Submission by Oji Fibre Solutions (NZ) Limited

On Action for Healthy Waterways Discussion Documents.

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1. EXECUTIVE SUMMARY

1.1 Oji Fibre Solutions NZ Limited (“OjiFS”) appreciates the significance of the regulation of water quality on NZ’s future economy and environment. We welcome the opportunity to submit on:

(a) the Action for Healthy Waterways Discussion Document (“Discussion Document”);

(b) the draft National Policy Statement Freshwater Management (“Draft NPSFM”) and

(c) the draft National Environmental Standards for Freshwater (“Draft NES”).

1.2 The management of freshwater resources is closely aligned to New Zealand’s social, cultural and economic well-being. OjiFS supports goals to improve water quality through fair and efficient regulation.

1.3 It is critical that all resource users face the same or similar requirements: to take responsibility for the environmental effects of their discharges and to progressively curtail unavoidable and unacceptable adverse environmental impacts. We believe the differential treatment of activities (notably agriculture) in Regional Plans creates an economic distortion, where the largest source of the problem in many areas is largely left off the hook while other users bear the responsibility to improve water quality via disproportionately stringent regulatory requirements imposed within resource consents.

1.4 There is both economic and environmental risk where regulatory tolerance for impacts in one sector leads to an unjustified economic burden on another, in pursuit of an overarching ‘environmental bottom line’. The result is under-investment in cost-effective environmental improvement and under-investment in economic activity with lower overall environmental impact. OjiFS believes the following changes would significantly improve the outcomes for freshwater:

- Remove the interim land-use moratorium in the Draft NES;

- Apply direct regulation of diffuse-source adverse effects to intensive land-uses including agricultural activities.

- Require landowners to adopt the best practicable option (“BPO”) consistent with the current obligation faced by other resource-users and defined by standard rules or resource consents;

- Require the most polluting diffuse-source land-uses to adopt new practices to improve to a minimum standard within 2 years.

- Instead of protecting named existing hydro schemes via selective changes to the Draft NPSFM, include appendices within the existing NPSFM to address matters
such as renewable energy targets of whatever origin. Existing hydro schemes are not the only renewable energy activities and the selective protection of existing schemes is not an efficient means of achieving the country’s renewable energy or water quality goals;

- Rather than adopt what appears to be a rushed redraft of the NPSFM 2014, use the existing framework of the NPSFM 2014 to complete the appendices and develop supporting national environmental standards and other minor amendments.

- The Draft NES should apply equally to all regions and should be introduced over similar time frames

2. OVERVIEW OF OJIFS AND THE NZ FOREST INDUSTRY

2.1 OjiFS is a New Zealand-based manufacturer of pulp, paper and cardboard packaging products, with operations in New Zealand and Australia. We make a significant contribution to New Zealand's economy, earning approximately $1.4B in revenue primarily by way of exported pulp and paper products, but also in the form of avoided imports of paper and packaging used by New Zealand's agricultural and horticultural industries. OjiFS exports to a range of countries, predominantly in Asia, with major competitors based in Australia, China, Russia, USA and Chile. We are a substantial employer in New Zealand, with the majority based in regions like the South Waikato and inland Bay of Plenty.

2.2 Our operations rely heavily on the supply of wood fibre, grown largely in New Zealand’s Central North Island (CNI). The predominant wood species we use are Pinus Radiata and Eucalyptus. Long term supply of fibre is a significant strategic issue for our operations in New Zealand. This must be reliable and of scale to make profitable pulp and paper-based packaging products for highly competitive international markets.

2.3 OjiFS generates over 20 million Gigajoules of renewable energy each year. Our operations in the CNI are New Zealand’s largest bio-energy producers. Waste-wood and liquid-fuel derived from wood (“black liquor”) contributes over 75% renewable energy to our operations, and this proportion is likely to grow with on-going investment in our CNI pulp mills. With growing demand for sustainable packaging, particularly in the primary sector, and developments in technology, our industry is considered likely to be central to New Zealand’s future low-carbon economy.

