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4 February 2014

Hon Amy Adams & Hon Nathan Guy  
Freshwater Reform  
PO Box 10362  
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Dear Ministers

**NZAIA SUBMISSION ON THE 'PROPOSED AMENDMENTS TO THE NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT 2011: A DISCUSSION DOCUMENT' PUBLISHED BY THE NEW ZEALAND GOVERNMENT: MINISTRY FOR THE ENVIRONMENT 2013.**

The New Zealand Association of Impact Assessment (NZAIA) makes the following submission on the Proposed Amendments to the National Policy Statement for Freshwater Management 2011: A Discussion Document' published in 2013 (hereafter referred to as the NPS-FM).

**About the NZAIA**

The NZAIA is a non-profit, politically independent professional association. The purpose of the NZAIA is to promote the use, and better practice, of impact assessment in a range of contexts. NZAIA is an affiliate of the International Association for Impact Assessment.

As environmental practitioners, members of NZAIA are experts in local government, biological, physical and social sciences, planning, resource management, legal representation and many are experienced at the decision-making processes of resource consent hearings, Environment Court and Board of Inquiry. Most the membership is employed by Councils, Consultants, Universities and government departments and are actively involved in day-to-day management and decision-making on freshwater resources of New Zealand. A number of members are accredited as independent hearings commissioners through the 'Making Good Decisions' programme.

The NZAIA and its membership is concerned about the declining quality and health of New Zealand's freshwater resources, including the decline in 'life supporting capacity', biodiversity and the limitations placed on recreational use of this prime resource in New Zealand. The concern amongst the membership is so great that the 2013 NZAIA Annual Conference was dedicated to 'Fresh Water – Fresh Thinking: enhancing impact assessment in water management'. The conference, held in Palmerston North in November 2013, attracted some 80 participants and a range of speakers who are immersed in planning, assessment, management and decision-making of New Zealand's water resource. The conference highlighted the urgent need for action on the management of New Zealand's fresh water resource.

The NZAIA and its membership welcome the opportunity to submit comments and recommendations on the NPS-FM. In our submission below we make several general comments on matters of the NPS-FM as well as submission on specific policy and the National Objectives Framework.

### **General comments**

The NZAIA supports the Government initiative to provide further policy direction and guidance for Councils and water managers that will further support the implementation of the NPS-FM. Like many New Zealanders, the NZAIA is concerned about the continuing deterioration of New Zealand's freshwater resources and the decreased ability of New Zealanders to utilise these freshwater resources in a sustainable manner for current and future generations.

The NZAIA understands that the proposed amendments to the NPS-FW are part of a comprehensive reform of freshwater management in New Zealand and NZAIA understand that further initiatives and further amendments to the NPS-FW will follow. The NZAIA supports this continued reform of freshwater management in New Zealand and look forward to the timely release of new initiatives as they emerge.

The NZAIA recognises and supports the five main elements of the proposed amendments to the NPS-FW:

- The introduction of a mechanism for accounting for water quality.
- The introduction of the National Objectives Framework.
- The establishment of two compulsory national values.
- A requirement for monitoring.
- Provision for improved representation of Tangata Whenua.

### **NZAIA submission**

The NZAIA makes the following submission on the NPS-FM. For the most part our submission has a focused on the objectives and policy associated with the NPS-FM. Where appropriate we express our support for the respective objective, policy or initiative but for the most part we express our concerns and offer guidance on what we think the NPS-FM should include to better meet its purpose.

### **General submission comments**

The NZAIA makes the following submission on general matters of the NPS-FM.

#### ***Maintain or improve***

NZAIA is concerned that the implementation of the NOF has the potential to allow further deterioration of New Zealand's freshwater resources to a low 'national bottom line'; that is a condition that may be lower than it is at present. As practitioners, NZAIA is acutely aware of the limited resources of Councils and question that a consistent approach and consistent outcomes will occur across New Zealand. It seems to NZAIA that there is a real risk of picking 'winners and losers' with the freshwater resources of our nation.

NZAIA is encouraged that the MPS-FM emphasises that the proposed changes to the NPS-FM do not affect the existing requirements 'to maintain or improve overall water quality within a region'. However, NZAIA remain concerned about the wording of this emphasis.

