SUBMISSION ON DISCUSSION DOCUMENT “ACTION FOR HEALTHY WATERWAYS: A DISCUSSION DOCUMENT ON NATIONAL DIRECTION FOR OUR ESSENTIAL FRESHWATER”
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1 Introduction

1.1 This is a submission on the discussion document “Action for healthy waterways – A discussion document on national direction for our essential freshwater”; Publication Number ME 1427 (Discussion Document).

1.2 Environmental Defence Society (EDS) is a not-for-profit, non-government national environmental organisation. It was established in 1971 with the objective of bringing together the disciplines of law, science, and planning in order to promote better environmental outcomes in resource management.

1.3 EDS has had an extensive involvement in freshwater matters, having litigated since the early 1970s to both protect freshwater quality and support the promulgation of water conservation orders. More recently EDS has been a party to proceedings relating to the Ruataniwha Dam proposal and declaration proceedings against Horizons Regional Council.

1.4 With respect to policy reforms, EDS initiated the Land and Water Forum (LAWF) in 2008 and its CEO Gary Taylor was a member of the Forum until it went into recess in 2018. He was then appointed to the Freshwater Leaders’ Group (FLG) and supports the majority recommendations contained in the FLG’s report.

1.5 The state of freshwater in New Zealand, which forms the background need for the proposed reforms, has been well outlined in recent authoritative publications including assessments by the Ministry for the Environment (MFE) and Statistics New Zealand:1 The findings in this report, Environment Aotearoa 2019, paint an alarming picture:

- In areas of pastoral farming the median concentrations of nutrients, pathogens and sediment are between 2 and 15 times higher than natural conditions

- 71% of river lengths in pastoral farming areas have levels of nitrogen that may cause some growth effect on aquatic species and 82% have pathogen levels that would pose risks to human health from swimming

1.6 By length, most freshwater systems are located in rural areas with only a small proportion in urban locations.2 Whilst many argue that there needs to be equitable treatment between town and country, the reality is that the majority of the improvements to freshwater use will need to occur in rural New Zealand.
2 Overall submission

2.1 EDS is broadly supportive of the direction set out in the Discussion Document. New Zealand has a water quality problem and there is a clear public mandate to address that.

2.2 The steps proposed by the Government build on the recommendations of the LAWF and the previous government’s reforms. The political discourse that argues that the current proposals represent an entirely new direction for freshwater management is not supported by the evidence. The overall architecture of providing greater national direction and establishing clear environmental bottom lines via narrative objectives and policies and related numerical attribute tables was established in the previous three versions of the National Policy Statement on Freshwater Management (NPS-FM). It’s important to note that under those versions, implementation of the NPS-FM via regional plans is not required until 2025 or 2030. In other words, the limit-setting already required has not yet been fully put in place.

2.3 In that context, what is now proposed is incremental change, filling in some of the gaps and refining and clarifying previously existing policy settings. It is EDS’s view that many of the commentators on the reforms have been overstating the implications of the proposed changes and have not properly understood the implications for freshwater management and land uses of the existing law.

2.4 For example, the proposal to exclude stock from waterways is not new. This was recommended by LAWF and the previous government was considering implementation of somewhat more demanding measures than those contained in the present draft s 360 regulations.

2.5 The proposal to set a numerical Nitrogen (Dissolved Inorganic Nitrogen (DIN)) limit is also not new. It is merely a more precise approach to manage algal blooms that harm freshwater biota, rather than relying on the proxy attribute of periphyton growth (with its associated DIN and DRP obligations) which is contained in the current NPS-FM.