2.4 OjiFS is also a part of the ‘circular’ economy. We are New Zealand’s only large-scale paper recycler, processing approximately 200,000 tonnes per year, or about a third of the country’s waste paper.

2.5 Our largest mills discharge treated wastewater to waterways within the Waikato and Bay of Plenty regions. These mills hold long term consents mandating minimum standards and continuous improvement. As such, OjiFS regularly reviews, and
investigates and reports on international developments of new and alternative discharge control technologies to further improve the quality of its discharges as part of its commitment to continuing improvement. An example of this commitment is our current plan to invest over $100 million into water and wastewater treatment systems at our Kinleith Mill near Tokoroa.

2.6 Water quality is a subjective and aspirational goal. The ‘best’ outcome will be achieved where regulatory processes incentivise continuous improvement through (often) non-returning capital expenditure and management changes. Regulation needs to be formulated to avoid the risk of ‘stranding’ investment and incentivising perverse environmental outcomes. As a precursor, Government needs to be explicit in its expectation that all resource users are expected to internalise the environmental costs of resource use and be clear as to the short time frames over which the change from the current permissive regulatory approach to agriculture will be implemented.

2.7 NZ’s water management needs to be structured to support or at least not disadvantage sustainable forestry: More trees are required in place of environmentally damaging land uses if the impact of damaging land use cannot be reduced in some other way. Regulators need to be clear as to the expected improvement in environmental performance. Without regulatory direction there is no incentive on land managers to identify and implement new means of current land use or convert to an alternative less impactful land use like forestry.

3. THE DISCUSSION DOCUMENT

3.1 The Discussion Document and supporting regulations have been drafted against three government objectives, summarised below:

(a) Stop further degradation of New Zealand’s freshwater resources;
(b) Reverse past damage;
(c) Address water resource allocation, having regard to all interest including Maori and existing and potential new users.

3.2 OjiFS acknowledges the importance to New Zealand of freshwater but is concerned that the proposals fail to achieve the government’s objectives or integrated management of natural and physical resources. The proposals will have significant unintended consequences including adverse social and economic cost. From OjiFS’ perspective, greater recognition is required of the fact that:

(a) Sustainable resource management is contextualised.
(b) The Resource Management Act 1991 (“RMA”) is not a no effects statute. Its focus is (or should be) on requiring resource users to internalise the adverse effects of their activities on the environment.
3.3 The Discussion Document advises that water is suffering as a result of human activity – urban development, agriculture, horticulture, forestry and other activities – and because of a lack of robust regulation, monitoring and enforcement.

3.4 OjiFS notes that, since at least 1991 the forest processing (and all other) ‘consented’ industry has been subject to requirements to apply the BPO and achieve continuous improvement. These obligations have spurred ongoing investment in systems to treat discharges to water. Silvicultural activity including forest harvesting, has been subject to regulation through consents and (most recently) the standards prescribed in the National Environment Standards Plantation Forestry 2017 (“NESPF”). Over the same period, regulation of farming activities has been less prescriptive, providing a ‘permitted’ pathway for land use intensification, for example the conversions of forestry or sheep and beef operations to intensive dairying. The lack of regulation or regulatory enforcement of the adverse effects of farming activities has resulted in some activities generating discharges with adverse effects on water quality.

3.5 Evidence (for example, that produced by the Waikato Regional Council as part of their Plan Change 1 work) shows that the effects of ‘point source’ discharges have decreased in overall impact. By contrast, diffuse discharges from the farming sector have significantly increased.

3.6 In view of the achievements made by regulating largely via resource consents, it is logical and equitable to now target under-regulated activities through similar approaches, for example via mechanisms such as enforceable farm environment plans (prepared under a rule or consent).

3.7 An equitable approach to land use regulation is required to provide an incentive to improve water quality in concert with, rather than as an impediment to, investment and rural-sector innovation.