**NZAIA suggests there be greater emphasis on the need to 'maintain or improve' within the NPS-FM and that it be made clear that the implementation of NOF will not see freshwater quality fall below existing condition.**

NZAIA also seeks clarification on the terms 'overall' and 'within a region'. It seems to NZAIA that these terms are vague and ambiguous and it is very difficult to see how water quality assessments could be adequately implemented to establish equivalent measures to ascertain 'overall'. It also seems to NZAIA that the term 'overall' can be interpreted to mean 'on balance' such that an improvement in fresh water quality could be offset by elsewhere 'within a region' with deterioration in freshwater quality to a low national bottom line. NZAIA rejects these concepts and recommends a greater emphasis on 'maintain or improve' as the fundamental policy direction without reference to 'overall' water quality.

**NZAIA seek a stronger clarification of the terms 'overall' and 'within a region' and a stronger policy direction on the intention of improvement in freshwater quality without reference to overall. NZAIA would like to see the replacement of the term 'overall' with the term 'measurable improvement in freshwater quality' as the fundamental policy direction.**

**NZAIA seek clarification of the spatial term 'within a region'. NZAIA seek the replacement of the term 'within a region' with a more focused spatial reference such as 'freshwater management unit(s)' or similar.**

### ***Clarity and guidance***

Policy needs to be abundantly clear on its intent and on how it will be implemented. NZAIA finds that several policies within the NPS-FM introduce and define concepts but then provide little in the way of guidance on their implementation. There is a risk that there will be great variation in the implementation of NPS-FM by regional councils across the New Zealand, with the result that the NPS-FM will fail to achieve its objectives. Previous National Policy Statements have suffered the same fate when policy direction has not been carefully matched with guidance on implementation.

**The NZAIA strongly suggests that the NPS-FM includes greater guidance on implementation of policy and/or a commitment to producing guidance documents in a timely manner.**

### ***Estuaries***

NZAIA is concerned that estuaries remain neglected in the debate on water quality in New Zealand. NZAIA acknowledges that estuaries are included in the NZ Coastal Policy Statement 2010 (especially policies 21 to 23) but no environmental bottom lines or standards are developed for estuaries or included within the NZ Coastal Policy Statement 2010. Estuaries are an integral component of freshwater catchments where freshwater and salt water meet and act as a final sink of water quality before discharge to the marine environment. They are also some of the richest and most ecological important aquatic ecosystems. NZAIA submits that estuaries should be better represented in the NPS-FM.

**NZAIA seeks the inclusion of estuaries in policy direction of the NPS-FM (consistent with the NZ Coastal Policy Statement 2010). Amendments to policy statements are included in our submission on specific topics below.**

### ***Freshwater Management Units***

NZAIA supports the introduction of 'freshwater management units' and notes the definition provided in Annex 3. We support the attempt to introduce an appropriate spatial scale for freshwater management. However NZAIA suggests that the spatial scale and of freshwater management units will vary across the country as a result of information variation, management resources and political influence. The NZAIA submits that greater guidance on the types, magnitude and extent of 'units' is desirable within the NPS-FM or supporting documents.

The NZAIA suggests that the NPS-FM should include greater guidance on the application and implementation of 'freshwater management units' and/or a commitment to producing guidance documents in a timely manner.

### **National Objectives Framework (NOF)**

The NZAIA is supportive of the introduction of the NOF to the NPS-FM. The NZAIA acknowledges the difficulties that Councils have had in implementing the NPS-FW and the actual and potential repetition of effort required to meet the requirements of the NPS-FM. The proposed amendments to the NPS-FM provide a far more efficient means of developing the scientific and technical aspects of linking values with objectives. There are also benefits in the provision of a process for setting freshwater objectives.

The NZAIA makes further comment on the objectives and policies of the proposed NOF further in our submission.

### **Omissions**

The NZAIA is concerned that a wide range of freshwater types are not explicitly mentioned within the NPS-FM.

***Groundwater:*** The connection of water movement and storage below ground is a critical component of the hydrological cycle of water. Groundwater is high on the agenda of human use being used for domestic, municipal, agricultural, commercial and industrial uses as well as recreational use where groundwater emerges on the earth's surface.

