

## Central Hawke's Bay District Council – Report

**TO:** Services Committee  
**FROM:** Technical Services Manager  
**DATE:** 9 October 2008  
**FILE REF:** ADM1-1800, SER4-100  
**SUBJECT:** **PROPOSED NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT**

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### 1.0 SUMMARY

Central Government has released a proposed National Policy Statement for Freshwater Management. Submissions have been called for with a closing date of 23 January 2009.

### 2.0 RECOMMENDATION

#### ***THAT***

The report on the Proposed National Policy Statement for Freshwater Management be received.

That Council makes no submissions on the Proposed National Policy Statement.

#### **REASON**

**The Objective of the decision will contribute to the following Community Outcomes:**

- *A lifetime of good health and wellbeing.*
- *An environment that is appreciated, protected and sustained for future generations.*
- *Strong regional leadership and a sense of belonging:*
- *Safe and accessible recreational facilities to enhance healthy lifestyles by promoting physical exercise:*

### 3.0 DESCRIPTION

Central Government has released a proposed National Policy Statement for Freshwater Management. The aim of the National Policy Statement (NPS) is to give direction to organisations and individuals involved in management of and use of freshwater resources so that the quality of freshwater can be improved, and best use made of freshwater resources to provide for the needs of communities and industries. A copy of the proposed NPS is attached (10 pages).

Nine objectives and nine policies are described:

### **Objectives**

- Objective 1 – Enabling well-being of people and communities
- Objective 2 – Ensuring integrated management of effects on fresh water
- Objective 3 – Improving the quality of fresh water
- Objective 4 – Recognising and protecting life supporting capacity and ecological values
- Objective 5 – Addressing freshwater degradation
- Objective 6 – Managing demand for fresh water
- Objective 7 – Efficient use of fresh water
- Objective 8 – Iwi and hapū roles and Tangata Whenua Values and Interests
- Objective 9 – Ensuring effective monitoring and reporting

### **Policies**

- Policies as to regional policy statements: **Policy 1**
- Policies as to regional and district plans: **Policy 2, Policy 3**
- Policies as to the preparation of policy statements and plans: **Policy 4, Policy 5**
- Policy as to certain consents and designations: **Policy 6**
- Policy as to non-regulatory methods: **Policy 7**
- Policy as to information: **Policy 8**
- Review of this National Policy Statement: **Policy 9**

A Section 32 Evaluation has also been supplied. This evaluation under Section 32 of the Resource Management Act 1991 details why the NPS is the best way of achieving government's objectives and the estimated cost of implementing the NPS. This 82 page Evaluation is available to members upon request.

## **4.0 COUNCIL INVOLVEMENT**

The NPS as proposed would affect Council as follows:

### **Regulatory**

- The Regional Council would have to notify a Regional Plan change that would give effect to the policies in the NPS.
- Council would have to notify a District Plan change that would give effect to the Regional Plan change.
- Council may also use non-regulatory methods to give effect to the policies, such as financial contributions or development contributions.
- Council will have to prepare a record of the processes used to identify Tangata Whenua values and interests in freshwater resources.
- Council will have to prepare a register of the regulatory and non-regulatory methods used to give effect to the NPS.

### **Operational**

- Council would have to assess its operations and areas of responsibility to:
  - protect against degradation of freshwater,
  - manage freshwater use sustainably.

## 5.0 OPTIONS

### Option 1

That the report on the Proposed National Policy Statement for Freshwater Management be received.

That Council makes no submissions on the proposed National Policy Statement.

In principle staff see no issues within the proposed NPS that need to be submitted on.

### Option 2

Council receives this report and makes a submission on the proposed National Policy Statement for Freshwater Management.

Staff would require direction from Council about the content of a submission.

## 6.0 STATUTORY IMPLICATIONS

Government makes National Policy Statements in order to achieve its policies.

## 7.0 FINANCIAL

A summary table from the Section 32 Evaluation shows:

**Table A1: Summary of Central and Local Government Costs**

	Central government	Regional councils	Territorial authorities
Planning guidance	\$0.25 million		
Identification of freshwater resources		\$4.8 million	
Revision of planning provisions		\$4.0 million	\$10.1 million
Monitoring and reporting		\$21.8 million (a)	\$27.2 million (b)
Iwi and hapū registers and consultation		\$5.3 million	\$26.9 million
NPS review	\$0.9 million (c)		
<b>Total</b>	<b>\$1.15 million</b>	<b>\$35.9 million</b>	<b>\$64.2 million</b>

This gives a total cost to central and local government of \$101.25 million.