DRAFT NATIONAL ENVIRONMENTAL STANDARDS FOR FRESHWATER

4. OVERVIEW COMMENTS - A MORATORIUM RETROSPECTIVELY GRANDPARENTS DIFFUSE-SOURCE POLLUTION

4.1 A key aspect of the NES is the proposal to apply a moratorium to high risk land-use change (clauses 35 and 36). The NES also identifies the option of applying a nitrogen cap (subpart 4). The effect of the proposed moratorium will be to lock in present land-use patterns at the highest diffuse nitrate leaching levels (2014-2018) by discouraging land use change to those land uses associated with lower levels of diffuse impact. This is commonly referred to as “grandparenting” pollution rights.
4.2 Applying a nitrogen cap based on existing use “allows operators to carry on producing current levels of effects, particularly adverse effects, and imposing restrictions only upon new entrants to whatever activity is being dealt with.”

4.3 Whether as a pure or hybrid version, grandparenting has been regarded by the Environment Court “as an unattractive option” which would have the “inherent disadvantage of failing to provide an incentive to reduce leaching”.

4.4 Grandparenting is inconsistent with the “polluter pays” philosophy of the RMA inherent in its sustainable management purpose. It is inconsistent with the RMA requirement to avoid or mitigate adverse effects.

4.5 “Any grandparenting” including the variation of “grandparenting”, proposed by the draft NES will allow the majority of activities that are the key source of nutrient contamination (i.e. intensive pastoral agriculture) to continue business as usual. The financial value accruing as a windfall through regulatory validation of existing pollution as a ‘right’ will incentivise the property owner to continue to pollute within sanctioned limits. As proposed, the NES means there is no meaningful requirement to avoid, remedy or mitigate the adverse effects on the environment of diffuse discharges. This stands in direct contrast to the reasonable success of the RMA in reducing the overall impact on water from ‘point source’ discharges. The latter are subject to periodic reporting and obligations to demonstrate the best practicable option (BPO) and continuous improvement as condition of resource consent.

4.6 The disadvantages of the proposed moratorium on land use change are listed below:

- It prevents water quality improvement by locking in land uses that have greater adverse effects. It incentivises land management which maintains discharges at high levels for fear that a failure to do so will limit the range of future uses and thereby undermine the asset value of a land holding;

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1 Day v Manawatu Wanganui Regional Council [2012] NZEnvC 182 at [5-128]

2 Day v Manawatu Wanganui Regional Council at [5-177]. The decision of the Environment Court was upheld in all material respects by the High Court in Horticulture New Zealand v Manawatu Wanganui Regional Council [2013] NZHC 2492

3 The Report of the Board of Inquiry on Hawkes Bay Regional Plan Proposed Change 6 concluded that grandparenting is inconsistent with the NPSFM and that all sectors have the same general obligations:

[388] … Such an approach rewards existing high leaching farming operations or poor performing operations, which would not give effect to the NPSFM…

[442] … as a discharger of nutrients and contaminants, the primary sector is no different from any other industry. It has the same obligations to operate within limits and internalise effects, or mitigate those effects where absolute internalisation is not possible.
- It removes the incentive to invest in lower emitting activities. This will discourage investment in activities like forestry, organic and less intensive agricultural practices;

- Its effect on the capital value of land creates an environmentally perverse incentive to avoid making practicable changes or mitigating adverse effects on water quality;

- It disincentivises diffuse-source emitters (directly and in capital value terms) from taking voluntary and early action to internalise their adverse environmental effects by changing practices related to the existing use;

- It drives down land value for emitters that have previously adopted land uses associated with better than average offsite environmental effects;

- It risks ratepayer and taxpayer funded claims for compensation where change to regulation is proposed to achieve a reduction in emissions (e.g. where Regional Council requirements for riparian setbacks are partially or fully funded by Regional Councils on farm land).

- It conflicts with the BPO approach applied to consented point source discharges, the latter facing changes (including non-returning capital investment) imposed as a condition of consent.

- It disadvantages Maori landowners and those other classes of land ownership, associated with less intensive land use.