**NZAIA seek the specific inclusion of groundwater in the NOF along with appropriate attribute standards.**

***Extreme freshwater environments:*** Extreme freshwater environments include geothermal, cold springs, glacial waters, mountain tarns. The NPS-FM is silent on the management of extreme freshwater environments. The NZAIA acknowledges that for the most part the more extreme freshwater environments are not subject to the same pressures as their temperate counterparts, nevertheless, how such environments fit into the management framework and NOF as provided for in the NPS-FM is not clear. NZAIA is concerned that without explicit policy direction within the NPS-FM such extreme environments will be subject to standards and bottom lines that are inappropriate and/or not achievable given the unique characteristics of these environs.

**Lakes:** Although NZAIA acknowledges that lakes are included within the NOF, we remain concerned that a 'one-size' of attributes for lakes does not 'fit all circumstances'. New Zealand has a large number of lakes throughout the country that range in size, depth, altitude, geological history, and act as a 'sink' for many contaminants (including sediment). There have been many well-publicised examples of how the intensification of agricultural activity within lake catchments has led to the rapid deterioration of these standing water bodies. NZAIA seeks amendment and improvement to policy direction and NOF on an improved means of including the variety of lake types in New Zealand.

### **Specific submission on Annex 3: Proposed amendments to the NPS for Freshwater management**

#### **A. Water Quality**

##### *Water Quality Objectives*

Objective A1: NZAIA support the inclusion of Objective A1b. 'the health of people and communities as affected by their secondary contact with freshwater.'

Objective A2: NZAIA questions the use of 'significant' values in objective A2a. Where 'Outstanding freshwater bodies' have been identified, NZAIA submits that all values of these freshwater bodies should be protected.

The NZAIA also submits that objective 2a should be amended to remove the term 'significant' and include estuaries cf: 'Outstanding freshwater bodies and estuaries'.

##### *Water Quality Policy*

**Policy A1:** NZAIA supports the inclusion of Policy A1iii which acknowledges the connection between freshwater and coastal bodies.

However, NZAIA does not see any mechanism for implementing the policy within the NPS-FM and this provides further support for our submission that estuaries remain an integral component of our catchment systems but remain excluded from the NPS-FM.

**Policy A1 & A2:** NZAIA supports the introduction of 'freshwater management units' and notes the definition provided in Annex 3. We support the attempt to introduce an appropriate spatial scale for freshwater management. However NZAIA suggests that the spatial scale and of freshwater management units will vary across the country as a result of information variation, management resources and political influence. The NZAIA submits that greater guidance on the types, magnitude and extent of 'units' is desirable within the NPS-FM or supporting documents.

**Policy A4:** NZAIA supports the inclusion of Policy A4.2 which gives specific consideration to discharge effects on the health of people and communities.

## **B. Water Quantity**

### *Water Quantity Objectives*

**Objective B4:** NZAIA supports the inclusion of outstanding freshwater bodies in objective B4. However NZAIA seeks that the objective should read 'To protect values of wetlands, outstanding freshwater bodies and estuaries'.

**NZAIA considers that the requirement is to ensure that the requirement to identify significant values in the protection of wetlands, outstanding freshwater bodies and estuaries needs to be amended to require the identification of all values.**

### *Water Quantity Policy*

**Policy B1:** NZAIA supports the inclusion of policy B1c but submits that the inclusion should read 'the connections between freshwater bodies, estuaries and coastal waters'.

**Policy B5 & B6:** See comment of the use of 'freshwater management unit' in submission on Policy A1&A2 above.

## **C. Integrated management**

NZAIA is disappointed that stronger emphasis has not been given to greater direction on the matter of integrated management within the NPS-FM. NZAIA supports the inclusion of integrated management but notes that there is an increasing body of work on the benefits, frameworks and processes for the integrated management of fresh water (and estuaries) and the development of land in whole catchments. NZAIA considers that the NPS-FM would be strengthened by the expansion of the integrated management section to include better direction through policy.

In particular we consider the following as relevant to policy development for improved integrated management of freshwater in New Zealand:

- Integrated management of cumulative impacts in catchments.
- Integrated management of a variety of freshwater units with differing objectives.
- Integrated management of catchments with some freshwaters that do not meet the national bottom lines and are excluded from the NOF.
- Integrated management of catchments where major infrastructure assets exist.
- The role of communities in integrated management of freshwater.