The estimate by the Ministry for the Environment (MfE) gives an average cost per territorial local authority as:

Revision of planning provisions	Staff \$75,000 (0.5 FTE) per annum Planning Hearing \$50,000
Monitoring and reporting	Staff \$37,500 (0.25 FTE) per annum
Iwi and hapū registers and consultation	Initial cost \$150,000 Ongoing \$20,000 per annum

It is expected that the effect on this Council will not be as great as the MfE estimate, with much of the cost being avoided by carrying out this work as part of a larger project.

#### **8.0 STRATEGIC LINKS**

If the NPS is adopted as proposed, changes would need to be made to the District Plan.

Steve Thrush  
**Technical Services Manager**

# Proposed National Policy Statement for Freshwater Management

## Preamble

All New Zealanders have a common interest in ensuring that the country's freshwater resources are managed wisely, in order to provide for present and future environmental, cultural, social and economic well-being of New Zealand.

Water is central to the social, economic and cultural well-being of many aspects of New Zealand's society. It has deep cultural meaning to all New Zealanders. It is also highly valued for its recreational aspects. It forms a vital input to many forms of economic activity, and most crucially underpins important parts of New Zealand's biodiversity and natural heritage. Many of New Zealand's freshwater bodies are iconic and well known globally for their natural beauty and intrinsic values. Understanding and managing threats to water with respect to the availability, quality, health and economic value are therefore fundamental to our well-being.

New Zealand now faces real challenges, of varying degrees and causes across regions, in ensuring there is sufficient water in our lakes, rivers, and aquifers; protecting freshwater ecosystems, in limiting and remediating degradation of water quality; and in ensuring that society gains the greatest benefit from the allocation of available water. For example, recent monitoring reported that only 60% of New Zealand's freshwater swimming spots tested met the New Zealand guidelines for water-based (contact) recreation almost all of the time. In addition, there is an incomplete understanding of how much water can be sustainably allocated and where it can best be used, and of how alternative land uses affect water quality and options for managing those effects. Those challenges, including those arising from climate change, are nationally significant. Key issues identified through previous consultation and hui regarding fresh water and freshwater management include water quality, allocation, ongoing engagement, and effective implementation of the RMA.

To respond effectively to these challenges and issues requires agreement on and balancing of cultural, ecological, economic and social goals for management of New Zealand's freshwater resources. Identifying sustainable targets for take and use of water, and achieving a smooth transition to them are not straightforward tasks. This National Policy Statement forms part of a suite of efforts to achieve that balance and deliver those targets.

The Treaty of Waitangi (Te Tiriti o Waitangi) is the underlying foundation of the Crown-Māori relationship with regard to Freshwater Resources. This proposed National Policy Statement is one step in the process of addressing tangata whenua values and interests including the involvement of iwi and hapū in the management of fresh water. Additionally, the proposed National Policy Statement is a non-exhaustive step towards progressive strategies at the national and regional level in order to meet shared objectives in respect of the Freshwater Resources of New Zealand.

Given the central importance of Freshwater Resources to New Zealand and New Zealanders and in order to achieve the purpose of the RMA, the Crown recognises that there is a particular need for clear central government policy that directs local government to implement measures necessary to achieve the following goals:

- address existing and future constraints on the availability of Freshwater Resources
- address the effects of existing and future discharges of contaminants to Freshwater Resources
- provide more certainty in respect of competing demands on New Zealand's Freshwater Resources and facilitate opportunities to increase benefits from the use of Freshwater Resources, within the above constraints on availability and effects of discharges
- meet the recreational aspirations of New Zealanders, including that Freshwater Resources are swimmable
- address matters of national significance relating to the sustainable management of Freshwater Resources
- improve the integrated management of Freshwater Resources by territorial authorities, regional councils, and others whose activities affect Freshwater Resources.

In developing and applying measures, local government should aim wherever possible to provide flexibility in how these goals are achieved, so as to encourage and empower innovation and local solutions. It is expected that this National Policy Statement will have an immediate influence on RMA decision-making. It will also call for progressive improvement in the management of New Zealand's Freshwater Resources. Councils will be expected to make publically available information in this regard, which will be monitored and published as required under section 35 of the RMA. Each national state of the environmental report should demonstrate progress in achieving the goals of the NPS and show continuing improvements in the state of New Zealand's Freshwater Resources, including towards meeting contact recreation guidelines. This is in order that by 2035 the quality of these resources meets the aspirations of all New Zealanders. This date has been chosen as an ambitious yet achievable target, setting a balance between the need to make changes in a timely manner and the cost incurred by making those changes.