5. **ALTERNATIVES TO A MORATORIUM**

5.1 OjiFS believes consistent regulatory requirements should be imposed to all water resource users. In practice, at least for the interim, this means requiring land-users to adopt the BPO for water quality mitigations leading to staged improvements in catchment and subcatchment water quality.

5.2 Advantages of the BPO approach are:

- BPO is defined in the RMA and is recognised by both the RMA and the operative NPSFM as a method of avoiding or mitigating actual or likely adverse effects of resource use on the environment.

- It does not pre-empt the national objectives framework (NOF) for national and other values and as such is an appropriate method in anticipation of full implementation of the operative NPSFM (by 2030);

5.3 There is no ideal method for transitioning from the past permissive treatment of diffuse source discharges from agriculture and other common rural land uses. That said, the disadvantages of grandparenting are significant and out-weigh any benefits if water quality is to improve.
5.4 A BPO approach is not without issues. However, the disadvantages of the BPO can be mitigated through the introduction and staged review of time-limited BPOs, coupled with a gradual movement to a NOF system once the tools for reliably setting nutrient caps are fully developed.

**A possible framework for implementing a BPO**

5.5 OjiFS supports centrally developed BPO guidance for councils, as a means of avoiding unwarranted political influence at local government level, duplication of policy and plan development costs across multiple councils, and as a means of maximising the benefit of national expertise.

**Farm Environment Plans should be mandatory**

5.6 Improved farming practices are acknowledged in the Discussion Document as being capable of leading to large reductions in nitrate leaching and sediment loss without compromising farm viability [page 65]. Evidence provided by OjiFS to the hearings on Plan Change 1 to the Waikato Regional Plan provides support for the view that farming can reduce emissions and remain productive where best practice or ‘organic’ farming prescriptions are applied.

6. **SPECIFIC COMMENTS ON PROVISIONS OF THE DRAFT NES**

**Application to only some regions**

6.1 OjiFS opposes the application of the freshwater framework to some regions and not others. This will create inconsistency, uncertainty and a perverse incentive to relocate damaging activities. There are significant similarities in the long-term objectives between the Proposals and certain Regional Plans but there are also significant differences. For example, the Proposed Plan Change 1 to the Waikato Regional Plan (“PC1”) aims for implementation over 80+ years.

6.2 If the Draft NES is to be introduced it should apply equally to all regions and should be introduced over similar time frames. To do otherwise is to risk the re-location and concentration of polluting activities in permissive catchments and sub-catchments. It is reasonable to assume this will occur in preference to adaptation and innovation where such ‘regulatory avoidance’ represents a better financial return

**Constructed wetland issues**

6.3 OjiFS supports the exclusion of constructed wetlands from the definition of “natural wetland” as it is important not to discourage the development of constructed wetlands through additional and open-ended obligations. A ‘wetland’ constructed for a specific purpose such as nutrient removal cannot be assumed to have the values or be managed for the biodiversity that might be expected in a natural wetland. To that extent, calling such areas a ‘wetland’ may be a misnomer, a better comparison being to a pond, tank or cistern utilised for the purpose of water supply or water treatment. Refer to further comments below in relation to the NPS policies applying to wetlands.
Aligning RMA national direction (part 11 Discussion Document)

6.4 The Proposals result in unresolved and potentially mutually exclusive tensions between the NPS on Urban Development, the NPS for Highly Productive Land, the NPS for Indigenous biodiversity, the NPSFM and the NESPF. There is a tension between:

(a) Use of land for biodiversity purposes, production forestry and the achievement of improved water quality contrasted with an inability to change land use. There is no assumption in the NESPF that harvesting will be able to be undertaken on high risk land, notwithstanding any requirement to improve water quality outcomes through afforestation;

(b) The net zero carbon economy and the grandparenting of ruminant agriculture;

(c) The interim moratorium and the assumption of the need to achieve land use change to achieve water quality outcomes.