2.6 Some commentators have grossly overstated the spatial impact of the new DIN limit. This has no doubt impacted on some economic impact analyses including those posited by DairyNZ. The underlying assumptions in those analyses will need careful scrutiny. In an attempt to rebut that commentary, Dr Adam Canning has summarised the spatial impact of the DIN limit in a recent publication this way:

Approximately 18% of monitoring sites (these are sites that councils already regularly monitor) exceed the proposed DIN bottom-line;

Using modelled data, outside conservation land, approximately 10% of rivers, by length, exceed the proposed DIN bottom-line;

After giving effect to the existing NPS-FM 2017 requirements to manage DIN for periphyton, 9% of dairy farms (by area), 2% of other livestock (e.g., sheep and beef), and 12% of cropping are in catchments that exceed the proposed DIN bottom-line.³

2.7 What is new is the proposal to address sediment. Sediment is arguably the main pollutant in New Zealand and was an issue of concern to the LAWF. At that stage the science was not sufficiently developed to mandate sediment limits. Now it is, and the Discussion Document contains proposals to address both deposited and suspended sediment via action plans and national bottom lines respectively. Sediment is addressed in the Freshwater Science and Technical Advisory Group’s (STAG) report at p39 where it outlines the harmful effects of sediment to freshwater benthic invertebrates and fish.
2.8 Also new is a proposed National Environmental Standard: Freshwater (NES-F). This is largely targeted at the interregnum until new regional plans that will give effect to the refreshed NPS-FM become operative. It is designed to “stop things getting worse”. That is entirely consistent with both the undertakings made by the Labour Party prior to the election and with widespread public sentiment. It targets the worst polluting land uses and puts in place temporary stops on certain activities.

2.9 It is worth noting the commitment relating to freshwater that is in the Coalition Agreement, namely that it will be a priority to include:

Higher water quality standards for urban and rural using measurements which take into account seasonal differences

2.10 The overall structure of the remainder of this submission is based on the statutory instruments and does not follow the precise sequence of chapters in the Discussion Document. It contains a track changed version of the NPS-FM which reflects the comments below; and expert commentary on the economic implications of the reforms.

3 National Policy Statement on Freshwater Management

3.1 The NPS-FM is the higher order instrument that sets out national direction via objectives, policies and associated attribute tables. The Discussion Document outlines in a narrative the proposed changes to the existing version. A redrafted version that purports to reflect those changes is available on the MFE website.

3.2 EDS is concerned that the drafting of the proposed revision makes changes to the original architecture and wording of the instrument and there is a risk that could lead to perverse outcomes (such as loss of established jurisprudence or unforeseen ambiguities). The drafting changes are not sufficiently connected to the desired outcomes or to the relevant provisions of the Resource Management Act 1991 (RMA). To address this, we have suggested some drafting amendments which are attached as Appendix A.

3.3 It is relevant here to consider the status of NPSs in the RMA hierarchy. This was addressed in Environmental Defence Society Incorporated v The New Zealand King Salmon Co Ltd. The objectives and policies contained in NPSs must be given effect to (meaning to implement) in lower order documents, such as regional or district plans. This is a strong directive, creating a firm obligation on those subject to it. Decision-makers are not entitled to decline to implement aspects of an NPS on the basis of implications for a particular activity or area. The language of the policies is also important – flexible language allows for scope in choices in implementation whereas directive language does not.

3.4 This is important as the time available for meeting the limits in the NPS-FM is at the discretion of regional councils. This language allows for temporal flexibility in implementation. Some have argued that there should instead be a target date included in the NPS-FM. However this is a complicated matter and requires an assessment of the likely lag times in some freshwater systems.

3.5 In most parts of the country lag times are short (less than 5 years) with some being in the range of 10-15 years. Some regions have much longer lag times. In the Waikato, where lag times of 80 years are assumed, lags will still occur after 80 years has passed. Accordingly we favour an obligation that would require observable nutrient improvements to be seen within (say) no more than 35 years.

