

Review of recently released central government water policy documents

Background

The Ministry for the Environment (MfE) recently released new water policy information for consultation. NZKGI has reviewed this information to assess impacts for kiwifruit growers and intends to make a submission with our views. Submissions close 31 October.

The documents reviewed were:

- Draft national policy statement for freshwater management (NPSFM)

<https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/draft-npsfm.pdf>

- Proposed national environmental standards for freshwater (NESF)

<https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/proposed-nes-for-freshwater.pdf>

These should be read in conjunction with the Action for Healthy Waterways document

<https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/action-for-healthy-waterways.pdf>

A summary document from MfE for growers is available

<https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/growers-info-sheet.pdf>

General comment

The policy proposes that water quantity limits must be set for each freshwater management unit (FMU) (i.e. abstraction limits, allocation volumes) and these limits must be included as rules in regional plans. This isn't a new requirement however the time for Councils to do this has significantly decreased. Councils are required to identify take limits and can review existing consents in order to comply with environmental flows and water levels.

The policy sets significant monitoring requirements for regional councils at each FMU, including freshwater accounting (capture/understanding of FMU nutrient loads and sources). If freshwater continues to deteriorate, councils must create an action plan. Annual and five yearly reporting is proposed, and water metering (telemetry) will eventually be a requirement for all abstractions >5 (litres per second).

There will be a requirement for a freshwater module of a farm plan for most growers by 2025, except those in at risk catchments which will be required sooner.

There is a requirement for regional councils to undertake freshwater accounting, and one method to understand nutrient loads and allocation would be through a requirement to have a farm plan and nutrient budget. This could mean all land uses (even though not defined in the NES) could end up requiring a farm plan, if the regional council deems it is necessary. Orchards < 5ha are exempt from the farming proposed rules in the NES.

In areas with nitrogen issues, immediate action is proposed with some farmers/growers in hot spot catchments requiring plans within two years of the NES being implemented.. National nitrogen fertiliser caps and nutrient caps are also being proposed for certain catchments (including Taharua, Motupipi, Piako, Waihou).

National Policy Statement - Proposed Policy and Implications

Policy No.	Policy Name	Policy Description	Possible Implications
1.5	Fundamental Concept - Te Mana o Te Wai	Refers to the fundamental value of water and the importance of prioritising the health and wellbeing of water before providing for human needs and wants	Environmental focus in a hierarchy, with water bodies first, essential human needs second (drinking water etc) and all other aspects following (development, economic etc).
2.1	Objectives	Describes three objectives, waterbodies, essential needs and then social and economic	As described above, outlines in more detail the hierarchy approach of importance to managing freshwater. Economics (growing) is not considered as important as the health of the water body. Could be in contrast to the current RMA policies, however this may be amended in the RMA reform (less emphasis on economics).
3.2 (1)	Te Mana o te Wai	Advises regional councils to include in their plans reference to Te Mana o Te Wai and the NPSFM	Gives effect in all regional plans in NZ to the policies described above (1.5 and 2.1).
3.2 (4-7)	Te Mana o te Wai	Advises that councils must collaborate with communities and Tangata Whenua to understand goals for waterbodies	Provides a collaborative exercise for industry, communities and Tangata Whenua to discuss the best outcomes for their water bodies.
3.3	Tangata whenua roles and interests	Provides greater capacity for Maori to be involved in freshwater discussions	Tangata whenua values must be considered in all freshwater discussions and decision making (on water body health, nutrient loads and water allocation).
3.4 (1-6)	Integrated management	Outlines integrated catchment management and requirement for regional and district councils to set objectives and rules that mitigate adverse effects of land use on freshwater	Policies, objectives and rules will be assigned at district and regional councils that may influence land use development, including zoning restrictions, with greater effect given to sensitive environments (i.e. estuaries, lakes or sites of significance). Could impact growers if these sites are nearby or within their FMU.
3.7	Identifying values and environmental outcomes	Councils are required to set values and objective targets for each FMU, which may be additional to the compulsory	Values will be determined through collaboration between community and Tangata Whenua, with sensitive sites likely to have greater recognition and potentially stronger freshwater