**Policy C2:** NZAIA supports the inclusion of Policy C2b) but submits that the amendment should read 'land and fresh water on estuaries and coastal water'.

## **CA. National Objectives Framework**

NZAIA supports the introduction of the NOF as outlined in Annex 3 (pages 58 to 60) with the following exceptions and comments:

### **Policy CA1**

**Policy CA1:** NZAIA strongly endorses Policy CA1e.iii that 'where an attribute applies to more than one value, the most stringent freshwater objective for that attribute be adopted'.

**Policy CA1 f.i** NZAIA is unclear on the intention of policy CA1f.i and is concerned about the wide ranging interpretation that might be considered for this policy directive. NZAIA acknowledge that past use and potential future use are important in defining objectives; however, NZAIA consider that Councils and regulators (in conjunction with communities) should provide stronger guidance on the appropriate development of catchments to meet specific objectives and desirable environmental outcomes for freshwater, estuaries and coastal waters. Accordingly, NZAIA submits that better guidance should be provided for the purpose of this policy and expectations of how it should be implemented

**Policy CA1 f.i** NZAIA supports the inclusion of a policy that requires timeframes to be defined for achieving freshwater objectives but remain unclear on the intention of the term ‘including the ability of regional councils to set long timeframes for achieving targets.’ NZAIA would expect long term planning for the achievement of targets to be very much the realm of the function of regional councils, and also expect milestone targets to be established to measure achievement along the way. NZAIA remains concerned that the NPS-FM raises this matter in policy but offers no guidance. What would happen if the regional council did not have the ability to set long timeframes? NZAIA seeks greater clarification on the meaning and purpose of this policy directive.

## **Policy CA2**

### **General comment**

NZAIA is deeply concerned about the apparent ‘exclusions’ of Policy CA2. NZAIA submit that application of this policy is in conflict with the existing requirement of the NPS-FM to ‘maintain or improve overall water quality within a region’. NZAIA also submits that by its current wording Policy CA2 has an exclusive focus on fresh water quality and it is not clear whether water quantity or ecosystem habitat is included.

NZAIA acknowledges that the impacts of historical activities in a freshwater management unit may have resulted in freshwater quality falling below a national bottom line standard. NZAIA also acknowledge that the reversal of such impacts may be difficult, costly and, in some cases, impractical. Nevertheless NZAIA remains concerned that such a policy as written can lead to the selection of ‘winners and losers’ amongst freshwater bodies, and the process may be unduly influenced by strong proponents who support exclusion of certain freshwater management units for self-interest or other benefit.

Furthermore, assuming a greater emphasis on water quality within the NPS-FM (cf. water quantity or habitat) NZAIA submits that there should be no ‘exclusions’ policy and all water ways, estuaries and coastal waters be subject to the policies of NOF for maintaining or enhancing fresh water quality.

NZAIA also submit that if exclusions to freshwater management units are included then policy guidance on management of resulting implications for other management units needs to be considered. For example, the quality of a tributary stream given exclusion under this policy may have implications for freshwater quality downstream of its confluence with other tributaries. The NPS-FM is silent on how such complexities are expected to be understood and implemented.

Notwithstanding our comment on Policy CA1f.i above, NZAIA consider that Policy CA2 conflicts with Policy CA1f.i (whereby the anticipated future state of a freshwater management unit is considered (amongst other things) on the basis of past and current resource use). NZAIA submit that consideration of past and current use is the correct vehicle for establishing objectives and bottom lines for improvement rather than relying on exclusion. However, NZAIA accept that there may be a requirement for objectives to be set below a national bottom line on a transitional basis for a freshwater management unit for a specified period of time as provided for in Policy CA3.

**Policy CA2a:** NZAIA submit that further definition and guidance must be applied to the term ‘naturally occurring processes’ given the widespread and often extensive modifications to natural processes that occur in fresh waters throughout New Zealand. NZAIA accepts that some of the more extreme freshwater environments in New Zealand (e.g., geothermally or glacial influenced freshwaters; peat influenced streams and wetlands) have different influences on natural processes that may result in a naturally occurring attributes that may be below a national standard. However, NZAIA does not consider that waterways influenced by infrastructure should be excluded for freshwater quality purposes.

