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Sefulu Sione

From: Ailsa Parker on behalf of Info at MfE
Sent: Monday, 26 January 2009 10:17 a.m.
To: Sefulu Sione
Subject: FW: Submission on NPS for Freshwater Management

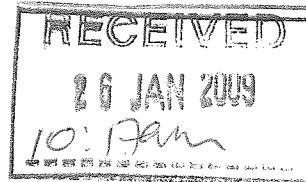
~~FW: Submission on NPS for Freshwater Management~~

Attachments: Edited NPS for Submission.doc



Edited NPS for Submission.doc ...

Hi Sefulu



Can you advise receipt as Dugald requests.

Thanks

Ailsa (Info Centre)

-----Original Message-----

From: Dugald MacTavish [mailto:dugald@es.co.nz]
Sent: Monday, 26 January 2009 8:25 a.m.
To: Info at MfE
Subject: Submission on NPS for Freshwater Management

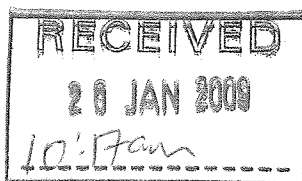
Please can this be forwarded to the appropriate person.

By way of submission, please find attached a copy of the NPS with suggestions for change included directly in the document and shown with changes tracked. The comments are made in the knowledge that a UN study finds that we are already collectively living beyond the biocapacity of the earth by approximately 30% which is obviously unsustainable. The way to start to rectify the situation is to urgently reduce our collective impact on and demands of the environment with appropriate change to social and economic narratives and structures. This NPS has the potential to start us on this crucial process so good luck!

Please can you advise receipt of this submission.

Regards, Dugald MacTavish

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Dugald MacTavish
Moeraki,
RD2,
Palmerston
Otago
New Zealand
Tel 034394824



Proposed National Policy Statement for Freshwater Management

Preamble

All New Zealanders have a common interest in ensuring that the country's freshwaters (systems)¹ are managed wisely, in order to provide for present and future environmental, cultural, social and economic well-being of New Zealand.

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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.

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To respond effectively to these challenges and issues requires agreement on and **balancing** of

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¹ Remove reference to resources in all cases and refer simply to freshwater or freshwater systems. The reason is that "resources" is typically defined as a source of economic wealth. The NPS must protect all freshwaters of NZ not just those or that component of a body that might be used to derive economic wealth. The objectives include for example maintaining intrinsic values which are not defined in terms of exploitability. Further down the preamble refers to bodies which is also more inclusive/generic but systems is to be preferred as it implies water and its supporting elements.

² Benefit in terms of revenue to the country or long term security and ecological integrity? - it should be the latter.

³ "Balancing" cultural ecological, social and economic goals is the approach that has got us into such difficulty with environmental degradation of freshwater systems. The PCE described models for "weak" sustainability and "strong" sustainability. "Weak" is the "balance" model and "strong" is economic as a subset of social/cultural and social/cultural as a subset of environmental. This with economic interests in freshwater always have more resources than those with instream interests in resource consent hearings and hence the "balance" is always skewed and we get cumulative deterioration or overshoot of resource development. Moreover, if we are to get sustainable outcomes, we need to stop fooling ourselves and formally acknowledge that all economic and social benefits ultimately depend on maintaining a level of ecological integrity and environmental quality because of the environmental services rendered. The most topical example of this is climate change which threatens all social and economic activity. The way to

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cultural, ecological, economic and social goals for management of New Zealand's freshwater systems. 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.

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The Treaty of Waitangi (Te Tiriti o Waitangi) is the underlying foundation of the Crown-Māori relationship with regard to Freshwater Systems. 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 Systems of New Zealand.

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Given the central importance of Freshwater Systems 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:

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- address existing and future constraints on the availability of Freshwater Systems
- address the effects of existing and future discharges of contaminants to Freshwater Systems
- provide more certainty in respect of competing demands on New Zealand's Freshwater Systems and facilitate opportunities to increase benefits from the presence and use of Freshwater, within the above constraints on availability and effects of discharges
- meet the recreational aspirations of New Zealanders, including that Freshwater Systems are suitable for contact recreation.⁶
- address matters of national significance relating to the sustainable management of Freshwater Systems
- improve the integrated management of Freshwater Systems by territorial authorities, regional councils, and others whose activities affect Freshwater Systems.