6.5 These difficulties go to the heart of proposed water reforms including the need for well-integrated national direction. The indication in the NES is that the NESPF will prevail in relation to the wetland rules (Part 2 of the Draft NES). It is imperative this hierarchy prevails for there to be confidence in investment in general and afforestation in particular. On that basis we recommend:

(a) That the stipulation that the NESPF prevails is retained; and

(b) That it applies to all of Part 2, not just Subpart 1 (Wetlands).

6.6 Without a clear hierarchy, there will be unintended consequences for the roll out of the 1BT programme including, for example:

(a) If subpart 3 (Fish Passage) were to apply the regulations would be inconsistent with the provisions for fish passage in the NESPF;

(b) If regs 15 -17 of the NES were to prevail over the NESPF, afforestation that would otherwise be provided for under the NESPF as a permitted activity would be a non-complying activity if it were deemed to be a “water take” by virtue of its interception effect

6.7 The NESPF was developed to address a problem of ‘sovereign risk’ (regulatory uncertainty) impeding investment in forestry given it is a long-term land use. The problem of disproportionate impact on investment in long term land uses is recognised in the Discussion Document where it discusses the differential treatment of existing hydroelectric power schemes. In the case of such schemes the ‘effects’ are deemed to be acceptable because of the anticipated (and undoubted) benefits to NZ of low-emissions electricity generation over the long term. Forestry and investment in afforestation and wood processing is a similarly long-term commitment to NZ’s goal
of reduced GHG emissions and the target of a “net-zero” emissions economy by 2050. Investment in that zero-emissions future will be impeded if those interested in afforestation having little or no assurance of the ability to harvest economically, particularly given the progressively tighter restrictions applied to forestry over the last 25 years in order to offset the environmental impact arising from a lack of regulation of agriculture.

**Charging for monitoring of permitted activities (reg 3)**

6.8 The proposal to allow a local authority to charge for monitoring any activity identified in the standard as a permitted activity is supported on the basis that it is consistent with corresponding provisions in the NESPF and on the proviso that there is no ability to duplicate charges under both the NESPF and NES.

**DRAFT NATIONAL POLICY STATEMENT ON FRESHWATER MANAGEMENT**

7. **GENERAL COMMENT ON DRAFT NPSFM**

7.1 The operative NPSFM 2014 sets a revised national objectives framework incorporating the concept of Te Mana o Te Wai. Since its introduction regional councils have been working towards its implementation. To completely redraft the NPSFM at this point will undermine the current programme and timeframes that councils have identified for implementation of the NPSFM 2014.

7.2 The rationale for the changes to the NPSFM 2014 proposed by the discussion document are not obvious. The following matters are of specific concern:

- The preference for differential regulation of direct and indirect use of water;
- The removal of references to the concept of and requirements for BPO;
- Proposed national bottom lines and implementation timetables without evidence they are achievable;
- The lack of allowance for existing discharge activities other than existing large hydro schemes;
- Reduced emphasis on the social and economic aspects of “sustainable management”;
- The adoption of a completely revised NPSFM notwithstanding the broadly similar NPSFM 2014 already in place.

**Setting priorities**

7.3 An NPS can frame the way “sustainable management” is applied to particular resources. Once determined there is no need to refer back to Part 2 of the Act. As a higher order policy document, an NPS must be given effect to. Case law has determined that a strict approach is to be applied to the implementation of
prescriptive provisions in higher order documents, during plan development and when making decisions on applications for consent. They are not subject to a cost benefit analysis if to do so circumvents the higher order provisions.\textsuperscript{4}

7.4 By prioritising how water is to be managed, the future application of the NPSFM needs to be carefully considered. One interpretation is that where economic development and the health and well-being of waterways are in conflict, the latter must trump the former and an assessment of the costs and benefits of that prioritisation may not be deemed appropriate. It is difficult to reconcile the specified prioritisation of Objective 2.1 with the concept of integrated management or the important issues of regional economic development and job creation.