		values (i.e. NOF attributes).	objectives (i.e. lower nutrient leaching). This may impact growers within that FMU.
3.8 and 3.9	Current and target attribute states	Regional councils must set current attribute states for every monitoring site and target attribute states that are at or above the current state	<p>All FMUs will have a current state water quality assessment, and then a target state (nutrient concentrations, flow limits, periphyton growth etc) assigned. Depending on growing locations and what water bodies are within the FMU, target states will only be met by land use practice changes or mitigations, ultimately affecting growers (fertiliser application, farm management plans etc).</p> <p>The targets will also need to account for climate change and key objectives of the NPSFM (see policy 3.2). Timeframes must be set, with interim targets for <10 years, suggesting rapid changes over the next decade may occur in land use practices.</p>
3.10	Identifying limits on resource use and preparing action plans	Regional councils must set limits that will achieve the target attribute states.	<p>Rules will be changed in regional and district plans to achieve freshwater attribute targets (i.e. moving a stream nitrate concentration from a D band to a B band by 2040). Conditions may be imposed on existing resource consents.</p> <p>A Regional Council will be required to prepare an action plan for and FMU to outline how they will achieve these limits, which will be important for growers as this will be where mitigations and land use controls will be proposed.</p> <p>Limits may be applied on inputs (i.e. fertiliser amount) or outputs (i.e. leaching or volumes of discharge/abstraction).</p> <p>There is no component of this policy that provides for industry or growers to advise on the action plan, however it would be expected this would occur through the collaborative framework (policy 3.2).</p>

			<i>Page 48 - Action for healthy waterways document</i>
3.11	Setting environmental flows and levels	Regional councils must set environmental flows and limits for surface water, lakes and groundwater	<p>Allocations will be assessed and potentially updated to reflect Te Mana o Te Wai, over allocated catchments will be phased out through consent renewal process.</p> <p>More restrictions on water use are likely, including low flow restrictions, cease takes and ramp downs during summer to ensure habitat health and contact recreation are maintained or improved.</p> <p><i>Part 3 - Draft national policy statement for freshwater management</i></p>
3.12	Identifying take limits	Take limits will be set for each FMU in a region.	<p>Provides option for councils to review existing water permits if necessary, to meet the objectives of Te Mana o Te Wai and the FMU action plan (i.e. could scale back abstractions and modify consent conditions).</p> <p>Greater emphasis on flows for ecosystem health and environmental needs, which may mean 'higher' low flow restrictions.</p>
3.14	What to do if deterioration detected	Provides guidance to regional councils if attribute states are not being met or a declining	Allows the council to modify or create a specific action plan to address declining freshwater health, which may mean regulatory or non regulatory approaches imposed quickly on land uses within certain FMU's, such as nutrient leaching limits or farm plans.
3.15	Inland wetlands	New section in NPSFM on wetlands, defining natural, constructed, coastal etc. Provides guidance to regional councils about plan modifications	<p>Regional councils must add in their regional plans "The loss or degradation of all or any part of a natural inland wetland is avoided".</p> <p>Inland wetland is >0.05 ha or can be smaller if it contains threatened species.</p>

			<p>Particular regard given to wetlands for any consent application, including an effects management hierarchy relating to subdivisions. This may influence growers whom want to subdivide or develop land near wetlands, which will need to mitigate all effects, remedy, offset or even compensate.</p> <p>Councils must also permit and prioritise constructed wetlands for treatment to help mitigate land use activities.</p>
3.16	Streams	Stronger emphasis on streams and maintaining ecosystem health (no net loss).	<p>Regional councils must add in their plans “The extent and ecosystem health of rivers and streams in the region, and their associated freshwater ecosystems, are at least maintained”.</p> <p>Includes provisions on minimizing stream diversion and culverting, which is contrary to the new National Policy Statement on Urban Development, which ‘loosens’ rules about culverting stream to promote urban growth.</p>
3.19	Water Allocation	Sets out policies to reduce over abstraction, efficient use of water to meet Te Mana o Te Wai objectives	<p>Described previously, may lead to changes in abstraction, review of water take consents and potentially telemetered metering on all takes >5 L/s.</p> <p>Page 52 - Action for Healthy Waterways</p>
3.20	Accounting System	Regional Councils must define an accounting system for water quantity and quality for every FMU with target attribute states.	The freshwater quality accounting system must (where possible), for each FMU, record, aggregate, and regularly update information on the measured, modelled, or estimated) loads, concentrations, or both, of relevant contaminants; and sources of relevant contaminants and how much each source contributes. This likely means nutrient budgets for land use to quantify nutrient leaching rates/losses (potentially region wide nutrient budgets, although guidance documents has outline

			<p>OVERSEER as preferred tool, which is currently not appropriate for horticulture).</p> <p>The freshwater quantity accounting system must, for each FMU, record, aggregate, and regularly update information on the measured, modelled, or estimated</p> <ul style="list-style-type: none"> a) amount of freshwater take; and b) the proportion of freshwater taken by each major category of use; and c) where a take limit has been set, the proportion of the allocation taken. <p>Freshwater takes refer to ALL takes (including permitted, unconsented abstractions such as domestic takes).</p>
4	Timing	Requires regional councils to implement NPSFM in regional policies and plans by 31 December 2025	This would mean community engagement, meetings, action plans and attribute setting will need to be completed by ~2023, assuming a hearing process for plan changes. A lot will hinge on the RMA reform and how this may speed up the process, but it would mean the next 3-4 years will be rapid in terms of water quality/quantity policy and rules changes across the country.

