

23 January 2009

The Chairperson
Board of Inquiry-Water
Freepost Board of Inquiry-Water
C/- Ministry for the Environment
PO Box 10362
Wellington 6143

Our Reference: 205/02/02
Enquiries to: Aaron Leith/
Rachael Millar

Dear Sir

Proposed National Policy Statement for Freshwater Management

Thank you for the opportunity to submit on the Proposed National Policy Statement (Proposed NPS) for Freshwater Management.

... Please find enclosed, Environment Southland's submission on the Proposed NPS.

This submission is to be read on a "without prejudice" basis, as the Council has not yet had the opportunity to peruse it. The Council's Environmental Management Committee will consider the submission at its meeting on 11 February 2009. I will advise you of the outcome of this meeting, as soon as practicable.

If you wish to discuss this matter, please do not hesitate to contact Aaron Leith or Rachael Millar of this office on telephone (03) 211 5115 or email service@es.govt.nz.

Yours sincerely



Warren Tuckey
Director of Environmental Management

Submission on Proposal for National Policy Statement for Freshwater Management

Section 49 of the Resource Management Act 1991

**To: The Chairperson
Board of Inquiry**

This is a submission on:

The Proposed National Policy Statement for Freshwater Management (“the proposal”).

The specific provisions of the proposal that my submission relates to are:

All relevant parts of the proposal.

My submission is:

Environment Southland endorses the Local Government New Zealand (LGNZ) submission and wording for the alternative Proposed National Policy Statement for Freshwater Management dated 6 January 2009, subject to the following points being addressed:

1. Water Allocation Issues

- a) In respect of water allocation issues, Environment Southland supports the LGNZ submission that:
 - *The NPS should provide a stronger mandate for regional councils to manage allocations, including existing allocations, particularly in over-allocated catchments (including the point in the LGNZ submission to ensure that sufficient water is available to ensure resilience to climate change).*
- b) Environment Southland conditionally supports the following LGNZ submission that:
 - *The NPS should establish priorities for water use for domestic and municipal supply, and leave to regional councils to set priorities for other uses in consultation with their communities.*

In terms of priority water takes, Environment Southland notes that Policy 24 of its Proposed Southland Regional Water Plan provides specific direction on “priority water takes” during a water shortage situation. Policy 24 provides that Environment Southland will give priority to water abstraction for the following uses:

- (a) reasonable domestic needs;
- (b) reasonable animal drinking needs;
- (c) fire-fighting purposes;

- (d) public health needs;
- (e) animal welfare needs.

Policy 24 is consistent with Section 14 of the Resource Management Act 1991, which gives priority for water to be taken for an individual's reasonable domestic needs, the reasonable needs of an individual's animals for drinking water and fire-fighting purposes. In addition, the policy gives priority to the abstraction of water for public health and animal welfare needs over other uses of water (abstraction for "public health needs" refers to the continuation of water supplies for public health and sanitation services).

Given the above approach in its Regional Water Plan, Environment Southland's position is that it supports the LGNZ submission that water supply for domestic/municipal purposes be established as the number one priority water use in the NPS, strictly subject to:

- water supply for domestic/municipal purposes being limited in its definition to "water supply for reasonable domestic, animal drinking, public health and animal welfare needs, and fire-fighting purposes" and not other uses such industrial needs which should **not** have priority over other water uses even if this water is accessed via a municipal supply;
 - Regional councils being responsible for establishing priorities for all other water allocation uses (e.g. setting priority water takes for environmental/instream needs and other needs through their region plans), in consultation with their communities.
- c) Environment Southland is neutral in respect of the following LGNZ submission that:
- *The NPS should provide stronger direction re water efficiency measures (including the provision of infrastructure and appropriate water conservation and demand practices).*

An example of a water efficiency measure could include water permit transferability measures such as a "cap and transfer" scheme. Policy 1(i)(iii) of the Proposed NPS provides for Regional Policy Statements to guide and direct regional plans in relation to the transferability of resource consents, where appropriate.

For the record (and if raised through other submissions, for the Board of Inquiry's consideration), Environment Southland would be opposed to the NPS introducing any mandatory requirement to require regional councils to provide for transferability of water permits (e.g. "cap and transfer" schemes) in their regional plans.

Environment Southland's position in respect of water permit transferability is as follows:

1. any mandatory requirement to require regional councils to permit transferring of water permits in their regional plans, could lead to "auctioning/privatisation" of public water resources and persons using public water resources for commercial/private gain. This is a fundamental concern to Environment Southland;
2. transferability of water permits may be appropriate in some circumstances, however the effects of water abstraction at one site in a catchment or aquifer could be significantly different at another site in the catchment or aquifer. Therefore, transfer of water permits needs to be assessed through a discretionary resource consent process, which in turn enables full assessment of effects and consideration under the regional plan (such as the minimum flow and allocation regime that the permit is proposed to be transferred to), and the Act;
3. Environment Southland's preferred option is therefore that the NPS does not provide any further guidance on the issue of transferability of water permits. Regional councils should have maximum flexibility to address water efficiency and allocation issues, as regional councils see fit.

2. Tāngata Whenua Issues

Environment Southland supports the LGNZ submission that the NPS should refer to the term "tāngata whenua" (instead of iwi and hapu as currently worded in the Proposed NPS) in terms of local authorities working with tāngata whenua to identify characteristics of freshwater resources.

In Southland, consultation processes between local government and "tāngata whenua" representative groups are already well established and Environment Southland would not be supportive of the wording in the proposed NPS that both "iwi and hapu" be involved in water resource management, as it could create significant problems.

3. Primacy of Regional Plans for Managing Freshwater Resources

The Proposed NPS identifies a range of regulatory, non-regulatory and other methods for the management of freshwater resources, which is supported by Environment Southland.

In so saying, Environment Southland considers that the NPS should confirm regional plans as the primary instrument for managing freshwater resources, given their flexibility (e.g. plan changes/variations to address emerging issues, such as water quality and quantity issues).

4. National Direction on Resource Rentals

Environment Southland considers that the NPS should address and provide some direction on the issue of resource rentals for the use of water resources, where appropriate (i.e. the ability for regional councils to directly charge for water use, as appropriate).

Money received from water charges could be applied by regional councils to promote sustainable management of water resources. For example, money could be used by regional councils to assist in undertaking their statutory water management responsibilities under Sections 30 and 35 of the Act (e.g. water quality/quantity, groundwater, beds and wetlands).

I seek the following changes to the proposal:

Environment Southland seeks that the Board of Inquiry:

- redraft the Proposed NPS for Freshwater Management, to address fully all of the issues raised in this submission by Environment Southland; and
- ensures that Environment Southland remains involved in the development of the NPS for freshwater management, and assist where necessary.

I wish to consider being heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.



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Director of Environmental Management

Date: 23 January 2009

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