

# Proposed amendments to the National Policy Statement for Freshwater Management 2011 (NPSFM)

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Tasman District Council Submission to the Ministry for the Environment  
February 2014

## Introduction

Tasman District Council welcomes the opportunity to make a submission on the Proposed Amendments to the National Policy Statement for Freshwater Management (NPSFM) 2011.

The Council is aware of the submission prepared by LGNZ on behalf of the National Council, representing the interests of all local authorities of New Zealand. It generally supports the comments and suggestions made in the LGNZ submission but also makes the following additional points.

The Council supports the intent of the amendments introducing the National Objectives Framework (NOF) to the NPSFM and agrees with LGNZ about the need for guidance on implementation of the NOF. The Council is however uncertain about the cost implications and requests that these be fairly and reasonably assessed as part of the further work by the Ministry.

The Council also particularly supports LGNZ comments in relation to the development of the defined attributes and the requirements of the water quality accounting systems. For both these components, future changes to the NPS may mean any on-going work by Councils to implement the NPS will not align in future.

## Te Mana oTe Wai

The requirements imposed by the NPS include management objectives, limit setting, a NOF with attributes and attribute states that must be met for compulsory values and methods to ensure the objectives will be met.

The NPS requirements are specific and measurable.

The NPS framework does not (and probably cannot) provide specific and measurable outcomes that reflect spiritual aspects of the te mana o te wai concept unless it goes further to say that in appropriately managing the tangible and measurable aspects of water bodies, the spiritual or mauri component of water is also accounted for. We observe that it is not iwi alone who express or have spiritual relationships with water, but is part of many people's approach to water.

If the NPS remains as it is written with the Appendix 1 values only "contributing to" te mana o te wai, it leaves very uncertain how the spiritual aspects of objective A1 (c) are to be met. It is difficult to suggest or imagine what councils and communities must otherwise do in order to meet this part of the objective as spiritual remedies or outcomes are not provided either by the preamble or by the NOF.

We suggest that the amendment to Policy D1(c) suggested by LGNZ does not materially advance a solution to how iwi 'values' are to be given effect to under the NPS/NOF framework.

Alternative response;

Recognise that if the tangible and measurable aspects of water bodies are appropriately managed, this will also address the spiritual or mauri values of water bodies. The Council expects that iwi will be involved in any process to determine the appropriate management objectives and measures required to meet them.

### **Freshwater management unit**

Issues associated with the creation and management of FMUs are identified by LGNZ. In particular, the Council wishes to highlight that the effect of creating FMU's has significant implications for monitoring as directed by Policy CB1 of the NPS. FMUs will apply at different spatial scales depending on the attributes being managed; any NPS obligation needs to accommodate this variability.

The Council suggests some flexibility in relation to the creation and use of FMUs that ensures any monitoring requirement is on the basis of a 'risk management' approach. For example, if FMUs are created over national parks, the monitoring requirements can be adjusted accordingly.

The management of water quality requires attention to land use activities, especially in relation to diffuse sources of contamination in either rural or urban settings. The Council suggests there is a need to ensure FMUs for water quality must include recharge areas/contributing catchments.

### **Maintain or improve overall water quality**

The Council agrees that the meaning and intent of this part of the NPS was an issue prior to this amendment and still needs resolution. Application of the concept in relation to the date from which measurement "to maintain" commences is also an issue.

Our understanding is that the commencement of objectives to 'maintain' water quality is from notification of plan provisions for that water body – not back dated to the commencement of the NPS. While we can accept the pragmatism of this, until objectives are set in a regional plan, water quality may continue to degrade. There is also the prospect of downwards movement within a band. This prospect will be of concern to some.

"Maintenance" of water quality suggests that there should be no downwards movement within any band, but this is not very clear/specific and so would open Councils to challenge.

There is currently only the duty to set attribute states at or above the relevant minimum acceptable state (PCA1 (d)) for national values. This requirement for objective-setting is an important means of ensuring that under the present OA2, maintenance of freshwater quality is an outcome of NPSFM implementation and that the trajectory of freshwater quality management is towards some improvement. But, the strength of direction towards improvement is weak and there is no duty to set objectives in order to achieve improvement of water quality.