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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 Systems. 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 Systems, including towards meeting contact recreation

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address this is to build into this NPS a clear hierarchy of environmental over social and social over economic.

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⁴ Define as including both point and diffuse sources of contaminants

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⁵ Benefits do not only accrue from the "use" of water as it is typically understood.

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⁶ Being able to do many activities in the water safely is important. Ideally the water would still be potable too.

guidelines. This is in order that by 2035 the quality of these systems 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 changes⁸.

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Purpose

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

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Objectives

Objective 1 – Enabling well-being of people and communities

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

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Objective 2 – Achieving strong sustainability in freshwater management practice⁹

Achieve strong sustainability in freshwater management, allocation and use by adopting a heirarchy of criteria for the consideration of water management and allocation where by economic use is subordinate to social/cultural outcome, and social/cultural outcome is subordinate to maintaining a clean and resilient environment, and fully functioning and biodiverse ecosystems¹⁰.

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Objective 3 – Improving the quality of fresh water¹¹

Protection of and progressive enhancement of the overall quality of Freshwater Systems, including actions to ensure all Freshwater Systems that have potential for such use¹² can reach or exceed a contact recreation standard.

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⁷ 2035 is too late from the perspective of energy and climate change – we need to be looking at an intermediate target of say 2015 and then final of 2020. The indicators and targets will need to be clearly defined as it will never meet the “aspirations of all NZers”

⁸ It is not possible to make meaningful sweeping statements about an appropriate balance between speed and costs. The public grant private business the right to use some of its water asset and other than the cost of the resource consent it has typically been free. It is surely not too much to ask (even if there were a nominal fee) to take water in a responsible manner and discharge it similarly over a decade.

⁹ Ensuring integrated management of effects on freshwater is a method and not an outcome and does not fit with the statement that this Plan is to provide flexibility.

¹⁰ See footnote 3 for explanation.

¹¹ It is not clear why this water quality provision is separate from Objective 4.

¹² “appropriate” is too subjective to have value

Objective 4 – Recognising and protecting life supporting capacity and ecology¹³ (or ecological systems)

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The life supporting capacity and ecology of Freshwater Systems are recognised and protected from inappropriate –

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(a) disturbance, taking, use, damming or diverting of fresh water; and

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(b) Land-use¹⁴; and

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(c) discharges of contaminants.

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Objective 5 – Addressing freshwater degradation

Control the effects of existing and proposed Land-use, and discharges of contaminants to avoid further degradation of Freshwater Systems.

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Objective 6 – Managing demand for and allocaton of fresh water

Demands (including social, economic and cultural demands) for and allocation of fresh water are sustainably managed in a manner that has regard to:

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(a) sustainable supply of fresh water determined in accordance with this Plan:

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(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 may arise from those demands and allocation including the indirect social and cultural consequences¹⁵.

(d) new technological that is available

(e) an allowance for future generations

(f) retaining a level of redundancy to accommodate future uncertainty (eg didymo)

(g) equity of access to instream and out of stream use for activities and maintaining resilient diverse communities

Objective 7 – Efficient¹⁶ use of fresh water

¹³ Protecting the ecology automatically protects ecological values and avoids debate over what values are to be protected which is anthropocentric.

¹⁴ Landuse is more generic and so the Plan can be applied to most situations existing or proposed. Remove the word “development” from all such reference. If necessary “activity” could be substituted.

¹⁵ See footnote 27 on tranferability

¹⁶ Efficient in terms of what? Personal revenue, national revenue, revenue per unit of water, calories per unit of water, energy used applying the water, water use for that consumer or water use for the catchment etc etc.

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Allocated fresh water is used efficiently particularly in terms of the following:

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(a) avoiding wastage:

(b) meeting water quality standards required by this Plan¹⁷:

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(c) facilitating opportunities to increase and extend the benefits from the presence or use of fresh water.