## Purpose

The purpose of this National Policy Statement is to state inter-related and integrated objectives and policies as to the management of Freshwater Resources as a matter of national significance that is relevant to achieving the purpose of the Act.

## Objectives

### Objective 1 – Enabling well-being of people and communities

To ensure that Freshwater Resources are managed in a way that enables the people and communities of New Zealand to provide for their social, economic and cultural well-being, and their health and safety.

## **Objective 2 – Ensuring integrated management of effects on fresh water**

To ensure effective integrated management (including by the co-ordination and sequencing of Land-use Development with investment in infrastructure for supply, storage and distribution of fresh water) of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of fresh water.

## **Objective 3 – Improving the quality of fresh water**

To ensure the progressive enhancement of the overall quality of Freshwater Resources, including actions to ensure appropriate Freshwater Resources can reach or exceed a swimmable standard.

## **Objective 4 – Recognising and protecting life supporting capacity and ecological values**

To ensure the life supporting capacity and ecological values of Freshwater Resources are recognised and protected from inappropriate –

- (a) taking, use, damming or diverting of fresh water; and
- (b) Land-use Development; and
- (c) discharges of contaminants.

## **Objective 5 – Addressing freshwater degradation**

To control the effects of Land-use Development and discharges of contaminants to avoid further degradation of Freshwater Resources.

## **Objective 6 – Managing demand for fresh water**

To ensure that demands (including social, economic and cultural demands) for fresh water are sustainably managed in a manner that has regard to the following:

- (a) available supply of fresh water;
- (b) the need to provide for resilience against the biophysical effects of climate change (such as through infrastructure for supply, storage and distribution of fresh water);
- (c) the adverse effects that arise from those demands.

## **Objective 7 – Efficient use of fresh water**

To ensure that allocated fresh water is used efficiently particularly in terms of the following:

- (a) avoiding wastage:
- (b) avoiding excessive contamination:
- (c) facilitating opportunities to increase benefits from the use of fresh water.

## **Objective 8 – Iwi and hapū roles and Tangata Whenua Values and Interests**

To ensure that iwi and hapū are involved, and Tangata Whenua Values and Interests are identified and reflected, in the management of Freshwater Resources including the matters specified in Objectives 1–7.

## **Objective 9 – Ensuring effective monitoring and reporting**

To ensure that regional councils and territorial authorities undertake effective monitoring and reporting of the matters specified in Objectives 1–8.

## **Policies as to regional policy statements**

### **Policy 1**

By the second anniversary of the date of commencement of this National Policy Statement, every regional council must notify, in accordance with Schedule 1 of the Act, a proposed regional policy statement or variation to a proposed regional policy statement or change to its operative regional policy statement in order that as soon as practicable thereafter every regional policy statement specifies objectives, policies and methods which –

- (a) Determine and timetable priorities for when regional plans will set Freshwater Quality Standards and Environmental Flows and Levels for all Freshwater Resources of the region; and
- (b) Identify Notable Values (including potential values) of –
  - (i) Any Outstanding Freshwater Resources; and
  - (ii) Any Degraded Freshwater Resources; and
- (c) In accordance with Policy 1(a) and (b), guide and direct the setting in regional plans for all Freshwater Resources of the region of –
  - (i) Freshwater Quality Standards; and
  - (ii) Environmental Flows and Levels;
 including for the protection of Notable Values of any Outstanding Freshwater Resources and the enhancement or restoration of Notable Values of any Degraded Freshwater Resources; and