7.5 Policy 13 is subject to “Te Mana o te Wai, the objectives and other requirements” of the NPSFM. Absent from the framework is any specific recognition that the use of freshwater may come at a cost, for the benefit of economic and social wellbeing. Similarly, the integrated management policy (cl 3.4) gives little weight to economic activity.\textsuperscript{5}

7.6 Although the NPSFM 2014 has a similar “Integrated Management” provision (cl 3.4) a key difference is that under the draft NPSFM, integrated management must be consistent with Te Mana o te Wai, which informs, inter alia, the objectives and policies of the NPS.\textsuperscript{6} The interrelationship between these concepts in the current proposal is circular in nature, with a lack of guiding direction.

7.7 Priorities appear to be highly dependent on largely unguided determinations of the council (via the community). This is in direct contrast to Policy CA2 (f) of the NPSFM 2014 which sets out numerous matters to consider as part of the determination process, for example, “how to enable communities to provide for their economic well-being, including productive economic opportunities, while managing within limits”, “any choices between the values ...” and “any implications for resource users... including for investments, ongoing management changes and any social, cultural or economic implications”.

Existing industrial uses of water

7.8 There appears to be a risk that existing activities, even with material upgrades (such as our $100 million state-of-the-art wastewater treatment project) may be at risk if the health and wellbeing of waterbodies have priority over positive social and economic effects. There are many examples where such activities have been consented on the basis of continuous improvement, which though leading to significant improvements, may no longer be deemed to meet the overarching objectives and policies of the Draft NPSFM.

\textsuperscript{4} Environmental Defence Society Inc v Otago Regional Council [2019] NZHC 2278 at [110]-[112]

\textsuperscript{5} Cf Objective B5 and Policy A7 of the NPSFM 2014, cf policy 3.9 (6) of the Proposed NPS

\textsuperscript{6} Noting that the objective sets the priorities.
7.9 In failing to recognise the BPO approach (entrained within the NPSFM 2014\(^7\)), the draft NPS poses a high risk to existing industrial consented discharges, such as the OjiFS Kinleith and Tasman Mills.

8. SPECIFIC COMMENTS ON DRAFT NPSFM

Issues with the proposed National Bottom Lines

8.1 In contrast to the Draft NPS, the NPSFM 2014 includes only some of the same environmental bottom lines. The NPSFM 2014 therefore more appropriately provides for the transition period before achievement of bottom lines, taking account of the impacts on economic wellbeing. Improvements in water quality may take generations depending on the characteristics of each freshwater management unit.

8.2 Conversely, the draft NPS stipulates that when setting target attribute states at or above the national bottom line must have specific timeframes. If the timeframes are long term, specified interim targets are required for achieving those limits.

8.3 OjiFS is concerned that:

(a) The limits proposed in the appendices to the Draft NPSFM are numerous, complex, highly variable within catchments, overlapping and have not been fully considered;

(b) It is unclear whether existing consented discharges will be able to practically meet the stringent new national bottom lines. In particular, we refer to the new Table 10 (suspended fine sediment) and 13 /14 (macro invertebrates) limits;

(c) The relationship between the “compulsory values” and “other values that must be considered” is difficult to interpret, especially in the context of the objectives of Te Mana o te Wai;

(d) The relationship between the draft NPSFM and treaty settlement legislation has not been fully considered, noting, for example, that the Vision and Strategy promulgated under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 prevails over any inconsistent provision in a NPS;\(^8\)

(e) There is no apparent provision made for Treaty Settlements that have yet to be determined and no mechanism provided for the quantification of the extent of permissible intensification where that obligation has been recognised in statute in subjective terms. The legal presumption that specific treaty settlement legislation must be provided for appears to conflict with proposed national

\(^7\) cf Policy A3(b) of the NPSFM 2014
\(^8\) Section 12. The same issue applies with respect to the proposed NES.
presumptions that existing patterns of land use are grandparented and that intensification may not occur;

(f) The setting of target attribute states (cl 3.9) does not recognise existing discharges. This contrasts unfavorably with the protection provided for existing large hydro schemes.