**Policy CA3:** Notwithstanding our comment above, NZAIA supports the provision of policy that allows for establishing freshwater objectives below a national bottom line standard during a period of transition of a freshwater unit to a quality that sits at or above a national bottom line; and the establishment of a timeframe for this to be achieved. Rather than exclude freshwater bodies, NZAIA considers that a more realistic approach is to establish timeframes that allow for maintenance or improvement to all freshwater bodies, estuaries and coastal waters.

NZAIA is concerned that the process for excluding freshwater bodies from NOF is not clear and there is a risk that it will not be transparent to local communities and iwi, or whether these communities will be involved in the decision-making. NZAIA seeks the inclusion of community consultation in any decision-making that would lead to the ‘exclusion’ of a water body from NOF.

### **CB. Monitoring Plans**

NZAIA supports the requirement for regional councils to develop monitoring plans and supports the policy direction of Policy CB1.

**Policy CB1:** NZAIA supports the steps outlined to develop a monitoring plan. However as a body of environmental practitioners the membership of the NZAIA is acutely aware of the problems that occur with the development and implementation of environmental monitoring in New Zealand. NZAIA submits that greater policy guidance on such matters as the development of objectives and purpose of monitoring, consistency of methods and site identification between regional councils, identification of representative freshwater management units and reporting timelines are essential to the successful implementation of a monitoring plan. NZAIA also remain concerned over the cost associated with the recommended monitoring plans and how and who will fund the extensive monitoring that will be required to meet this policy direction.

## **CC. Accounting for freshwater takes and contaminant loads**

NZAIA supports the requirement for and the purpose of the improvement on freshwater takes and sources of contaminants. NZAIA is aware of the lack of accounting of the use of water resources in New Zealand so an objective to progress this is welcomed. However NZAIA remain concerned about several matters associated with the accounting as discussed below.

**Policy CC1:** NZAIA supports the requirement for regional councils to establish and operate both a freshwater quality and a water quantity accounting system for freshwater management units where councils are setting or reviewing objectives and limits as per the NPS-FM. NZAIA contends that any accounting system does not have to stop only at those units with objectives and limits and contends that all waterways subject to regulatory provisions should be included in an accounting system.

As discussed above (under CB. Monitoring Plans), NZAIA remain concerned that the policy direction of Policy CC1 lacks greater direction for its implementation. As for monitoring data, NZAIA is acutely aware of the difficulty in bringing data together that has been collected and collated in a different manner by regional councils around New Zealand; and that the information has then been unsuitable for use on a nationwide basis. NZAIA submits that the NPS-FM should provide greater guidance on the need for consistent methods for accounting for freshwater quality and water quantity amongst regional councils.

NZAIA submits that the lack of guidance on the size of the “freshwater management unit” will undermine the value of accounting. In particular, NZAIA is concerned that a freshwater management unit that is large it could obscure any differences between individual freshwater systems within the unit. NZAIA emphasizes again that further guidance is required on the establishments, magnitude and extent of freshwater management units is imperative to the successful implementation of the NPS-FM.

### **Progressive implementation programme**

**Policy E1f:** NZAIA supports the inclusion of Policy E1.f.

#### **Specific comment on Appendix 2: Attribute tables**

##### *Inclusion of Macroinvertebrate Community Index*

NZAIA notes that the Macroinvertebrate Community Index (MCI) has been omitted from the attributes table of the NOF. The MCI is a long-standing and well used indicator of water quality and ecosystem health in New Zealand’s river and streams. In particular, the MCI acts as an integrator of many of the stressors that occur in freshwaters, including several already included in the attributes tables, and can represent accumulation of effects. Furthermore, as an indicator, the MCI is well understood amongst policy-makers, communities and decision-makers which suggests that it should be included as an attribute to the NOF.

NZAIA submits that the Macroinvertebrate Community Index be included in the attribute table of the NOF under the category ‘Ecosystem Health’.

## Hearing

Should the Government convene a hearing or any form of discussion panel to consider submissions on the NPS-FM then NZAIA express their desire to be heard and/or participate in any hearing or discussion on the amendments to the NPS-FM.

## Contacts

This submission has been prepared by members of the core group of the NZAIA.

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Yours sincerely

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NZAIA