3.6 Exceptions could be made for the few catchments that have lags greater than 20 years, in which case, an appropriate extension could be (say) number of lag years minus 20 (to keep equity with other catchments).
3.7 It is appropriate to address another important caveat before discussing the detailed NPS-FM elements. Implementation will rely significantly on Overseer. As such, upgrading Overseer, obtaining Government ownership of it and enabling improved versions of it to lead to accurate calibration of regional plans must be addressed as recommended by the Parliamentary Commissioner for the Environment. This is an urgent priority.

3.8 In the Discussion Document, the Government is proposing the following key changes to the NPS-FM:

- Speeding up regional council plan implementation.
- Further clarification on the meaning of Te Mana o te Wai including establishing a clear hierarchy of obligations.
- Elevating the status of mahinga kai to a compulsory value.
- Creating a new tangata whenua freshwater value.
- Inserting new provisions to strengthen the achievement of ecosystem health.
- Requiring councils to take action if macroinvertebrates (rivers), fish (rivers), dissolved oxygen (rivers and lakes) and macrophytes (lakes) breach a specified threshold.
- Improving protection for threatened indigenous species.
- Requiring fish passage.
- Improving protection of wetlands.
- Strengthening protection for urban streams.
- Suggesting new bottom lines for nutrients (Nitrogen and Phosphorous).
- Suggesting opt-out measures for rivers that support naturally occurring high periphyton biomass.
- Requiring councils to take action if deposited sediment exceeds a specified threshold.
- Adding a new attribute for suspended sediment that includes bottom lines.
- Requiring action plans where swimming sites are impacted by faecal matter.
- An improved process for establishing flows.

3.9 EDS supports all of these proposed measures with the following qualifiers.

3.10 Whilst EDS supports the increased measures and bottom-lines to provide for indigenous species, we also recognise that trout and salmon are highly valued. That is not only for their recreational and food source value, but also the conservation benefits arising from their management advocacy as they are often described as the ‘canaries in the goldmine.’ In addition, section 7(h) of the RMA 1991 and para 1.3 of the Cabinet Paper: Restoring New Zealand’s Freshwater and Waterways, seek the protection of trout and salmon habitat - which has not been addressed in the draft NPS-FM.
3.11 We seek, for rivers identified in the relevant Sports Fish and Game Management Plans, (1) that the definition of a healthy ecosystem includes trout and salmon alongside indigenous species, (2) the Fish Index of Biotic Integrity includes trout and salmon as a positive species (to provide for their habitat); and (3) more stringent deposited sediment standards in spawning reaches (as suggested in the STAG’s deposited sediment attribute note).

3.12 With respect to fish passage, the current proposals enable councils to not have to provide for ‘undesirable species.’ That term is not defined, so a council could call any species ‘undesirable’ and not provide for its passage. EDS suggests that ‘undesirable species’ be replaced with ‘pest’, as defined in the Biosecurity Act and as listed in a Regional Pest Management Plan. It could also include any other species the Director-General of Conservation identifies in writing, as per the Freshwater Fisheries Regulations.

3.13 EDS also supports STAG’s recommendation for councils to take action when wetland condition, extent and ecosystem metabolism are below specified thresholds, and seeks that all three attributes be included in Appendix 2 of the NPS-FM. All attributes should have a bottom-line between the C and D band, even where there is uncertainty in the ecosystem metabolism thresholds (applying the precautionary principle), especially as there is an overall exception where ecosystems naturally breach the bottom-line. Wetlands are our most threatened and degraded freshwater ecosystems. Beyond stopping further degradation, bottom-lines will also drive the need to improve degraded wetlands.

3.14 EDS also supports STAG’s recommendation for default nutrient criteria in giving effect to the periphyton attribute note. Councils have failed and struggled to set appropriate nutrient concentrations to meet periphyton objectives. Default nutrient criteria will assist with fast implementation of plans and proactive nutrient management.