More will be needed to articulate Government's expectations in this regard.

### **Attributes**

National consistency provided through the attribute tables is strongly supported. Submissions by the LGNZ in respect of urban contaminants, recreation, periphyton, water clarity, cyano-bacteria, dissolved oxygen and e.coli are supported.

Tasman Council also supports comments made in relation to the importance of direct measures of biological health (such as Macro-invertebrate Community Index (MCI) indices).

The council notes that if drinking water value of groundwater is to be recognised, it should align with provisions in the NZ Drinking Water Standards.

The Council also considers that it is important that a better understanding about relationships between water body values, and their attributes needs to be developed with some urgency to help prioritise the NOF work and to help forecast the likely data and monitoring requirements.

Many values have attributes in common and some attributes will prove to be keystone attributes which will underpin other attributes/values.

Also required is more integrated thinking and forward planning when it comes to identifying other attributes for values (and associated states), and the NEMS and NEMAR projects.

There is likely to be a large range of attributes relevant to all of the possible water values. Monitoring all attributes for all relevant values will be too costly and programmes should be both targeted and efficient.

Work being done through NEMS/NEMAR should be informed by the range of parameters required to be monitored and reported on under the NPS.

All of this work should help/advise Councils in terms of what data they collect to ensure appropriate 'accounting systems' are being maintained.

There is a risk of duplication/inconsistency/inefficiency if councils proceed with accounting systems for water quality before the framework and understanding about monitoring and accounting systems is properly developed at the national level.

## LIMIT SETTING

We do not agree that all water quality issues are able to be resolved through resource allocation (limit setting NPS Policy A1).

We acknowledge that some contaminants such as nitrogen and phosphorus can be addressed in this way with the Lake Taupo example a key demonstration of how this can be developed.

We also acknowledge that resource users require certainty in terms of regulatory requirements relating to water quality/quantity. We consider certainty can also be provided where performance standards for specific activities are robust and evidence based. We consider that industry support in developing best practice can be a better solution to managing water quality issues than resource allocation through development of allocation limits.

Management of contaminants such as sediment and micro-organisms (e.coli and cyano-bacteria are both mentioned in appendix 1) is closely linked to standards of performance for relevant activities such as earthworks, on-site water systems, and stock management. The development of good practice performance standards is an integral part of managing effects of these contaminants.

Resource allocation of sediment and bacteria allowances within a catchment or FMU is not an appropriate response where property scale contributions cannot be accurately modelled and sources of these contaminants are variable and dependant on the nature and scale of the activity.

Managing the adverse effects of sediment discharges arising from land disturbance activities needs to be considered in advance of carrying out the earthworks – standard practice among many councils is to require soil erosion and sediment control plans to be prepared before undertaking

significant earthworks. The level of performance required from operators is determined by what is understood to be 'best practice' for a given land disturbance activity, soil/geology and in respect of a pre-determined storm size event.

Resource users' contribution to a "catchment load" must be informed by the level to which best practice is prescribed for that site not through a share of a total load. Sediment management does not lend itself to any form of management by limit setting and resource allocation.

Similarly, the management of microorganisms arising from grazing animals is currently mostly through controls or limits on land use practices. Again, best practice according to type of animal, farming system, soil/geology and receiving water can be determined. Unlike nitrogen for which Overseer is being developed to model catchment and property scale response, there is no similar modelling tool to enable a similar approach to micro-organisms. While there is work being done on modelling behaviour of micro-organisms, allocation of a contribution to a bacterial load to resource users within a catchment is so far an uncertain science.

The management of the cyano-bacteria attribute state is probably a function of flow and quality (both N and P) and as yet also not supported by clear science for appropriate limits

#### **Suggested response:**

Delete the words "and set freshwater quality limits" from Policy A1(a) and insert in clause (b) of the same policy reference to setting limits as a form of method i.e: "establish methods (including setting limits and rules) to avoid over-allocation"

## **ACCOUNTING**

The Council supports the submission of the LGNZ in respect of accounting.