National Environmental Standards (NES) - Proposed policy and implications

Policy No.	Policy Name	Policy Description	Possible Implications
3	Charging for monitoring	Regional councils can charge for monitoring	As FMU's are developed, significant monitoring costs will likely mean councils will charge back either as rates, or as targeted charges to land users contributing the most to

			leaching. How this is to be undertaken is unknown.
7 and 8	Vegetation destruction	Outlines that any vegetation destruction within 10 m of a wetland would be a non-complying activity (or discretionary for very special circumstances)	This would mean clearing of vegetation near a wetland boundary, which the council will be required to delineate as part of the NPSFM, would not be allowed. Growers with wetlands near orchards may be implicated.
10	General earth disturbance - discretionary activity	Clause 2 specifically outlines earthworks near a natural wetland. Closer than 10 m would require a discretionary resource consent	Any growers with orchards near wetlands that want to undertake earthworks (not drainage- this is addressed in clause 12), would require a resource consent (if closer than 10 m). This could result in a loss of growing area.
12 and 13	Earth disturbance for drainage - non-complying/discretionary activity	Outlines that any drainage within 100m of a natural wetland other than for restoration/flood control purposes etc would be a noncomplying activity.	This would mean any growers/farmers with wetlands nearby would not be able to dig drains within 100m of a wetland identified by the regional council. This may have significant implications on land use. How this works in practice with existing drains is unknown.
17	Water take activities - non-complying activity	Water abstractions (surface or groundwater) near a wetland are non-complying if they have greater than a 0.1 m effect on water levels or detrimental impacts to the wetland heath	The distance as to which the water take is near to the wetland has not been defined (i.e within 200 m, or 2 km). Would require any new abstractions near a wetland to show in the assessment of effects that minimal or no impact will occur on the wetland.
18	Riverbed infilling	This is a non-complying activity unless it is undertaken for the purposes of restoration, flood protection etc.	No definition of riverbed, the size or extent. What separates this from a stream? Would minimise any activities for growers with streams/rivers on their properties.

21	Culverts and Fish Passage	Sets out guidance on permitted activity requirements for a culvert. If these cannot be met, installing a culvert becomes a discretionary activity (resource consent).	Implications for growers undertaking track maintenance near streams which may have fish movements in. Best practice would mean this could continue as a permitted activity.
22	Weirs	Sets out guidance on permitted activity requirements for a weir. If these cannot be met, installing a weir becomes a discretionary activity (resource consent).	Sets out requirements for weir design guidelines for fish passage. May be relevant to growers with dams within streams for water supplies.
24	Dams, fords and passive flap gates	Must provide information to regional council within 20 working days as soon of any of these devices are constructed	Providing information on fish passage, culvert design etc. Will require landowners doing earthworks, track upgrades for these devices to notify the council and document their works.
Part 3 - 25	Definitions	horticultural farming means farming where the predominant activity is growing food or beverage crops for human consumption (other than arable crops), or flowers for commercial supply	It is considered that kiwifruit crops are considered horticultural farming
	Definitions	Enterprise means one or more parcels of land held in single or multiple ownership to support the principle land use, or land on which the principle land use	Where a grower has more than one kpin then the kpin will be considered a single operating unit

		is reliant, which constitutes a single operating unit for the purposes of management	
26	Application of Part 3 (farming)	Exclusion for horticultural growers on <5 ha	No NES rules apply to growers on less than 5 ha of land. Ha not defined as title or production area
34	Irrigated farming	Permitted activity if the increase from commencement date is <10 ha. Any irrigation >10 ha would be a discretionary activity.	This would affect large growers. Any growers >10 ha would also require a freshwater farm plan (if they irrigate) that would look to minimize any impacts of intensification/irrigation.
37	Freshwater module of farm plans	Commercial vegetable growers and growers in high risk catchments must have a farm plan (nutrient budget and mitigations) within two years of commencement date	Everyone else by 2025
38	Content of farm plans	Sets out the various requirements a farm plan must include	This is relatively extensive and would need to be prepared by a certified person, which would be a cost to a business. There are notes on hazardous substances (sprays, fertilisers, chemicals) which would need to be documented in the farm plan.
42 (Subpart 4)	Nitrogen Caps	Sets out guidance on nitrogen management for Schedule 1 catchments (i.e. Upper Rangitaiki and Otangimoana Rivers	Could impact those orchards in high risk catchments

High risk catchments

Schedule 1

Catchment name	Region
Taharua River	Hawke's Bay
Waipao Stream	Northland
Mataura River	Southland
Oreti River	Southland
Waimatuku Stream	Southland
Aparima River	Southland
Waihopai River	Southland
Waingongoro River	Taranaki
Motupipi River	Tasman Region
Piako River	Waikato Region
Waihou River	Waikato Region
Parkvale Stream	Wellington
Upper Rangitaiki and Otangimoana Rivers (upstream of their confluence only)	Bay of Plenty