3.15 EDS recognises the importance of addressing climate change and the role that energy transformation will play in doing so. However, EDS does not support providing open-ended exemptions to major existing hydro-electric schemes. We do not favour populating Appendix 3 of the current NPS-FM or its equivalent. If the proposed policy approach is still to be proceeded with then at a minimum the requirement to improve any waterbody or freshwater ecosystem health must remain; and hydro operators should be required to provide mitigation to assist with that.
3.16  EDS supports the emphasis on ecosystem health as this is enabling science-driven policy to emerge more clearly and is consistent with the refocused Te Mana o te Wai.

3.17  The concept of Te Mana o te Wai was first introduced into the 2014 version of the NPS-FM in the preamble and statement of national significance. There was very little detail in the substantive provisions regarding the meaning of Te Mana o te Wai and there were no objectives or policies that specifically referred to Te Mana o te Wai.

3.18  There is very little case law on the 2014 NPS-FM provisions regarding the meaning of Te Mana o te Wai. However, in the Sustainable Matata case, the expert Māori witnesses gave evidence to the effect that Te Mana o te Wai involves concepts that derive from the relationship of Māori and their culture and traditions with their ancestral lands, water, wahi tapu, and other taonga. In that regard, the Environment Court stated the following about the evidence of Dr Daniel Hikuroa and Maanu Paul:

"... In terms of the Freshwater Policy Statement, he suggested that Te Mana o Te Wai would need to be defined by reference to tāngata whenua values and from a mātauranga Māori (Māori knowledge) base which was context specific. His view was that in order for Te Mana o Te Wai to be accurately taken into account, it would have to come down to the mana of the tangata whenua. Thus if the mauri of a catchment was negatively impacted, so therefore the mana was impacted. If efforts are made to restore the mauri of the waters, that would in turn, restore the mana of the people. It was his view that one is not separate from the other as they are inextricably linked.

[398] Consistent with Dr Hikuroa's views on Māori cosmology, Maanu Paul noted that Te Mana o Te Wai refers to Te Kauwaerunga (the celestial/heavenly world) and Te Kauwaeraro (the terrestrial/physical world) which are inter-connected. Water has within it, he explained, the potential to link the celestial and terrestrial worlds and the whakapapa between Ranginui and Papatuanuku, the sky father and the earth mother. For the Ngāti Awa people, as river people, they imbued their rivers with mana and mauri. Where degraded, such as the ORC, it was his view that the mauri can be returned in an enhanced position, is not destroyed, it is in abeyance until it can come back to its original condition. He stated:

The mauri cannot be destroyed because the Te Mana o Te Wai, the power of the water is maintained by the people and as long as Ngāti Awa people live the mauri of the Orini will continue to live because it is the people who give the mana ... that results in the mauri, which is essential to think, to understand as Dr Dan Hikuroa said, it is the tangata i roto i te whenua, the people who are in the land who determine the mauri."

3.19  The Environment Court held the following:

"... It is at this juncture where the evidence of Mr Paul and Ms Vercoe demonstrate that there is a relational aspect to the term Te Mana o te Wai that is central to tangata whenua values and their kaitiakitanga responsibilities. This relational aspect is consistent with Mr Mikaere's view when he linked Te Mana o te Wai with the identity of tangata whenua and particular water-bodies, noting the use of water bodies in tribal pepeha (proverbs). He agreed that the term means something more than mauri and that it encapsulates the entire water body, including the banks and beds. Thus we find that there is a relational value which is an additional value associated with Te Mana o te Wai in the Tarawera Catchment.

..."

[423]  We conclude from this evidence in relation to freshwater policy that wastewater seepage or discharge from the LAF into surface water is not acceptable to tangata whenua, and increased N and P will affect their relational values associated with Te Mana o te Wai in the catchment These values are more consistent with the improvement and enhancement of the ORC and require adequate mitigation.
Nevertheless, we acknowledge both policy documents overall seek to improve existing contamination. We conclude that the National Policy Documents would be met if:

(a) human wastewater is significantly attenuated;

(b) all e-coli are removed;

(c) levels of N and P discharged to the ORC are reduced;"

3.20 The 2017 amendments to the NPS-FM deleted the old provisions relating to Te Mana o te Wai and replaced them with new provisions in the preamble, a new explanation of the national significance of fresh water and Te Mana o te Wai, and a new objective and policy regarding Te Mana o te Wai. The objective required councils “to consider and recognise Te Mana o te Wai.” The amendments gave far greater prominence to Te Mana o te Wai than was given to the concept in the 2014 NPS-FM. However, the obligation was only to “consider and recognise,” not “recognise and provide for.”