**Protection for existing large hydro schemes and other existing industrial operations**

8.4 When setting limits or developing action plans and making plan changes, the Draft NPSFM requires councils to have regard to existing large hydro schemes. This is broadly consistent with the National Policy Statement for Renewable Electricity Generation ("NPSREG"). Hydro schemes merit a degree of protection to the extent that they are currently subject to the NPSREG and the requirements for decision makers to have regard to matters such as mitigation opportunities and adaptive management measures. However, hydro schemes are not the only activities that produce renewable energy. OjiFS’s Kinleith and Tasman Mill energy plants generate more renewable energy than several Waikato hydro dams from biofuel but also rely on water resources (albeit not to the same extent as hydro schemes). Moreover, there is real potential to expand renewable energy at these mills. Giving existing hydro a special status risks a perverse environmental outcome by giving large hydro schemes an advantage over other renewable energy or other worthwhile activity.

8.5 The Discussion Document acknowledges that Regional Councils may set target attribute states that are below the national bottom lines for some waterways where those waterways are affected by structures that form part of hydro schemes (cl 3.22(3)). OjiFS is concerned that clause 3.22(4) could require other (non-hydro scheme) discharges to hydro-impacted waterbodies to improve the quality of the waterbody to meet the national bottom line. By contrast, it seems there is no expectation of a contribution to water quality improvement by the hydro scheme operator, no matter how small or readily achievable. It is not apparent how these provisions intersect with the NPSREG.

8.6 OjiFS considers that a grandparented allocation of discharge rights should be avoided where practical. However, if a grandparented allocation is to be applied, this should be equitable. At present, the proposals allocate to existing large hydro schemes and agricultural activities, with remaining activities, (i.e other smaller electricity generators and existing industry), subject to consent renewals and conditions that do not provide certainty that existing activities will be capable of being consented.

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9 This clause provides that despite allowing councils to set target attribute states that are below the national bottom line, council must still set target attribute states that improve any waterbody etc affected by any hydro scheme.
8.7 Ideally all activities should be regulated on the basis that they are expected to internalise effects and adopt continuous improvement or adaptive management, commensurate with the sustainable management of the environment.

8.8 This approach should be applied in a framework that recognises that the national bottom lines as proposed may not always be feasible or practicable, but that sustainable management is appropriate. Such provisions should not override the exceptional circumstances approach set out in s107 of the RMA.

**Implementing timeframes for water quantity management**

8.9 The Draft NPSFM proposes that the final decisions on changes to policy statements and plans must be publicly notified by 2025. In so doing it removes the progressive implementation programme set out in the NPSFM 2014 that extends this timeframe to 2030 in certain circumstances (Policy E1). OjiFS is concerned that:

(a) The advancement of the timeframes will have implications for the timetables that the Bay of Plenty Regional Council has in progress which will in turn potentially impact on its ability to process the large numbers of water take consents that fall due by 2026 in that region;

(b) As a corollary, that the Proposals will be hurried, with less opportunity for consultation and appropriately timed implementation;

(c) That without knowing the desired ecosystem health outcomes and how those impact on allocation limits and minimum flow regimes, it is difficult to understand potential impacts of the requirement to align existing consents with those matters, and that this will create investment uncertainty for existing consent holders, particularly those who will be the first to have their renewal applications assessed;

**FUTURE WASTEWATER AND STORMWATER PROPOSALS**

9. **GENERAL COMMENT**

9.1 It is difficult to comment on the potential impact of the yet to be defined National Environmental Standard for Wastewater Discharges and Overflows. In particular, it is not clear whether the intent is to apply the standard to wastewater network operators or all wastewater treatment plants including industry.

9.2 If applied to all wastewater treatment plants it is not apparent how the draft list of “requirements” would apply to industrial operations, without taking into account the nature of the industrial activity. As consents in place for industrial discharges already require the application of the BPO as part of the assessment process coupled with a requirement for continuous improvement, OjiFS would wish to understand the rationale for the application of such standards and the potential implications for existing consented discharges, before it could constructively comment.
Dated this 31st day of October 2019

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