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| 1. **Background.**   Regional councils throughout New Zealand are preparing to make changes to their freshwater policies to bring them into line with the National Policy Statement for Freshwater Management 2020[[1]](#footnote-1) (“NPS-FM”). It’s a massive task, the timeframe is tight and there are potentially major ramifications for growers.  The new rules are expected to address the decline in water quality that has occurred in some regions, and also to ensure that the amount of water taken from rivers and groundwater leaves sufficient water to support ecosystem health and other important values within the region’s water bodies.  Te Mana o te Wai is a fundamental concept of the NPS-FM. Te Mana o te Wai, or the mana of the water is about recognizing the vital importance of clean, healthy water for maintaining the health of our waterbodies, freshwater ecosystems and the communities that rely upon them for their sustenance and wellbeing. There is a hierarchy of obligations in Te Mana o te Wai that prioritises:  (a) first, the health and well-being of water bodies and freshwater ecosystems  (b) second, the health needs of people (such as drinking water)  (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.  The NPS-FM applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments, which may include estuaries and the wider coastal marine area. Adopting an integrated approach, ki uta ki tai, as required by Te Mana o te Wai, requires regional councils to consider the whole environment, from the mountains into the estuaries and harbours and the sea.  In order to implement the NPS-FM regional councils must engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in their regions. This includes engagement with communities and tangata whenua to identify:   * freshwater management units within their regions (in relation to surface water these are often catchment-based areas), * which geographical areas of freshwater are important to tangata whenua and communities, whether they are happy with the current state of freshwater and what their aspirations for water are, * long term visions for each FMU that clearly articulate what the community and council want to see for freshwater in their FMU, with goals and a timeframe that are ambitious but reasonable (these will become Regional Policy Statement objectives), * values for each FMU (these are ways in which freshwater is important, e.g. human contact), * environmental outcomes for each value, e.g. for the human health value, the environmental outcome might be that water quality is maintained or improved to be suitable for swimming with a low risk of getting sick (the environmental outcomes will become objectives in regional plans), * identify attributes for each value and baseline states for those attributes (attributes are measurable characteristics, numeric, narrative or both, that can be used to assess the extent to which a value is provided for, e.g. for the human health, the attribute limits would likely be numerical limits for E. coli), * set target attribute states for every attribute along with timeframes to achieve them, environmental flows and levels, and other criteria to support the achievement of environmental outcomes (e.g. for human health the target attribute state might be a numerical E.coli limit that once achieved would protect human health), * set limits on resource use as rules in regional plans, (limit means either a limit on resource use[[2]](#footnote-2) or a take limit), * prepare action plans as appropriate to achieve environmental outcomes and impose conditions on resource consents to achieve target attribute states or nutrient outcomes.   The NPS-FM specifies four compulsory values being ecosystem health, human contact, mahinga kai, and threatened species. Other values that must be considered are natural form and character, drinking water supply, Wai tapu (areas where rituals or ceremonies are carried out, or there is special significance to tangata whenua), transport and tauranga waka (the FMU of part of the FMU that is navigable for identified means of transport), fishing, hydro-electric power generation, animal drinking water, irrigation, cultivation and production of food and beverages, and commercial and industrial use.  It is important to note that the NPS-FM has special provisions for nutrient sensitive downstream receiving environments e.g. estuaries. Regional councils must set instream concentrations and exceedance criteria or instream loads for N and P where necessary to protect these downstream environments. This is important because in some rivers and streams, nitrate for example could be in the A band meaning that it has a very low risk of causing toxic effects on life in the river, but the mass load of the nitrate to an estuary could be problematic and will need to be reduced. The amount of nutrient reduction will be FMU specific. By way of example, Maketū Estuary outcomes will drive the need for substantial change within the catchment to bring down all four key contaminants: in the order of 70% for nitrogen load, 30%-40% for phosphorus, 40%-60% for E.coli and up to 39% for sediment. These are very large reductions, noting that measured nitrogen concentrations in the rivers are well below levels that can have toxic effects, in the A band. Estuary values and outcomes will drive the need for substantial change within the Waihī estuary FMU to reduce the four contaminants; in the order of 70% for nitrogen, 30% for phosphorus, 25%-50% for E.coli, and 20%-65% for suspended sediment.  