3.21 EDS considers that the obligation regarding Te Mana o te Wai in the draft 2019 NPS-FM should be to “recognise and provide for” it. There are five reasons for that:

• Recognising and providing for Te Mana o te Wai is stronger wording than is in the operative version of the NPS-FM at present.

• In relation to Māori, Te Mana o te Wai is something that derives from the relationship of Māori and their culture and traditions with their ancestral lands and water, so it is a subset of section 6(e) of the RMA, and the obligation regarding section 6(e) is to “recognise and provide for” the matters in section 6(e).

• The current wording in the draft 2019 NPS-FM is to “give effect to” Te Mana o te Wai, and that is inconsistent with section 6(e).

• The proposed wording creates an ambiguity between the two languages. How can “mana” be “given effect to?”

• Pursuant to sections 45(1) and 45A(1) of the RMA, the purpose of national policy statements is to “state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.” Section 6(e) of the RMA, and Te Mana o te Wai, are clearly matters of national importance/significance, so it is appropriate that the objectives and policies in the draft 2019 NPS-FM should be worded to “recognise and provide for” Te Mana o te Wai.

3.22 The additional attributes for Nitrogen, Phosphorus and suspended sediment are especially welcome as they were not able to be finalized by LAWF. The addition of these attributes is the most important change to the present version of the NPS-FM and completes the population of the National Objectives Framework with a full menu of environmental bottom lines.

3.23 On the implementation timelines, we note the new obligation on regional councils to have operative (not merely notified) plans in place by 2025. Whilst strongly supporting that deadline, EDS contends that implementation in that timeframe will present regional councils with some serious challenges. Those are partly addressed by the proposed changes to the Schedule 1 RMA process (see discussion below).

3.24 EDS strongly contends that there is an urgent need for a Freshwater Commission to be established as a stand-alone entity focused on assisting regional councils to implement the reforms by providing scientific advice, support funding, plan-making advice and (where required) direct Ministerial interventions. It would also be useful to empower the proposed Commission to actually prepare and notify plans in circumstances where for some reason the regional council is struggling.
The idea of a freshwater Commission was first floated in the early days of LAWF, has been endorsed by both FLG and Kāhui Wai Māori (KWM) and is now in serious need of rapid deployment. It is envisaged that MFE would retain its role as the key environmental policy entity but there is clear need for a fresh entity with a sharp and dedicated focus on implementation. The Commission would need capacity to provide scientific and policy support to regional councils as well as powers of intervention when progress is slow. Interventions could range from being enabled to approve the location of water quality monitoring sites to writing regional policy statements and plans. EDS believes, based on its long experience in freshwater matters, that regional council implementation will run into trouble without such support. This is an issue that needs addressing now, as implementation challenges are imminent. It should not be left to the longer-term Resource Management review process to address because that will be too late.

4 RMA Amendments

4.1 To ensure the refreshed NPS-FM is implemented as soon as practicable, the Government has proposed changes to the standard plan-making process in Schedule 1 RMA. These changes are included in the Resource Management Amendment Bill 2019 (Bill), which is currently before the Environment Select Committee for consideration.

4.2 The alternative plan-making process will be available for the preparation or amendment of both regional policy statements and regional plans, which are intended to implement the NPS-FM (described as freshwater planning instruments). The Bill essentially requires such instruments to be developed using the same process that was followed for preparation of the partly operative Auckland Unitary Plan.