Objective 8 – Promoting the involvement of local communities and groups with cultural interests in the river including Tangata Whenua¹⁸

Deleted: Iwi and hapū roles and

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(a) Promote the establishment of freshwater instream management groups for significant freshwater surface systems or parts thereof as caretakers or Kaitiakitanga who can promote the objectives of this plan at a local level.¹⁹

(b) Iwi and hapū are involved²⁰, and Tangata Whenua Values and cultural and social interests are identified and reflected, in the management of Freshwater Systems including the matters specified in Objectives 1–7.²¹

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Objective 9 – Ensuring effective monitoring and reporting

(a) Regional councils and territorial authorities undertake effective monitoring and reporting of the matters specified in Objectives 1–8 in a manner that will enable early detection of any failure to meet the objectives and policies of this Plan.

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(b) Regional councils to establish a levee on commercial use of freshwater that will self-fund monitoring and can be used to mitigate the adverse environmental impacts of its commercial use and support the work of freshwater instream management groups.

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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 practicable²² thereafter every regional

¹⁷ Excessive contamination is too subjective

¹⁸ History shows that when local communities and interest groups with direct interest in resources and natural assets are actively involved in its management then it is more likely to be sustained and “tragedy of the commons” avoided. (eg Marine fishery)

¹⁹ The Waiau Trust is a good example – well funded and making significant improvements to the river

²⁰ “Involved” needs definition – is consultation enough?

²¹ If diversified systems are more resilient then it makes sense for

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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 Systems of the region potentially at risk of degradation; and

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(b) Identify Notable Values (including potential values) of –

(i) Any Outstanding Freshwater Systems; and

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(ii) Any Degraded Freshwater Systems; and

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(c) In accordance with Policy 1(a) and (b), guide and direct the setting in regional plans for all Freshwater Systems of the region of –

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(i) Freshwater Quality Standards; and

(ii) Environmental Flows and Levels;

including for the protection of²³ any Outstanding Freshwater Systems and the enhancement or restoration of any Degraded Freshwater Systems; and

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(d) Guide and direct local authorities as to the involvement of local communities and iwi and hapū in the management of, and decision-making regarding, all Freshwater Systems of the region, including but not limited to, requiring local authorities to disclose how they are intending to achieve this involvement; and

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(e) Identify Tangata Whenua values and social and cultural interests in respect of all Freshwater Systems of the region; and

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(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 Systems of the region; and

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(g) Guide and direct regional plans (including considerations for the determination of resource consent applications) to change or 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 or where unsustainable adverse environmental impact trends are occurring²⁴; and

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(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 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

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²² Too loose – our district council has notified a Landscape Variation and heard some of the submitters but it must be to years since it was notified and there is still no end in sight.

²³ See footnote # 13. Note able values are in the eye of the beholder and change with time.

²⁴ Where existing consents or other arrangements for water use are having a serious adverse environmental impact, water management authorities must have the power to require alteration of the consent in the wider interests of the community. This is to be consistent with Objective 2 which acknowledges that a healthy resilient environment is ultimately in everyone's interest and it is ethically wrong for one interest party to compromise the community at large or the ecology of a freshwater body for an extended period due to inadequate impact assessment at the time of the granting of the consent.

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(i)²⁵ Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to manage demands for and allocation of fresh water, including demands arising from Land-use and discharges of contaminants, in a manner which –

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(i) Provides reasonable certainty to communities and water users (including as appropriate through prioritisation of allocation for takes of fresh water for reasonably foreseeable Consumptive Use); and

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(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 efficient²⁶ Freshwater use (including through the transferability²⁷ of resource consents, where appropriate); and

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(iv) Increases resilience to the effects of climate change and other uncertainty; 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 management²⁸ of the effects of Land-use, –

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(i) by encouraging controlling and sequencing of infrastructure for supply, storage and distribution of fresh water; and

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(ii) by controlling adverse effects (including associated discharges of contaminants) on the quality and available quantity of Freshwater Systems.