The NPS-FM states that limits on resource use may apply to any activity or land use, apply at any scale (such as to all or part of an FMU, or to a specific water body or individual property) and be expressed as any of the following:  (a) a land-use control (such as a control on the extent of an activity)  (b) an input control (such as amount of fertiliser that may be applied)  (c) an output control (such as volume and rate of discharge).  In setting limits on resource use, every regional council must have regard to the long-term visions and the foreseeable impacts of climate change, and they need to take into account results or information from their freshwater accounting systems.  Regional councils are also required to monitor water bodies and freshwater ecosystems and take action if degradation is detected.  Regional councils are required to publicly notify their proposed Regional Policy Statements and Regional Plan changes by late 2024.   1. **How Could These Changes Affect Growers?**   From a practical perspective, the new policy could affect growers in a number of ways.  Water Takes  The following are likely outcomes of the policy changes, depending on location:   * The amount of surface water/groundwater that is available for allocation to growers will be location specific and might increase or decrease, * The enforcement of minimum flows will likely affect the reliability of surface water takes (i.e., how much water can be taken during dry periods when the river level drops).   These two matters are interrelated to the extent that reliability could be impacted if more water is allocated to other users.  Discharges  If contaminants such as N, P, suspended solids and E Coli are too high in the receiving water, the council can impose land-use, input and output controls to specific water bodies or individual properties as required to achieve reductions. BOPRC is considering a number of options to reduce nutrient loads including nitrogen caps.  Additional Reporting  Regional Councils may use Freshwater Farm Plans to reduce risk, and to set minimum standards and continual improvement requirements to address rural land uses and practices that pose a high risk to sediment, nitrogen, E.coli and phosphorus loss, particularly in the lower catchments. BOPRC has signaled that consideration is being given to requiring extra information on growing practices to be provided with Freshwater Farm Plans, including nutrient inputs etc.  What is evident is that growers are likely to be affected in very different ways, depending on their individual activities, location, and the pressures on the waterways that they operate in.   1. **Where are the Regional Councils at with Their Policy Reviews?**   Every regional council is approaching the freshwater policy in their own way, and some are further advanced than others. In general, draft FMUs have been identified and engagement with the community and tangata whenua, and the drafting of long-term visions is underway.  The following is a snapshot of progress in the regions:  Bay Of Plenty   * BOPRC continues to hold engagement meetings across the region. * HortNZ, with input from NZKGI, MKGI and Zespri, has provided high level comments on the 13 FMU stories for the region. * A number of questions asked by BOPRC require feedback from growers and some are general in nature and are relevant to all kiwifruit growers regardless of region. NZKGI is in the process of preparing a response that will be socialised with growers prior to providing it to BOPRC by the end of September 2023. * BOPRC intends to release a draft plan change for consultation from January to March 2024.   Waikato   * Kathy Mason and industry representatives attended a horticulture sector meeting with WRC on 8 June 2023 * HortNZ lodged a submission on 7 August 2023.   Auckland   * Kathy Mason attended the NPS-FM stakeholder engagement meeting in Pukekohe on 17th August. Notes from the meeting have been circulated and are available. * Auckland Council is continuing its public engagement through to November 2023.   Northland   * Council has delayed notification of the draft plan until November 2023 and consultation will run through to the end of January 2024.   Gisborne   * SPASMO model is being updated.   Hawke’s Bay   * Council has pressed pause on the freshwater policy review because of the focus needed on cyclone recovery.   Horizons   * Horizons is approaching the freshwater policy review in a different way to other councils and is open to receiving feedback even for consultations that have closed.   Nelson   * Freshwater working groups will continue to meet until such time as the draft Nelson Plan freshwater section has been developed. There will be opportunities for targeted engagement with stakeholders.   Tasman   * Draft visions and values completed and work continues. Council is working with HortNZ on Growing Change Project. |

1. The NPS-FM came into effect on 3 September 2020 and was amended on 7 September 2017, 8 December 2022 and 23 February 2023. [↑](#footnote-ref-1)
2. **Limit on resource use** means the maximum amount of resource use that is permissible while still achieving a relevant target attribute state or a nutrient outcome needed to achieve a target attribute state. [↑](#footnote-ref-2)