- (d) Guide and direct local authorities as to the involvement of iwi and hapū in the management of, and decision-making regarding, all Freshwater Resources of the region, including but not limited to, requiring local authorities to disclose how they are intending to achieve this involvement; and
- (e) Identify Tangata Whenua Values and Interests in respect of all Freshwater Resources of the region; and
- (f) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) in relation to the recognition of Tangata Whenua Values and Interests in respect of all Freshwater Resources of the region; and
- (g) Guide and direct regional plans (including considerations for the determination of resource consent applications) to restrict existing takes, uses, damming and diversion of fresh water in order to sustain Notable Values and non-consumptive Tangata Whenua Values and Interests in times of low flow; and
- (h) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to effectively manage Land-use Development and discharges of contaminants to control the adverse effects of the discharge of contaminants into fresh water or onto or into land in circumstances where contaminants may enter fresh water; and
- (i) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to manage demands for fresh water, including demands arising from Land-use Development and discharges of contaminants, in a manner which –
  - (i) Provides certainty to communities and water users (including as appropriate through prioritisation of allocation for takes of fresh water for reasonably foreseeable Consumptive Use); and
  - (ii) Provides priority for reasonably foreseeable domestic water supply, over other competing demands, provided that appropriate demand strategies are established for such supply; and
  - (iii) Promotes efficient Freshwater use (including through the transferability of resource consents, where appropriate); and
  - (iv) Increases resilience to the effects of climate change; and
  - (v) Controls adverse effects; and
- (j) Guide and direct regional and district plans (including considerations for the determination of resource consent applications and notices of requirement) to ensure integrated management of the effects of Land-use Development –
  - (i) by encouraging co-ordination and sequencing of infrastructure for supply, storage and distribution of fresh water; and
  - (ii) by controlling adverse effects (including associated discharges of contaminants) on the quality and available quantity of Freshwater Resources.

## Policies as to regional and district plans

### Policy 2

Every regional council must –

- (a) By the date or dates specified in the regional policy statement, notify a proposed regional plan, change or variation, to set Freshwater Quality Standards and Environmental Flows and Levels for the Outstanding, Degraded and other Freshwater Resources of the region to give effect to the regional policy statement in relation to the matters in Policies 1(a) to (c); and
- (b) By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 1 is made operative, every regional council must notify a proposed regional plan, change or variation to give effect to the regional policy statement in relation to all other matters in Policy 1; and
- (c) By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 1 is made operative, every regional council must notify a proposed regional plan, change or variation to include rules to achieve the following:
  - (i) Require that all water permits for the Consumptive Use of fresh water granted after the date of commencement of this National Policy Statement include conditions for the efficient Consumptive Use of fresh water including, as a minimum, providing for the use of industry good practice and technology to achieve efficient use;
  - (ii) Require that all water permits for the Consumptive Use of fresh water granted after the date of commencement of this National Policy Statement include conditions for, where appropriate, the return of fresh water to Freshwater Resources, in order to achieve the requirements of paragraph (a) of this Policy;
  - (iii) Require that all discharge permits affecting Freshwater Resources granted after the date of commencement of this National Policy Statement include conditions for –
    - (A) Protection against degradation of the quality of fresh water of Freshwater Resources (including through the management of activities giving rise to stormwater discharges); and
    - (B) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative; and
    - (C) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources;
 to be achieved, as a minimum, by the use of industry good practice:
  - (iv) Require effective monitoring and reporting on matters relating to paragraphs (c)(i), (ii) and (iii) of this Policy.

### Policy 3

By no later than 40 working days following the date a regional policy statement or change notified pursuant to Policy 1 is made operative, every territorial authority must notify a proposed district plan, change or variation in order that as soon as practicable thereafter every district plan –

- (a) Gives effect to the regional policy statement; and
- (b) Includes rules to require that all relevant land-use and subdivision consents granted after the commencement of this National Policy Statement include conditions for –
  - (i) Protection against degradation of the quality of fresh water of Freshwater Resources (including through the management of activities giving rise to stormwater discharges); and
  - (ii) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative; and
  - (iii) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources; and to be achieved, as a minimum, by the use of industry good practice; and
- (c) Includes rules to require that all relevant land-use and subdivision consents granted after the commencement of this National Policy Statement include conditions to require monitoring and reporting on matters relating to paragraph (b).

## Policies as to the preparation of policy statements and plans

### Policy 4

When preparing a regional policy statement or variation or change to give effect to Policy 1 and when preparing a regional plan or variation or change to give effect to Policy 2, every regional council must consider the following:

- (a) The Notable Values of each Freshwater Resource:
- (b) The sensitivity of each Freshwater Resource and its Notable Values to adverse effects including effects of Land-use Development and the discharge of contaminants:
- (c) The needs of primary and secondary industry and communities for sustainable fresh water supply:
- (d) The contribution of existing and potential uses of Freshwater Resources and of existing economic investment to regional and national social, economic and cultural well-being:
- (e) The importance of avoiding over-allocation of Freshwater for Consumptive Use:
- (f) Tangata Whenua Values and Interests:
- (g) Social and economic transition costs:
- (h) The value of swimmability to the community.