4.3 EDS will be making a submission on the Bill, which will address the changes proposed for the freshwater planning process. In summary, EDS strongly supports the new freshwater planning process, which includes the following:

- The establishment of Freshwater Hearings Panels (Panels) to hear and make recommendations regarding submissions on freshwater planning instruments;

- The requirement for the Panels to make their recommendations within two years (less 20 working days) from the date the freshwater planning instrument was publicly notified; and

- Restricted rights of appeal from the Council's decision on the Panel’s recommendation, with a merits appeal to the Environment Court only available where that recommendation was rejected.

4.4 EDS also supports repealing the collaborative plan-making process that was introduced to Schedule 1 RMA by the Resource Legislation Amendment Act 2017. We note that the current provisions of Schedule 1 RMA (as they would remain if the Bill was enacted as drafted) would still enable Councils to utilise a collaborative plan making approach, where that is appropriate. That approach can be tailored to suit regional circumstances rather than being as prescriptive as in the current law.

4.5 EDS considers that a further important amendment should be included in the Bill, to ensure that the relevant Minister (currently the Minister for the Environment) has jurisdiction to “call in” a request for the preparation of or change to a regional policy statement as a proposal of national significance and refer this to a Board of Inquiry or the Environment Court for determination. This is currently precluded as a result of the definition of “matter” in section 141 RMA and has arisen as a direct issue in respect of Plan Change 2 to the Horizons Regional Council’s One Plan. Again, this matter will be addressed in detail in EDS’s submission on the Bill.
National Environmental Standard: Freshwater

5.1 The proposed NES-F seeks to prevent water quality from deteriorating further and improve freshwater quality in the short term while regional plans are being reviewed to give effect to the NPS-FM. The changes proposed include some options and elements that are not supported by EDS. The key components of the NES-F are discussed by topic below.

Farm Plans

5.2 The proposal to make Farm Plans compulsory and to create a new bureaucracy of certifiers and auditors seems like overkill. It will create a confused regulatory regime in which there will be conflict between the certifiers and auditors and the regional councils over who has regulatory control. It adds considerable costs to farms.

5.3 Making Farm Plans compulsory is also ignoring the benefits of allowing the status of farm plans to be determined region by region and by size (or intensity). For example, farm plans are well entrenched as a regionally derived tool in Canterbury. Superimposing a nationally directed artifice in place of that seems counter-productive and excessive.

5.4 EDS instead supports the majority of the FLG which preferred Farm Plans to be an optional support tool rather than a regulatory one. The benefit of that approach is that the Farm Plan can evolve via the sector group entities and embrace non-RMA responsibilities in a holistic way, outlining how the farm will address the full range of environmental factors, including climate change and natural and cultural landscape factors. With the current proposals for the introduction of a levy-based emissions reductions scheme for the agricultural sector, Farm Plans are likely to be deployed for that purpose. So the Farm Plan, where used, should be seen to outline in a practical way how individual farms intend to meet the relevant environmental limits, whether freshwater or greenhouse gases, over time.

Restrict further intensification

5.5 EDS supports tighter restrictions proposed on land use transitions that will result in further pollution. This includes the changes proposed in the Discussion Document.

5.6 With respect to commercial vegetable growing, we accept that this activity needs further focused attention and should be subject to its own detailed NES rules. EDS intends to engage directly with Horticulture NZ on this proposition. It is likely that intensive horticulture will need to be provided for by a tailored exceptions framework.

5.7 The Discussion Document proposes three options for managing excessive Nitrogen loss. EDS supports either option 1 or option 2. As option 3 relies on mandatory Farm Plans (discussed above) this option is not favoured.

5.8 Where the Nitrogen thresholds should be set is a scientific question that should be referred back to the STAG for advice.

