - “industry good practice” – This term is not defined (see discussion above).
66. Finally, it is Contact’s submission that Policy 6 adds nothing to what is already occurring in practice. Contact notes that regional councils and territorial authorities have been diligent in applying conditions to resource consents to control the matters listed in this Policy and that therefore Policy 6 could be deleted with no adverse result.

### Policy 7

67. Policy 7 gives regional councils and territorial authorities the option of giving effect to the Proposed National Policy Statement for Freshwater Management by use of non-regulatory methods. It is Contact’s submission that regional councils and territorial authorities already have this ability and that Policy 7 adds nothing and therefore should be deleted.

## Definitions

68. Contact submits that amendments are required to the following definitions:
- “Consumptive Use”: It should be explicit that water taken and then released for hydro electricity generation is not a Consumptive Use.
  - “Notable Values” definition should provide for “economic” values. This definition should also expand on what is meant by “cultural values”.
  - “Environmental Flows and Water Levels” : The definition should be aligned with the definition of “Ecological Flows and Water Levels” in the final National Environmental Standard on Ecological Flows and Water Levels.
  - “Land Use Development” should include recognition of existing land use activities which will continue but may neither be intensified nor modified but which can have an effect on fresh water.
  - “Freshwater Quality Standard” should be re-defined to be “Freshwater Quality Criteria” or “Freshwater Quality Guidelines” – unless there is intention to prepare a Freshwater Quality Standard.
69. Contact submits that the following new terms should be defined within the Proposed National Policy Statement for Freshwater Management:
- “Swimmability” and “swimmable” should both be defined if they are to continue to be used in this document. Refer earlier comments.
  - “Good industry practice”
  - “Tangata Whenua Values and Interests”
  - “Ecological Values”

## Section 32 Report

70. In respect of electricity generation, the s32 Report states that water is “vital for generation of electricity” and thereafter ignores the needs of electricity generators. Given that water is the vital element for hydro-generation there should be recognition that such use is a component of the Notable Values of a Freshwater Resource.