## Policy 5

When preparing a district plan or variation or change to give effect to Policy 3, every territorial authority must consider the following:

- (a) The importance of controlling Land-use Development in a way and at a rate that minimises the adverse effects on the quality and available quantity of Freshwater Resources:
- (b) The importance of ensuring that the planning and implementation of Land-use Development applies industry good practice in order to –
  - (i) Minimise the adverse effects on the quality and available quantity of Freshwater Resources; and
  - (ii) Maximise efficiency in the use of Freshwater Resources:
- (c) The importance of ensuring that the planning for and implementation of infrastructure for water supply, wastewater treatment and stormwater are undertaken –
  - (i) In an integrated manner; and
  - (ii) At a rate that, as a minimum, keeps pace with the rate of Land-use Development:
- (d) Tangata Whenua Values and Interests:
- (e) Social and economic transition costs.

## Policy as to certain consents and designations

### Policy 6

Without limiting Policies 1 to 3, this National Policy Statement will be achieved also through the inclusion, unless inappropriate, of conditions on any relevant resource consents granted and recommendations on designations confirmed in respect of the following:

- (a) Efficient Consumptive Use of fresh water (including where appropriate, the return of fresh water to Freshwater Resources):
- (b) Protection against degradation of the quality of Freshwater Resources (including through the management of activities giving rise to stormwater discharges):
- (c) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative:
- (d) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources:

to be achieved, as a minimum, by the use of industry good practice:

- (e) Monitoring and reporting on matters relating to paragraphs (a) to (d).

## **Policy as to non-regulatory methods**

### **Policy 7**

In addition to giving effect to Policies 1 to 3 and Policy 6 by regulatory means, regional councils and territorial authorities may give effect to this National Policy Statement through non-regulatory methods (including financial contributions, development contributions under the Local Government Act 2002 and other methods).

## **Policy as to information**

### **Policy 8**

All local authorities will make publicly available (including electronically) a record of the process used to identify the Tangata Whenua Values and Interests in Freshwater Resources of the region as required to give effect to Policy 1(e), including the identification of the relevant iwi and hapū.

All local authorities will assist the Minister for the Environment by making publicly available (including electronically) an up-to-date register of the regulatory and non-regulatory methods to give this National Policy Statement full effect.

## **Review of this National Policy Statement**

### **Policy 9**

The Minister for the Environment will seek an independent review of the implementation and effectiveness of this National Policy Statement at achieving all the objectives and policies of the National Policy Statement no later than 10 years after it comes into force and shall then consider the need to review, change or revoke this statement. Collection of data to inform this review will begin at least two years prior to the review.

## Definitions

In this National Policy Statement:

“**Act**” means the Resource Management Act 1991.

“**Consumptive Use**” means any use of fresh water that alters the flows and or levels in a Freshwater Resource on either a temporary or permanent basis, including:

- storage and later release downstream of fresh water:
- permitted activities:
- takes under section 14(3)(b) and (e) of the Act:

but excludes any water that is returned to the same Freshwater Resource at or about the same location and which does not affect the spatial or temporal availability, or the physical, chemical or biological quality, of the fresh water.

“**Degraded Freshwater Resources**” means those Freshwater Resources of a region whose Notable Values have been so degraded by inappropriate Land-use Development, discharges of contaminants and/or the taking, use, damming or diverting of fresh water as to require that priority be given to enhancement or restoration in order to achieve the purpose of the Act.

“**Environmental Flows and Water Levels**” means a regional rule to prevent the allocation for Consumptive Use of Freshwater Resources necessary for the purposes of protecting, maintaining, enhancing or restoring Notable Values of the relevant Freshwater Resource.

“**Freshwater Quality Standard**” means a regional rule on freshwater quality which gives effect to this National Policy Statement.

“**Freshwater Resources**” means the fresh water of New Zealand’s rivers, lakes, wetlands and groundwater systems [but does not include fresh water of any ephemeral stream or artificial watercourse].”

“**Land-use Development**” includes land-use intensification, land-use change, and subdivision of land.

“**Notable Values**” in relation to any Freshwater Resource includes:

- (a) Scientific, ecological and biodiversity values:
- (b) Cultural values:
- (c) Recreational (including contact recreational; eg, swimming) values.

“**Outstanding Freshwater Resources**” means those Freshwater Resources of a region whose Notable Values and/ or Tangata Whenua Values and Interests are such as to require that priority be given to protection in order to achieve the purpose of the Act.