Intensive winter grazing

5.9 There are 2 options proposed for managing intensive winter grazing. EDS supports option 1 as this provides clarity and certainty. Industry-set standards are not favoured because the industry has a proven track record of failure to date in this area.
5.10 EDS supports the proposal to regulate feedlots, which are likely to increase in number over time. Having a clear regulatory framing for them will provide direction and standards. We also support the proposed regulation of stock holding areas.

6 Section 360 Regulations

6.1 The proposed s 360 regulations seek to exclude stock from larger waterways by mandating standards that would be enforced by regional councils. The proposed two-tier approach then relies on Farm Plans for smaller streams and drains. This is confusing.

6.2 EDS suggests (for the reasons set out above) that interposing a Farm Plan approach, presumably overseen by a central government regime of farm advisors and auditors, will run interference with the regional council. We suggest that the larger waterways be the subject of national standards and smaller ones left to the regional planning process to resolve. This will allow for a more nuanced approach to be adopted that takes into account local circumstances.

6.3 We have some sympathy for farmers who have been early movers to fence and have established set-backs that may not meet the new obligations. They should be given time to meet any new standards or alternatively consideration should be given to introducing other forms of recognition for existing fences. There is room for reducing the cost burden of these provisions.

7 Impacts of proposals

7.1 The costs and benefits of the proposals and some broader commentary from an economist’s perspective are attached in the paper EDS commissioned from University of Auckland economist Professor Tim Hazledine at Appendix B. We note that other submitters have commissioned economic modelling to resist the proposed reforms. We question the efficacy of the modelling; whether the inputs (such as the spatial extent of the changes when assessed against the present obligations in the 2017 version of the NPS-FM); and whether Farm Plans with their attendant costs are warranted everywhere or at all. And we make the point that whatever the costs are when accurately determined, that quantum is essentially the amount of the public subsidy provided to farmers for the loss of ecosystem services caused by pollution, and should rightly be user-pays.

7.2 The independent report by Professor Tim Hazledine examines the issues and trade-offs raised by new requirements to reduce pollution of New Zealand’s fresh waterways to acceptable standards. He maintains that on the currently available data, it seems that the required adjustments are achievable at an acceptable cost, though in practice much will depend on the time frame allowed, and on the extent to which the implementation process draws in the expertise and goodwill of farmers. A widely publicised programming model predicting massive reversion to forestry in the Waikato/Waipa catchment is fundamentally flawed.
8 Proposed further instruments

8.1 Additional existing or proposed national instruments that impinge to some extent on freshwater management are described in Chapter 11 of the Discussion Document. These include:

- National Policy Statement for Urban Development (NPS-UD)
- Proposed National Policy Statement for Highly Productive Land (NPS-HPL)
- Proposed National Policy Statement for Indigenous Biodiversity (NPS-IB)
- National Environmental Standard for Plantation Forestry (NES-PF)
- National Policy Statement for Renewable Electricity Generation (NPS-REG)
- New Zealand Coastal Policy Statement (NZCPS)

8.2 The alignment between these various instruments needs to be clear and unambiguous. This is likely to be especially important with respect to the linkages between the NPS-FM and the proposed NPS-IB (including the respective treatment of wetlands).

8.3 EDS is especially concerned at the proposal to make the NES-PF override the NPS-FM. We do not see the logic in allowing a rules-focused instrument override one that is focused on policy and objectives and mandates environmental bottom lines for every other sector. In the event of conflict between the NPS-FM and the NES-PF the former should override the latter.

9 Drafting changes

9.1 We have drafted changes to the NPS-FM which are attached at Appendix A. To assist in understanding the suggested changes, these have been tracked and display comment boxes where appropriate.

Ends.
Endnotes

2 Less than 1% (3,344km out of a total of 389,494) – Environment Aotearoa 2019
4 [2014] NZSC 38
5 Parliamentary Commissioner for the Environment (2018) Overseer and regulatory oversight: Models, uncertainty and cleaning up our waterways
7 http://www.integratedfarmplan.nz/case-studies