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Policies as to regional and district plans

Policy 2²⁹

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 Systems of the region to give effect to the regional policy statement in relation to the matters in Policies 1(a) to

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²⁵ Make consistent with changes to Objective 6

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²⁶ Note comments on the efficiency objective

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²⁷ Transferability effectively commercializes water for maximise economic use but will not do the same for social or environmental and inevitably leads to water barons and corporate control rather than landowner (like fish quota). To avoid this trend I believe that water allocated for irrigation anyway should be tied to that property and then

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²⁸ See comment on the objective of integrated management. This policy could require the efficient utilization of institutions and public funds

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²⁹ Incorporate provisions which allow redress of badly allocated water which is having significant adverse environmental and/or social effects

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(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 Systems, in order to achieve the requirements of paragraph (a) of this Policy:

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(iii) Require that all discharge permits affecting Freshwater Systems granted after the date of commencement of this National Policy Statement include conditions for –

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(A) Protection against degradation of the quality of fresh water of Freshwater Systems (including through the management of activities giving rise to stormwater discharges); and

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(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, and discharges of contaminants on the quality and available quantity of Freshwater Systems; to be achieved, as a minimum, by the use of industry good practice:

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(iv) Require effective³⁰ 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

³⁰ See comment on Objective 9.

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(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 Systems (including through the management of activities giving rise to stormwater discharges); and

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(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 and discharges of contaminants on the quality and available quantity of Freshwater Systems; and

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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 objectives of this Plan including the following:

(a) the requirement to sustain life supporting capacity and ecological integrity of freshwater:

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(b) The sensitivity of each Freshwater System and its Notable Values to adverse effects including effects of Land-use and the discharge of contaminants:

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(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 Systems and of existing economic investment to regional and national social, economic and cultural well-being:

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(e) The importance of avoiding over-allocation of Freshwater for Consumptive Use:

(f) Tangata Whenua Values and cultural and social Interests:

(g) Social and economic transition costs and benefits:

(h) The value of maintaining contact recreation standards to the community.

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(i) the incorporation of effective targets, trigger levels, incentives and enforcement provisions

(j) if instruments proposed minimize disruption of the hydrological cycle, natural hydraulic processes and the natural connectedness of freshwater systems³¹

Policy 5

When preparing a district plan or variation or change to give effect to Policy 3, every territorial authority must meet the objectives and policies of this plan and consider the following:

(a) The importance of controlling Land-use, in a way and at a rate that minimises the adverse effects on the quality and available quantity of Freshwater

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Systems:

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(b) The importance of ensuring that the planning and implementation of Land-use, applies industry good practice in order to –

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(i) Minimise the adverse effects on the quality and available quantity of Freshwater Systems; and

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(ii) Maximise efficiency in the use of Freshwater Systems:

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(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;

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(d) Tangata Whenua Values and cultural and social Interests:

(e) Social and economic transition costs and benefits.

(f) the incorporation of effective targets, trigger levels, incentives and enforcement provisions

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 and

³¹ This is an important concept that would be best built into the objectives as well.

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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 Systems):

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(b) Protection against degradation of the quality of Freshwater Systems (including through the management of activities giving rise to stormwater discharges):

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(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, and discharges of contaminants on the quality and available quantity of Freshwater Systems:

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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).

(f) the incorporation of effective targets, trigger levels, incentives and enforcement provisions

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, community plans 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 Systems of the region as required to give effect to Policy 1(e), including the identification of the relevant iwi and hapū.

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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 5 years after it comes into force and shall then consider the need to review, change or revoke this statement after 15 years. Collection of data to inform this review will begin at least two years prior to the review.

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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 System 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 System 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.

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“**Degraded Freshwater Systems**” means those Freshwater Systems of a region whose Notable Values have been so degraded by inappropriate Land-use, 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.

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

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

“**Freshwater Systems**” 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].”

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“**Land-use**” includes land-use intensification, land-use change, and subdivision of land.

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“**Notable Values**”(?) in relation to any Freshwater System includes:

(a) Scientific, ecological and biodiversity values:

(b) Cultural values:

(c) Recreational (including contact recreational; eg, swimming) values.

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| **“Outstanding Freshwater Systems”** means those Freshwater Systems 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.

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