Further, we consider the new section on accounting in CC contains what should ideally be in guidance material in relation to setting limits and also in relation to monitoring. It contains unnecessary detail and complexity and leads to uncertainty about how accounting systems and monitoring programmes are to work. We also consider that the requirements of this policy repeats what is already implied in setting of limits and in the RMA Section 35 requirements to monitor and keep records, including SOE monitoring, efficiency and effectiveness of plans (including permitted activities) and exercise of consents.

Some amendments to this part of the NPS are suggested below.

As an aside, it is interesting that in relation to quality, the NPS specifically requires limits to be set in A1, while for quantity, for which it is arguably much easier to set limits, the need for limits is only indirectly required in B2 for efficient allocation.

Setting and allocating within limits that are explicitly linked to objectives requires a mix of biophysical, social and economic information. The accounting systems addressed so far only refer to technical take and discharge information.

The policy analysis required to make good resource management decisions is increasingly focussing on economic implications and the effects on social and cultural outcomes. Changes to RMA Section 32 duties increase the burden of appropriate data collection on Councils beyond environment data on state and pressure. We consider that the whole range of information needed to complete the planning framework directed by the NPSFM needs assessment and support by the Government in working with councils.

**Suggested response;**

Amend the policy suggested as follows:

**CC. Accounting for freshwater takes and contaminant loads**  
**Objective CC1**

“**Freshwater quality accounting system**” means a system that, for each freshwater management unit, records, aggregates and keeps regularly updated, information on the measured, modelled or estimated:

- a) loads ~~and/or concentrations~~ of relevant contaminants;
- b) sources of relevant contaminants including those allowed to be discharged through permitted activities or expressly by resource consent
- d) information about nature, trends and scale of land use activities; and
- c) where limits have been set, proportion of the limit that is being used.

**Comment [m1]:** Concentrations of contaminants are not part of resource allocation/accounting systems This information is collected and reported through SOE and the new NPS Policy CB1

**Comment [m2]:** Land uses such as dairying as much as land disturbance activities are both relevant to water quality management.

“**Freshwater quantity accounting system**” means a system that, for each freshwater management unit, records, aggregates and keeps regularly updated, information on the measured, modelled or estimated:

- a) total freshwater take; including water taken as permitted activities, water takes allowed by section 14(3)(b) and water takes expressly allowed by resource consents,
- b) proportion of freshwater taken by each major category of use; and
- c) where limits have been set, the proportion of the limit that has been allocated through resource consents, and the amount that has been taken where the take is subject to the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010~~taken~~

To ~~collect improve~~ information on freshwater takes and sources of freshwater contaminants, in order to:

- a. ensure the necessary information is available for freshwater objective and limit setting and freshwater management under this national policy statement;
- b. ensure information on resource availability is available for current and potential resource users; and
- c. enable the aggregation of freshwater ~~quality and~~ quantity data for regional and national water management ~~and monitoring purposes~~.

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**Comment [m3]:** Monitoring is covered in policy CB and at this stage it is difficult to see how this data can be meaningfully aggregated for water quality. SOE monitoring on water quality is the more useful aspect of water quality management)

**Policy CC1**

By every regional council:

- a. establishing and operating a freshwater ~~quality accounting system and a freshwater quantity accounting system~~ for those freshwater management units where they are setting or reviewing freshwater objectives and limits in accordance with ~~Policy A1~~, Policy B1, and Policies CA1-CA3; and
- ~~b. maintaining a freshwater quality accounting system and a freshwater quantity accounting system at levels of detail that are commensurate with the significance of the freshwater quality and freshwater quantity issues, respectively, in each freshwater management unit.~~
- b. establishing and operating a freshwater quality accounting system for those freshwater management units where they are setting or reviewing freshwater objectives and limits in accordance with Policy A1, and Policies CA1-CA3;

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**Comment [m4]:** The meaning allows for measuring modeling or estimating. The nature and scope of the issue will drive the selection of an appropriate methodology - and this can be further elaborated on in the guidance material. This additional clause just adds unnecessary complexity and uncertainty.

