

Appendix 4: Tracked amendments to the Proposed NPS

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, 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 partnership 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 tangata whenua in the management of, and decision-making regarding, 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
- increase the opportunities for tangata whenua to participate in the management of, and decision-making regarding, 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.

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. To ensure effective integrated management (including the effects of Land-use Development and discharges of contaminants upon the quality and available quantity of fresh water) by adopting a broad, holistic and integrated approach to all levels of management and decision-making affecting Freshwater Resources.~~

Objective 3 – Providing for the interconnected nature of freshwater resources

~~To ensure that Freshwater Resources are managed in a way, or at a rate, that recognises and provides for the interconnections (including spatial and temporal) between them.~~

Objective 34 – Improving the quality of fresh water

To ensure the progressive enhancement of the overall quality of Freshwater Resources, including actions to ensure that the water quality of appropriate Freshwater Resources can reach or exceeds a swimmable standard and is consistent with Tangata Whenua Values and Interests.

Objective 45 – 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.

Objective 56 – Addressing freshwater degradation

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

To ensure that the existing and future effects of Land-use Development and discharges of contaminants are managed so as to avoid the degradation of Freshwater Resources.

Objective 67 – Managing demand for fresh water

To ensure that existing and future demands (including social, economic and cultural demands) for fresh water are sustainably managed in an integrated manner that has particular regard to the following:

- a. available supply of fresh water:
- b. the need to recognise and provide for resilience against the biophysical effects of climate change (such as through infrastructure for supply, storage and distribution of fresh water):
- c. the actual and potential adverse effects, both individual and cumulative, that arise from those demands (including over-allocation of Freshwater Resources and degraded water quality).

Objective 78 – 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, enhancing the social, economic and cultural well-being resulting from the use, development or protection of fresh water.

Objective 9 – Cumulative effects

To ensure that sustainable limits to the use and development of Freshwater Resources are identified and that, on the basis of these, measures are adopted to avoid the accumulation of insignificant effects upon Freshwater Resources becoming significant.

Objective 10 – Managing uncertainty

To ensure that Freshwater Resources are managed in a way, or at a rate, which:

- a. Recognises that our knowledge of Freshwater Resources and the effects of activities upon them may be incomplete, uncertain, unknown or little understood and that, accordingly, it may be necessary to proceed with caution; and
- b. Is responsive to increased knowledge about Freshwater Resources and the effects of activities upon them.

Objective 11 – Freshwater research

It is a national priority to undertake, disseminate and share research, of both a qualitative and quantitative nature, that will contribute to the enhancement of our understanding of Freshwater Resources and the actual and potential effects (both individual and cumulative) of activities upon them.

Objective 812 – Iwi and hapū Tangata whenua roles and Tangata Whenua Values and Interests

To ensure that iwi and hapū tangata whenua are involved participate, and Tangata Whenua Values and Interests are identified, recognised and provided for and reflected, in the management of Freshwater Resources including the matters specified in Objectives 1–711.

Objective 913 – Ensuring effective monitoring and reporting

To ensure that regional councils and territorial authorities undertake effective monitoring and reporting of the matters specified in Objectives 1–812.

Policies as to regional policy statements

Policy 1

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) and Tangata Whenua Values and Interests 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 and Tangata Whenua Values and Interests of any Outstanding Freshwater Resources and the enhancement, rehabilitation or restoration of Notable Values and Tangata Whenua Values and Interests of any Degraded Freshwater Resources; and
- d. Guide and direct local authorities as to the ~~involvement~~ participation of ~~iwi and hapū~~ tangata whenua 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, recognise and provide for 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 and provision for 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~~ avoid, remedy or mitigate the actual and potential adverse effects, both individual and cumulative, 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~~ Avoids the actual and potential effects resulting from climate change; ~~and~~
 - v. ~~Controls~~ Avoids, remedies or mitigates the actual and potential adverse effects, both individual and cumulative,; ~~and~~
 - vi. Recognises and provides for Tangata Whenua Values and Interests; ~~and~~
 - vii. Enhances the social, economic and cultural well-being resulting from the use, development and protection of fresh water.
- 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 Freshwater Resources (including 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~~ avoiding, remedying or mitigating the actual and potential adverse effects, both individual and cumulative, (including associated discharges of contaminants) on the quality and available quantity of Freshwater Resources.
- k. Guide and direct regional and district plans as to how and in what ways the integrated management of Freshwater Resources is to be achieved in the region (as required by sections 30(1)(a) and 31(1)(a)).

- I. Guide and direct regional and district plans as to the identification of sustainable limits of the use and development of Freshwater Resources (including the establishment of Freshwater Quality Standards and Environmental Flows and Levels) and the effective management of cumulative effects upon Freshwater Resources.

Policies as to regional and district plans

Policy 2

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 the actual and potential 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 3

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 the actual and potential 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).

Policies as to the preparation of policy statements and plans

Policy 4

When preparing a regional policy statement or variation or change to give effect to Policy 1 and when preparing a regional plan or variation or change to give effect to Policy 2, every regional council must consider the following:

- a. The Notable Values of each Freshwater Resource:
- b. The sensitivity of each Freshwater Resource and its Notable Values and Tangata Whenua Values and Interests to actual and potential adverse effects, both individual and cumulative, 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; and
- i. The need to enhance the social, economic and cultural well-being resulting from the use, development and protection of fresh water.

Policy 5

When preparing a district plan or variation or change to give effect to Policy 3, every territorial authority must consider the following:

- a. The importance of ~~controlling~~ managing Land-use Development in a way and at a rate that minimises the actual and potential adverse effects, both individual and cumulative, 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 Avoid, remedy or mitigate the actual and potential adverse effects, both individual and cumulative, 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 6

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 (before or after the commencement of this National Policy Statement) and recommendations on designations confirmed (before or after the commencement of this National Policy Statement) 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 the actual and potential 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

In addition to giving effect to Policies 1 to 3 and Policy 6 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

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 1(e), including the identification of the relevant ~~iwi and hapū~~ tangata whenua.

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

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 existing or future 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 and Tangata Whenua Values and Interests 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.

“**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 and Tangata Whenua Values and Interests of the relevant Freshwater Resource.

“**Freshwater Quality Standard**” means a regional rule on freshwater quality which gives effect to this National Policy Statement and which is:

- a. No less than that required to achieve a swimmable standard; and
- b. Consistent with Tangata Whenua Values and Interests.

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

“**Land-use Development**” includes existing and future 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 and Tangata Whenua Values and Interests:

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 are such as to require that priority be given to protection in order to achieve the purpose of the Act.

“Tangata Whenua Values and Interests” means:

- a. The values that tangata whenua place upon Freshwater Resources and which Freshwater Resources hold for tangata whenua;
- b. The traditional and contemporary relationships and associations that tangata whenua had/have with Freshwater Resources; and
- c. The interests that tangata whenua have in Freshwater Resources.

For the avoidance of doubt, Tangata Whenua Values and Interests must be identified and defined by tangata whenua themselves.