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This Policy CC1(b) will take effect on [date to insert, being 24 months from the date of entry into effect of these amendments].

## Policy CC2

By every regional council ~~taking reasonable steps to ensure~~ that information gathered in accordance with Policy CC1 is publicly available in a suitable form for the freshwater management units where freshwater objectives and limits have been set; and is regularly reported in accordance with RMA section 35(2A) that:

~~a. in terms of information relating to a freshwater quality accounting system established under Policy CC1, the information shall relate to at least five yearly intervals; and~~

b. in terms of information relating to a freshwater quantity accounting system established under Policy CC1, the information shall relate to at least one year intervals.

**Comment [m5]:** water quantity accounting is already addressed - albeit to variable standards by councils and through the requirements of the water meter regs. There is much less certainty and the prospect of wasted time/effort in relation to commencing quality accounting without further guidance.

**Comment [m6]:** what would this look like?

Any other frequency is likely to be driven by national reporting needs not regional needs related to the significance of the freshwater quality and quantity issues. Any more frequent than already required by the Act needs to be supported by a better articulated national context.

## NATIONAL VALUES

The range of national values is broadly supported as appropriately comprehensive, along with the parallel set of te ao Maori values that contribute to te mana o te wai. However there are some distinctions made between some values with which the Council takes issue.

### Question 12

#### Food security and irrigation as a commercial use of water

The distinction proposed between water for "food security" (the production of food and fibre production) ", and irrigation water for both food and non-food production, is contrived and implies some priority that is unsupported in any evidential sense.

The implication of this is that irrigation for food security might be sought to be given a greater weight than either irrigation generally, or indeed, water use for any industrial or commercial end-use.

The parallel made with the te ao Maori value of mahi mara as distinct from au putea is historical and in economic and cultural terms, no longer applies in any national values context. The separation of 'food security' mahinga kai and use of water for irrigation adds unnecessary confusion and complexity in relation to the key water values.

We dispute on a factual analysis that there is any security value in local or regional irrigation for food production. The major proportion of irrigation demand for food crops results in crops or other food produce being exported to other regions in NZ or globally, at rates substantially greater than any domestic NZ security value might imply. Global food supply by NZ does not significantly mitigate global food security risk either, as most economic value from NZ's export of irrigated food commodities or products is in global niche markets or else competitive in large markets where there is growing global supply competition.

As well, domestic food consumption is not significantly at risk where water demand for crop irrigation exceeds local water resource capacity in droughts; the import market for food amply smooths any gap between demand and supply in these episodes.

Water is also used for food production in a variety of non-irrigation end uses, including abattoirs, vegetable processing and milk factories. The distinction in the NPSFM is not consistent or necessary.

Furthermore, NZ produces primary products from irrigated production for economic benefit in largely the same manner as any other commercial or industrial demand for water in secondary production. That is, there is a market demand for water for a wide range of both primary (land-based) and secondary (technology-based) economic activities. .

The comparative economic value of forms of food or other primary production derived from irrigation use of freshwater does not support any food-specific distinction, and the security risk for the food itself is illusory and contrived.

It is recommended that the national value of freshwater for all irrigated-based production, for food, fibre, food-related, or non-food production, be treated as the same national value, within the context of water for other forms of commercial or industrial production.

## **Question 12**

### **Commercial, industrial and irrigation water uses**

There does not appear to be any reason to distinguish between commercial, industrial and irrigation uses of water. The key value is the use of water for commercial purposes which includes a wide range of food and non-food uses as part of an economic or business enterprise.

Use water of fire-fighting is not just to provide for economic or commercial development. Protection of buildings and structures and management of vegetation fires allows communities to provide for their safety and well-being also. Reference to this water use should be under a separate heading.

Hydro-electric power generation is subject to its own NPS REG. The existence of the NPSFM means its value is not just in relation to economic or commercial development. It also should have its own heading along with a connection made to the relevant NPS.